

2C:7-12

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2001 **CHAPTER:** 167
NJSA: 2C:7-12 (Sex offenders internet registry)
BILL NO: A4 (Substituted for S1814/A5 SCS)

SPONSOR(S): Weingarten and Holzapfel

DATE INTRODUCED: June 25, 2001

COMMITTEE: **ASSEMBLY:** ----

SENATE: ----

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 28, 2001

SENATE: June 28, 2001

DATE OF APPROVAL: July 23, 2001

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (1st reprint enacted)

(Amendments during passage denoted by superscript numbers)

A4

SPONSORS STATEMENT: (Begins on page 8 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: No

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: Yes

S1814/A5 (SCS)

SPONSORS STATEMENT: No

	COMMITTEE STATEMENT:	ASSEMBLY:	No
2001(Budget)		SENATE:	Yes 6-25-
2001(Judiciary)			6-25-

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: Yes

Identical to fiscal estimate for A4

A5

SPONSORS STATEMENT: (Begins on page 4 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: Yes

FINAL VERSION (1st reprint) Yes

S1814 (Original version with sponsor's statement only)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: Yes

974.90 New Jersey. Legislature. Senate Task Force on Internet Access to Sex Offender Registration Information

S518 [Report], 2001

2001a

HEARINGS Yes

974.90 New Jersey. Legislature. Senate Task Force on Internet Access to Sex Offender
Registration

S518 Information

2001 Public hearing, held 5-3-2001 & 5-16-2001, Trenton, 2001

NEWSPAPER ARTICLES:

Yes

"Internet registry becomes law," 7-24-2001 Trenton Times, p.A

"Sex offender registry almost law," 7-21-2001 Asbury Park Press, p.A4

"Governor expands Megans Law to list offenders," 7-24-2001 The Record, p. A1

"Megans Law Web list for NJ is approved," 7-24-2001 The Inquirer, p.A1

"Sex crime data will go online," 7-24-2001 Asbury Park Press, pA1

ASSEMBLY, No. 4

STATE OF NEW JERSEY

209th LEGISLATURE

INTRODUCED JUNE 25, 2001

Sponsored by:

Assemblyman JOEL WEINGARTEN

District 21 (Essex and Union)

Assemblyman JAMES W. HOLZAPFEL

District 10 (Monmouth and Ocean)

Co-Sponsored by:

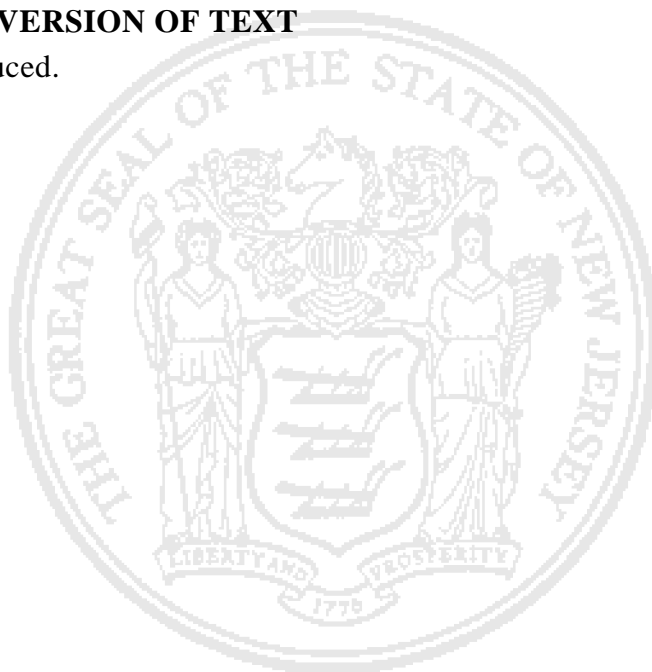
**Assemblymen Asselta, Azzolina, Corodemus, Assemblywoman Heck,
Assemblymen Kelly, T.Smith, Senators Inverso, Vitale, Assemblyman
LeFevre, Senators O'Toole, Turner and Baer**

SYNOPSIS

Establishes sex offender Internet registry and makes certain technical corrections to N.J.S.2C:24-4; appropriates \$500,000.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/29/2001)

1 AN ACT concerning sex offenses, supplementing P.L.1994, c.128 and
2 amending N.J.S.2C:24-4, and making an appropriation.

3

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

6

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

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

39

40 2. (New section) a. Pursuant to the provisions of this section, the
41 Superintendent of State Police shall develop and maintain a system for
42 making certain information in the central registry established pursuant
43 to subsection d. of section 4 of P.L.1994, c.133 (C.2C:7-4) publicly

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 available by means of electronic Internet technology.

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

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

15 d. The individual registration record of an offender whose risk of
16 re-offense has been determined to be moderate and for whom the court
17 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 defined
24 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 violation
26 of N.J.S.2C:14-2 or N.J.S.2C:14-3 under circumstances in which the
27 offender was related to the victim by blood or affinity to the third
28 degree or was a foster parent, a guardian, or stood in loco parentis
29 within the household; or

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

34 e. Notwithstanding the provisions of paragraph d. of this
35 subsection, the individual registration record of an offender to whom
36 an exception enumerated in paragraph (1), (2) or (3) of subsection d.
37 of this section applies shall be made available to the public on the
38 Internet registry if the State establishes by clear and convincing
39 evidence that, given the particular facts and circumstances of the
40 offense and the characteristics and propensities of the offender, the
41 risk to the general public posed by the offender is substantially similar
42 to that posed by offenders whose risk of re-offense is moderate and
43 who do not qualify under the enumerated exceptions. The court shall
44 state on the record the factual basis supporting its determination that
45 the offender's registration information be made available to the public.

46 f. The individual registration records of offenders whose risk of re-

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

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

23
24 3. (New section) The Attorney General shall:

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

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

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

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

44
45 4. (New section) No action shall be brought against any person for
46 failure to investigate or disclose any information from the registry that

1 is compiled or made available to the citizens of this State pursuant to
2 P.L. , c. (C.) (now pending before the Legislature as this bill).

3
4 5. (New section) a. Any information disclosed pursuant to this act
5 or pursuant to the provisions of section 3 of P.L.1994, c.128 (C.2C:7-
6 8) may be used in any manner by any person or by any public,
7 governmental or private entity, organization or official, or any agent
8 thereof, for any lawful purpose consistent with the enhancement of
9 public safety.

10 b. Any person who uses information disclosed pursuant to this act
11 or section 3 of P.L.1994, c.128 (C.2C:7-8) to commit a crime shall be
12 guilty of a crime of the third degree. Any person who uses
13 information disclosed pursuant to this act or section 3 of P.L.1994,
14 c.128 (C.2C:7-8) to commit a disorderly persons or petty disorderly
15 persons offense shall be guilty of a disorderly persons offense and shall
16 be fined not less than \$500 or more than \$1,000, in addition to any
17 other penalty or fine imposed.

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

30 d. Evidence that a person obtained information about an offender
31 from the Internet registry or notification pursuant to section 3 of
32 P.L.1994, c.128 (C.2C:7-8) within one year prior to committing a
33 criminal offense against that offender shall give rise to an inference
34 that the person used information in violation of subsection b. of this
35 section.

36
37 6. (New section) The provisions of this act shall be deemed to be
38 severable, and if any phrase, clause, sentence, word or provision of
39 this act is declared to be unconstitutional, invalid or inoperative in
40 whole or in part, or the applicability thereof to any person is held
41 invalid, by a court of competent jurisdiction, the remainder of this act
42 shall not thereby be deemed to be unconstitutional, invalid or
43 inoperative and, to the extent it is not declared unconstitutional,
44 invalid or inoperative, shall be effectuated and enforced.

45
46 7. (New section) An Internet Registry Advisory Council is

1 established to consult with and provide recommendations to the
2 Governor and Legislature concerning the making of sex offender
3 registration records available to the public on the Internet. The
4 Attorney General, or his designee, shall serve ex-officio and shall serve
5 as chairman of the council. The council also shall consist of eight
6 public members who, by experience or training, have a personal
7 interest or professional expertise in law enforcement, crime
8 prevention, victim advocacy, criminology, psychology, parole, public
9 education or community relations. The public members of the council
10 shall be appointed in the following manner: two shall be appointed by
11 the Governor, of whom no more than one shall be of the same political
12 party; three shall be appointed by the President of the Senate, of whom
13 no more than two shall be of the same political party; and three shall
14 be appointed by the Speaker of the General Assembly, of whom no
15 more than two shall be of the same political party. Any vacancies
16 occurring in the membership shall be filled in the same manner as the
17 original appointments. The council shall hold at least two meetings
18 per year to review the implementation and operations of the Internet
19 registry.

20

21 8. (New section) Sections 1 through 7 of this act and the system
22 of registration and community notification provided pursuant to
23 P.L.1994, c.133 and P.L.1994, c.128 (C.2C:7-1 through 11) shall be
24 known and may be cited as "Megan's Law."

25

26 9. N.J.S.2C:24-4 is amended to read as follows:

27 2C:24-4. Endangering Welfare of Children.

28 a. Any person having a legal duty for the care of a child or who has
29 assumed responsibility for the care of a child who engages in sexual
30 conduct which would impair or debauch the morals of the child, or
31 who causes the child harm that would make the child an abused or
32 neglected child as defined in R.S.9:6-1, R.S.9:6-3 and P.L.1974,
33 c.119, s.1 (C.9:6-8.21) is guilty of a crime of the second degree. Any
34 other person who engages in conduct or who causes harm as described
35 in this subsection to a child under the age of 16 is guilty of a crime of
36 the third degree.

37 b. (1) As used in this subsection:

38 "Child" means any person under 16 years of age.

39 "Internet" means the international computer network of both federal
40 and non-federal interoperable packet switched data networks.

41 "Prohibited sexual act" means

42 (a) Sexual intercourse; or

43 (b) Anal intercourse; or

44 (c) Masturbation; or

45 (d) Bestiality; or

46 (e) Sadism; or

1 (f) Masochism; or

2 (g) Fellatio; or

3 (h) Cunnilingus;

4 (i) Nudity, if depicted for the purpose of sexual stimulation or
5 gratification of any person who may view such depiction ; or

6 (j) Any act of sexual penetration or sexual contact as defined in
7 N.J.S.2C:14-1.

8 "Reproduction" means, but is not limited to, computer generated
9 images.

10 (2) [A person commits a crime of the second degree if he causes
11 or permits a child to engage in a prohibited sexual act or in the
12 simulation of such an act if the person knows, has reason to know or
13 intends that the prohibited act may be photographed, filmed,
14 reproduced, or reconstructed in any manner, including on the Internet,
15 or may be part of an exhibition or performance. If the person is a
16 parent, guardian or other person legally charged with the care or
17 custody of the child, the person shall be guilty of a crime of the first
18 degree.] Deleted by amendment, P.L. , c. (C.)(now
19 pending before the Legislature as this bill).

20 (3) A person commits a crime of the second degree if he causes or
21 permits a child to engage in a prohibited sexual act or in the simulation
22 of such an act if the person knows, has reason to know or intends that
23 the prohibited act may be photographed, filmed, reproduced, or
24 reconstructed in any manner, including on the Internet, or may be part
25 of an exhibition or performance. If the person is a parent, guardian or
26 other person legally charged with the care or custody of the child, the
27 person shall be guilty of a crime of the first degree.

28 (4) Any person who photographs or films a child in a prohibited
29 sexual act or in the simulation of such an act or who uses any device,
30 including a computer, to reproduce or reconstruct the image of a child
31 in a prohibited sexual act or in the simulation of such an act is guilty
32 of a crime of the second degree.

33 [(4)] (5) (a) Any person who knowingly receives for the purpose
34 of selling or who knowingly sells, procures, manufactures, gives,
35 provides, lends, trades, mails, delivers, transfers, publishes, distributes,
36 circulates, disseminates, presents, exhibits, advertises, offers or agrees
37 to offer , through any means , including the Internet, any photograph,
38 film, videotape, computer program or file, video game or any other
39 reproduction or reconstruction which depicts a child engaging in a
40 prohibited sexual act or in the simulation of such an act, is guilty of a
41 crime of the second degree.

42 (b) Any person who knowingly possesses or knowingly views any
43 photograph, film, videotape, computer program or file, video game or
44 any other reproduction or reconstruction which depicts a child
45 engaging in a prohibited sexual act or in the simulation of such an act,
46 including on the Internet, is guilty of a crime of the fourth degree.

1 [(5)] (6) For purposes of this subsection, a person who is depicted
2 as or presents the appearance of being under the age of 16 in any
3 photograph, film, videotape, computer program or file, video game or
4 any other reproduction or reconstruction shall be rebuttably presumed
5 to be under the age of 16. If the child who is depicted as engaging in,
6 or who is caused to engage in, a prohibited sexual act or simulation of
7 a prohibited sexual act is under the age of 16, the actor shall be strictly
8 liable and it shall not be a defense that the actor did not know that the
9 child was under the age of 16, nor shall it be a defense that the actor
10 believed that the child was 16 years of age or older, even if such a
11 mistaken belief was reasonable.

12 (cf: P.L.1998, c.126, s.1)

13

14 10. (New section) There is hereby appropriated from the General
15 Fund to the Department of Law and Public Safety \$500,000 for the
16 implementation of this act; of this amount, \$200,000 shall be provided
17 to the Division of State Police, and \$300,000 shall be provided to the
18 counties in the form of grants.

19

20 11. Sections 1 through 8 and section 10 shall take effect
21 immediately, but shall remain inoperative until the first day of the sixth
22 month after enactment; section 9 shall take effect immediately and
23 shall be retroactive to May 1, 1999, the effective date of P.L.1998,
24 c.126.

25

26

27

STATEMENT

28

29 This bill requires the State Police to develop and maintain a system
30 to make sex offender registry information compiled under Megan's
31 Law publicly available over the Internet.

32 Under the bill's provisions, a person would be able to gain access
33 through the Internet to all available information concerning sex
34 offenders who have been determined to be at high risk to re-offend
35 (Tier Three) or for whom the court has ordered Tier Three
36 notification.

37 With certain exceptions, the bill provides that the public also would
38 be able to gain access to all available information concerning offenders
39 who have been determined to be at moderate risk to re-offend (Tier
40 Two) or for whom the court has ordered Tier Two notification.
41 Exceptions are provided for offenses committed by juveniles or
42 involving incest or consensual activity with a minor. Specifically,
43 those exceptions would be operative if the sole sex offense committed
44 by the offender is one of the following: (1) the offender was a juvenile
45 who was adjudicated delinquent for the sex offense; (2) a violation of
46 N.J.S.2C:14-2 or N.J.S.2C:14-3 where the offender was related to the

1 victim by blood or affinity to the third degree or was a foster parent,
2 a guardian or stands in loco parentis within the victim's household; or
3 (3) a violation of N.J.S.2C:14-2 or N.J.S.2C:14-3 if the victim
4 assented to the commission of the offense, but by reason of age was
5 not capable of giving lawful consent. Information about an offender
6 who falls within these exceptions may be made available to the public
7 on the Internet registry if the State establishes by clear and convincing
8 evidence that, given the particular facts and circumstances of the
9 offense and the characteristics and propensities of the offender, the
10 risk to the general public posed by the offender is substantially similar
11 to that posed by other moderate risk offenders who do not fall under
12 the exceptions. The bill requires the court to state on the record the
13 factual basis supporting its determination that the offender's
14 registration information be made available to the public.

15 Information would not be made available on the Internet for
16 offenders who had been determined to be at low risk to re-offend (Tier
17 One) or for Tier Two offenders for whom the court has not ordered
18 Tier Two notification.

19 The bill requires the following sex offender information to be made
20 available: the offender's name and any aliases the offender has used;
21 any sex offense committed by the offender; the date and location of
22 disposition; a brief description of the offense, including the victim's
23 gender and minor status; the offender's modus operandi, if any;
24 whether the risk of re-offense by the offender is moderate or high; the
25 offender's age, race, sex, date of birth, height, weight, hair, eye color
26 and any distinguishing scars or tattoos; a photograph of the offender
27 and the date it was entered into the registry; the make, model, color,
28 year and license plate number of any vehicle operated by the offender;
29 and the street address, zip code, municipality and county in which the
30 offender resides.

31 The bill requires the Attorney General to ensure that the Internet
32 registry contains (1) warnings that any person who uses the
33 information to threaten, intimidate or harass another, or who misuses
34 the information may be criminally prosecuted, and (2) an explanation
35 of the registry's limitations.

36 The Attorney General is further required to strive to ensure that the
37 information contained in the Internet registry is accurate, and that the
38 registry is revised and updated as appropriate in a timely and efficient
39 manner. In addition, the web site would provide the text of applicable
40 State statutes and guidelines of the Attorney General, information
41 about sex offenders and Megan's Law, pertinent and appropriate
42 information concerning crime prevention and personal safety, and links
43 to other State web sites.

44 The bill also provides that no action is to be brought against any
45 person for failure to investigate or disclose any information from the
46 registry that is compiled or made available to the public through the

1 Internet registry.

2 The bill provides that any information disclosed pursuant to the
3 Internet registry or pursuant to community notification under the
4 original Megan's Law may be used in any manner by any person or by
5 any public, governmental or private entity, organization or official, or
6 any agent thereof, for any lawful purpose consistent with the
7 enhancement of public safety. A person who uses that information to
8 commit a crime is guilty of a crime of the third degree. A person who
9 uses that information to commit a disorderly persons or petty
10 disorderly persons offense is guilty of a disorderly persons offense and
11 would be fined at least \$500 to \$1,000, in addition to the other
12 applicable penalties.

13 Whenever there is reasonable cause to believe that any person or
14 group of persons is engaged in a pattern or practice of misuse of the
15 information disclosed pursuant to the bill, the Attorney General, or any
16 county or municipal prosecutor having jurisdiction, or any person
17 aggrieved by the misuse of that information is authorized to bring a
18 civil action in the appropriate court requesting preventive relief,
19 including an application for a permanent or temporary injunction,
20 restraining order, or other order against any person responsible for the
21 pattern or practice of misuse. These remedies would be independent
22 of and in addition to any other remedies or procedures that may be
23 available under other provisions of law.

24 The original Megan's Law established a notification advisory
25 council to consult with and provide recommendations to the Attorney
26 General on the law's implementation. This bill establishes an Internet
27 Registry Advisory Council to provide recommendations to the
28 Governor and the Legislature concerning the Internet registry. The
29 council would consist of nine persons including the Attorney General,
30 who would serve ex-officio and chair the council. The members also
31 would include eight public members who, by experience or training,
32 have a personal interest or professional expertise in law enforcement,
33 crime prevention, victim advocacy, criminology, psychology, parole,
34 public education or community relations.

35 The bill provides for an appropriation to the Department of Law
36 and Public Safety in the amount of \$500,000 for the bill's
37 implementation. Of that amount, \$200,000 would be provided to the
38 Division of State Police, and \$300,000 would be provided to the
39 counties in the form of grants.

40 It should be noted that this bill implements the provisions of
41 Assembly Concurrent Resolution No. 1, which amended the State
42 Constitution to establish the Legislature's authority to pass laws
43 authorizing the disclosure of information concerning sex offenders to
44 the general public.

45 This bill also makes a technical correction to accommodate existing
46 statutory references to certain paragraphs of subsection b. of

1 N.J.S.2C:24-4 which were inadvertently affected by renumbering in a
2 recently enacted law, P.L.1998, c.126. That law amended the criminal
3 statute concerning endangering the welfare of children, N.J.S.2C:24-4,
4 to clarify, among other things, that the depiction and dissemination of
5 the image of a child in a prohibited sexual act or in the simulation of
6 such an act on the Internet and via use of computers constitute
7 offenses under that statute. That law also, for technical reasons,
8 amended the provisions of subsection b. of N.J.S.2C:24-4 to combine
9 into a single paragraph definitions that had previously been contained
10 in two separate paragraphs. This change necessitated the renumbering
11 of the remainder of the paragraphs in that subsection, although
12 citations to those provisions elsewhere in the New Jersey Code were
13 not amended accordingly. The unintended consequence is that
14 references in numerous statutes to specific endangering offenses now
15 refer to different endangering offenses than intended.

STATEMENT TO
ASSEMBLY, No. 4

with Senate Floor Amendments
(Proposed By Senator INVERSO)

ADOPTED: JUNE 28, 2001

Assembly Bill No. 4 requires the State Police to develop and maintain a system to make sex offender registry information compiled under Megan's Law publicly available over the Internet. Under the bill's provisions, a person would be able to obtain all available information concerning sex offenders who are a high risk to re-offend (Tier Three). Information would not be made available on the Internet for offenders who had been determined to be at low risk to re-offend (Tier One).

With certain exceptions, the bill provides that the public would be able to gain access to information concerning offenders who are a moderate risk to re-offend (Tier Two) or for whom the court has ordered Tier Two notification. Information about an offender who falls within the exceptions may be made available to the public on the Internet registry if the State establishes by clear and convincing evidence that the risk to the general public posed by the offender is substantially similar to that posed by other moderate risk offenders who do not fall under the exceptions. These Senate amendments delete a requirement that the court state on the record the factual basis supporting its determination that the registration information of an offender who falls within the exceptions should be made available to the public.

The bill provides that any information disclosed pursuant to the Internet registry or notification under the original Megan's Law may be used for any lawful purpose consistent with the enhancement of public safety. A person who uses that information to commit a crime is guilty of a crime of the third degree. A person who uses that information to commit a disorderly persons or petty disorderly persons offense is guilty of a disorderly persons offense. These Senate amendments remove the provision making the bill's prohibitions on use of the information and the specified penalties applicable to community notification under the original Megan's Law.

These Senate amendments also insert a provision into the bill providing that the Internet registry could not be used for the purpose of applying for, obtaining, or denying any of the following: (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; and (7) housing or

accommodations.

This bill establishes an Internet Registry Advisory Council to consult with and provide recommendations to the to the Governor and the Legislature concerning the Internet registry. These Senate amendments provide that the council would provide recommendations to the Attorney General. Under the bill as introduced, the council membership would have included the Attorney General as chairman and eight public members. Under these Senate amendments, the council would consist of only nine public members.

These Senate amendments also delete a section in the bill which makes a technical correction to accommodate existing statutory references to certain paragraphs of subsection b. of N.J.S.2C:24-4 which were inadvertently affected by renumbering in a recently enacted law, P.L.1998, c.126.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: JULY 19, 2001

SUMMARY

Synopsis: Establishes sex offender Internet registry and makes certain technical corrections to N.J.S.2C:24-4; appropriates \$500,000.

Type of Impact: Expenditure increase. State and counties.

Agencies Affected: Department of Law and Public Safety, Division of State Police. Counties, County Prosecutors.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate	Indeterminate	Indeterminate
County Cost	Indeterminate	Indeterminate	Indeterminate

- ! Makes publicly available on the Internet information compiled by the State Police on convicted sex offenders under the provisions of P.L.1994, c.133 (C.2C:7.1-et seq.), commonly known as “Megan’s Law.”
- ! The bill implements provisions of a constitutional amendment, approved on November 7, 2000, that establishes the Legislature’s authority to pass laws authorizing the disclosure of information concerning sex offenders to the general public.
- ! Appropriates \$500,000 from the General Fund to the Department of Law and Public Safety for the implementation of this act, including \$200,000 to the Division of State Police and \$300,000 to the counties in the form of grants.

BILL DESCRIPTION

Assembly Bill No. 4 of 2001 requires the Division of State Police in the Department of Law and Public Safety to make publicly available on the Internet the central registry of information on sex offenders that was compiled under P.L.1994, c.133 (C.2C:7.1-et seq.), commonly known as “Megan’s Law.”

The bill specifies that the name, photograph, address, offense, risk profile and various other information pertaining to certain offenders be disclosed. This information would be provided

for sex offenders who have been determined to be at high risk to re-offend and, with certain exceptions, for those whose risk to re-offend has been determined to be moderate.

The bill requires the Attorney General to ensure that the Internet registry contains (1) warnings that any person who uses the information to threaten, intimidate or harass another, or who misuses the information may be criminally prosecuted, and (2) an explanation of the registry's limitations.

The bill implements a constitutional amendment which permits the Legislature to pass laws authorizing the disclosure of information concerning sex offenders to the general public.

FISCAL ANALYSIS

OFFICE OF LEGISLATIVE SERVICES

Information provided informally by the Department of Law and Public Safety for a similar bill in this session indicated that the cost to the Division of State Police to implement that bill at \$93,275 in the first year after enactment. The department indicated that no additional costs would be incurred in years two and three. **However, this bill differs from the previous bill in certain respects that could affect the cost of implementation. It would omit from the Internet registry certain moderate risk offenders on the basis of their offenses. It also requires more details on the offenders to be recorded in the registry than the previous bill.**

Counties also will incur additional costs in carrying out the provisions of this bill. County prosecutors will be responsible for informing sex offenders of the Internet registry and advising them of their legal rights. They also may be required to conduct new classification hearings in the event that moderate risk offenders choose to contest their classification.

Sufficient information is lacking to permit an estimate of additional State and county costs under this bill over and above the \$93,275 cost mentioned in Assembly Bill No. 5 of 2000.

Section: *Department of Law and Public Safety*

Analyst: *James F. Vari*
Associate Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

[First Reprint]

ASSEMBLY, No. 4

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JUNE 25, 2001

Sponsored by:

Assemblyman JOEL WEINGARTEN

District 21 (Essex and Union)

Assemblyman JAMES W. HOLZAPFEL

District 10 (Monmouth and Ocean)

Co-Sponsored by:

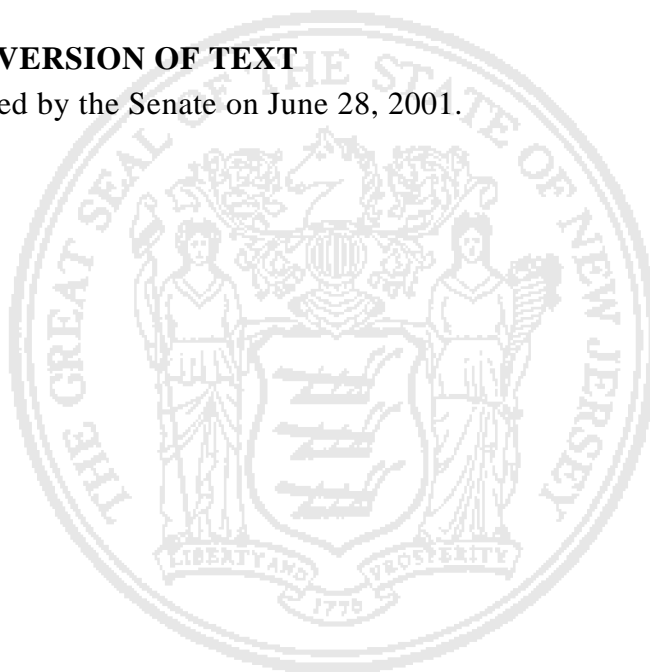
**Assemblymen Asselta, Azzolina, Corodemus, Assemblywoman Heck,
Assemblymen Kelly, T.Smith, Senators Inverso, Vitale, Assemblyman
LeFevre, Senators O'Toole, Turner and Baer**

SYNOPSIS

Establishes sex offender Internet registry; appropriates \$500,000.

CURRENT VERSION OF TEXT

As amended by the Senate on June 28, 2001.



(Sponsorship Updated As Of: 6/29/2001)

1 AN ACT concerning sex ¹[~~offenses~~] offender registration and
2 community notification¹, supplementing P.L.1994, c.128 ¹[and
3 amending N.J.S.2C:24-4]¹, and making an appropriation.

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

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

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

40
41 2. (New section) a. Pursuant to the provisions of this section, the

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted June 28, 2001.

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

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

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

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

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

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

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

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

1 shall state on the record the factual basis supporting its determination
2 that the offender's registration information be made available to the
3 public.]¹

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

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

27

28 3. (New section) The Attorney General shall:

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

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

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

43 d. Provide in the Internet registry information designed to inform
44 and educate the public about sex offenders and the operation of
45 Megan's Law, as well as pertinent and appropriate information
46 concerning crime prevention and personal safety, with appropriate

1 links to relevant web sites operated by the State of New Jersey.

2

3 4. (New section) No action shall be brought against any person for
4 failure to investigate or disclose any information from the registry that
5 is compiled or made available to the citizens of this State pursuant to
6 P.L. , c. (C.) (now pending before the Legislature as this bill).

7

8 5. (New section) a. Any information disclosed pursuant to this act
9 ¹[or pursuant to the provisions of section 3 of P.L.1994, c.128
10 (C.2C:7-8)]¹ may be used in any manner by any person or by any
11 public, governmental or private entity, organization or official, or any
12 agent thereof, for any lawful purpose consistent with the enhancement
13 of public safety.

14 b. Any person who uses information disclosed pursuant to this act
15 ¹[or section 3 of P.L.1994, c.128 (C.2C:7-8)]¹ to commit a crime
16 shall be guilty of a crime of the third degree. Any person who uses
17 information disclosed pursuant to this act ¹[or section 3 of P.L.1994,
18 c.128 (C.2C:7-8)]¹ to commit a disorderly persons or petty disorderly
19 persons offense shall be guilty of a disorderly persons offense and shall
20 be fined not less than \$500 or more than \$1,000, in addition to any
21 other penalty or fine imposed.

22 c. ¹ Except as authorized under any other provision of law, use of
23 any of the information disclosed pursuant to this act for the purpose
24 of applying for, obtaining, or denying any of the following, is
25 prohibited:

26 (1) Health insurance;

27 (2) Insurance;

28 (3) Loans;

29 (4) Credit;

30 (5) Education, scholarships, or fellowships;

31 (6) Benefits, privileges, or services provided by any business
32 establishment, unless for a purpose consistent with the enhancement
33 of public safety; or

34 (7) Housing or accommodations.

35 d.¹ Whenever there is reasonable cause to believe that any person
36 or group of persons is engaged in a pattern or practice of misuse of the
37 information disclosed pursuant to this act, the Attorney General, or
38 any county or municipal prosecutor having jurisdiction, or any person
39 aggrieved by the misuse of that information is authorized to bring a
40 civil action in the appropriate court requesting preventive relief,
41 including an application for a permanent or temporary injunction,
42 restraining order, or other order against the person or group of
43 persons responsible for the pattern or practice of misuse. The
44 foregoing remedies shall be independent of and in addition to any other
45 remedies or procedures that may be available under other provisions
46 of law.

1 ¹[d.] e.¹ Evidence that a person obtained information about an
2 offender from the Internet registry ¹[or notification pursuant to
3 section 3 of P.L.1994, c.128 (C.2C:7-8)]¹ within one year prior to
4 committing a criminal offense against that offender shall give rise to
5 an inference that the person used information in violation of subsection
6 b. of this section.

7
8 6. (New section) The provisions of this act shall be deemed to be
9 severable, and if any phrase, clause, sentence, word or provision of
10 this act is declared to be unconstitutional, invalid or inoperative in
11 whole or in part, or the applicability thereof to any person is held
12 invalid, by a court of competent jurisdiction, the remainder of this act
13 shall not thereby be deemed to be unconstitutional, invalid or
14 inoperative and, to the extent it is not declared unconstitutional,
15 invalid or inoperative, shall be effectuated and enforced.

16
17 7. (New section) An Internet Registry Advisory Council is
18 established to consult with and provide recommendations to the
19 ¹[Governor and Legislature] Attorney General¹ concerning the
20 making of sex offender registration records available to the public on
21 the Internet. ¹[The Attorney General, or his designee, shall serve ex-
22 officio and shall serve as chairman of the council.]¹ The council
23 ¹[also]¹ shall consist of ¹[eight public members] nine persons¹ who,
24 by experience or training, have a personal interest or professional
25 expertise in law enforcement, crime prevention, victim advocacy,
26 criminology, psychology, parole, public education or community
27 relations. The ¹[public]¹ members of the council shall be appointed
28 in the following manner: ¹[two] three¹ shall be appointed by the
29 Governor, of whom no more than ¹[one] two¹ shall be of the same
30 political party; three shall be appointed by the President of the Senate,
31 of whom no more than two shall be of the same political party; and
32 three shall be appointed by the Speaker of the General Assembly, of
33 whom no more than two shall be of the same political party. Any
34 vacancies occurring in the membership shall be filled in the same
35 manner as the original appointments. The council shall hold at least
36 two meetings per year to review the implementation and operations of
37 the Internet registry.

38
39 8. (New section) ¹[Sections 1 through 7 of this] This¹ act and the
40 system of registration and community notification provided pursuant
41 to P.L.1994, c.133 and P.L.1994, c.128 (C.2C:7-1 through 11) shall
42 be known and may be cited as "Megan's Law."

43
44 ¹[9. N.J.S.2C:24-4 is amended to read as follows:
45 2C:24-4. Endangering Welfare of Children.

1 a. Any person having a legal duty for the care of a child or who has
2 assumed responsibility for the care of a child who engages in sexual
3 conduct which would impair or debauch the morals of the child, or
4 who causes the child harm that would make the child an abused or
5 neglected child as defined in R.S.9:6-1, R.S.9:6-3 and P.L.1974,
6 c.119, s.1 (C.9:6-8.21) is guilty of a crime of the second degree. Any
7 other person who engages in conduct or who causes harm as described
8 in this subsection to a child under the age of 16 is guilty of a crime of
9 the third degree.

10 b. (1) As used in this subsection:

11 "Child" means any person under 16 years of age.

12 "Internet" means the international computer network of both federal
13 and non-federal interoperable packet switched data networks.

14 "Prohibited sexual act" means

15 (a) Sexual intercourse; or

16 (b) Anal intercourse; or

17 (c) Masturbation; or

18 (d) Bestiality; or

19 (e) Sadism; or

20 (f) Masochism; or

21 (g) Fellatio; or

22 (h) Cunnilingus;

23 (i) Nudity, if depicted for the purpose of sexual stimulation or
24 gratification of any person who may view such depiction ; or

25 (j) Any act of sexual penetration or sexual contact as defined in
26 N.J.S.2C:14-1.

27 "Reproduction" means, but is not limited to, computer generated
28 images.

29 (2) [A person commits a crime of the second degree if he causes
30 or permits a child to engage in a prohibited sexual act or in the
31 simulation of such an act if the person knows, has reason to know or
32 intends that the prohibited act may be photographed, filmed,
33 reproduced, or reconstructed in any manner, including on the Internet,
34 or may be part of an exhibition or performance. If the person is a
35 parent, guardian or other person legally charged with the care or
36 custody of the child, the person shall be guilty of a crime of the first
37 degree.] Deleted by amendment, P.L. , c. (C.)(now
38 pending before the Legislature as this bill).

39 (3) A person commits a crime of the second degree if he causes or
40 permits a child to engage in a prohibited sexual act or in the simulation
41 of such an act if the person knows, has reason to know or intends that
42 the prohibited act may be photographed, filmed, reproduced, or
43 reconstructed in any manner, including on the Internet, or may be part
44 of an exhibition or performance. If the person is a parent, guardian or
45 other person legally charged with the care or custody of the child, the
46 person shall be guilty of a crime of the first degree.

1 (4) Any person who photographs or films a child in a prohibited
2 sexual act or in the simulation of such an act or who uses any device,
3 including a computer, to reproduce or reconstruct the image of a child
4 in a prohibited sexual act or in the simulation of such an act is guilty
5 of a crime of the second degree.

6 [(4)] (5) (a) Any person who knowingly receives for the purpose
7 of selling or who knowingly sells, procures, manufactures, gives,
8 provides, lends, trades, mails, delivers, transfers, publishes, distributes,
9 circulates, disseminates, presents, exhibits, advertises, offers or agrees
10 to offer , through any means , including the Internet, any photograph,
11 film, videotape, computer program or file, video game or any other
12 reproduction or reconstruction which depicts a child engaging in a
13 prohibited sexual act or in the simulation of such an act, is guilty of a
14 crime of the second degree.

15 (b) Any person who knowingly possesses or knowingly views any
16 photograph, film, videotape, computer program or file, video game or
17 any other reproduction or reconstruction which depicts a child
18 engaging in a prohibited sexual act or in the simulation of such an act,
19 including on the Internet, is guilty of a crime of the fourth degree.

20 [(5)] (6) For purposes of this subsection, a person who is depicted
21 as or presents the appearance of being under the age of 16 in any
22 photograph, film, videotape, computer program or file, video game or
23 any other reproduction or reconstruction shall be rebuttably presumed
24 to be under the age of 16. If the child who is depicted as engaging in,
25 or who is caused to engage in, a prohibited sexual act or simulation of
26 a prohibited sexual act is under the age of 16, the actor shall be strictly
27 liable and it shall not be a defense that the actor did not know that the
28 child was under the age of 16, nor shall it be a defense that the actor
29 believed that the child was 16 years of age or older, even if such a
30 mistaken belief was reasonable.

31 (cf: P.L.1998, c.126, s.1)]¹

32

33 ¹[10.] 9.¹ (New section) There is hereby appropriated from the
34 General Fund to the Department of Law and Public Safety \$500,000
35 for the implementation of this act; of this amount, \$200,000 shall be
36 provided to the Division of State Police, and \$300,000 shall be
37 provided to the counties in the form of grants.

38

39 ¹[11. Sections 1 through 8 and section 10] 10. This act¹ shall take
40 effect immediately, but shall remain inoperative until the first day of
41 the sixth month after enactment ¹[; section 9 shall take effect
42 immediately and shall be retroactive to May 1, 1999, the effective date
43 of P.L.1998, c.126]¹.

SENATE, No. 1814

STATE OF NEW JERSEY

209th LEGISLATURE

INTRODUCED JUNE 21, 2001

Sponsored by:

Senator PETER A. INVERSO

District 14 (Mercer and Middlesex)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Establishes sex offender Internet registry.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning sex offender registration and community
2 notification, supplementing P.L.1994, c.128 and P.L.1994, c.133
3 and making an appropriation.

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

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

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

39
40 2. a. Pursuant to the provisions of this section, the Superintendent
41 of State Police shall develop and maintain a system for making certain
42 information in the central registry established pursuant to subsection
43 d. of section 4 of P.L.1994, c.133 (C.2C:7-4) publicly available by
44 means of electronic Internet technology.

45 b. The public may, without limitation, obtain access to the Internet

1 registry to view an individual registration record, any part of, or the
2 entire Internet registry concerning all offenders whose risk of
3 re-offense is high or for whom the court has ordered notification in
4 accordance with paragraph (3) of subsection c. of section 3 of
5 P.L.1994, c.128 (C.2C:7-8), regardless of the age of the offender.

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

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

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

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

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

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

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

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

19

20 3. The Attorney General shall:

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

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

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

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

40

41 4. No action shall be brought against any person for failure to
42 investigate or disclose any information from the registry that is
43 compiled or made available to the citizens of this State pursuant to
44 P.L. c. (C.) (now pending before the Legislature as this bill).

45

46 5. a. Any information disclosed pursuant to this act may be used in

1 any manner by any person or by any public, governmental or private
2 entity, organization or official, or any agent thereof, for any lawful
3 purpose consistent with the enhancement of public safety.

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

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

15 (1) Health insurance;

16 (2) Insurance;

17 (3) Loans;

18 (4) Credit;

19 (5) Education, scholarships, or fellowships;

20 (6) Benefits, privileges, or services provided by any business
21 establishment, unless for a purpose consistent with the enhancement
22 of public safety; or

23 (7) Housing or accommodations.

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

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

41

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

1 thereby be deemed to be unconstitutional, invalid or inoperative and,
2 to the extent it is not declared unconstitutional, invalid or inoperative,
3 shall be effectuated and enforced.

4
5 7. An Internet Registry Advisory Council is established to consult
6 with and provide recommendations to the Attorney General
7 concerning the making of sex offender registration records available
8 to the public on the Internet. The council shall consist of nine persons
9 who, by experience or training, have a personal interest or professional
10 expertise in law enforcement, crime prevention, victim advocacy,
11 criminology, psychology, parole, public education or community
12 relations. The members of the council shall be appointed in the
13 following manner: three shall be appointed by the Governor, of whom
14 no more than two shall be of the same political party; three shall be
15 appointed by the President of the Senate, of whom no more than two
16 shall be of the same political party; and three shall be appointed by the
17 Speaker of the General Assembly, of whom no more than two shall be
18 of the same political party. Any vacancies occurring in the
19 membership shall be filled in the same manner as the original
20 appointments. The council shall hold at least two meetings per year
21 to review the implementation and operations of the Internet registry.

22
23 8. This act and the system of registration and community
24 notification provided pursuant to P.L.1994, c.133 and P.L.1994, c.128
25 (C.2C:7-1 through 11) shall be known and may be cited as "Megan's
26 Law."

27
28 9. There is hereby appropriated from the General Fund to the
29 Department of Law and Public Safety \$500,000 for the implementation
30 of this act; of this amount, \$200,000 shall be provided to the Division
31 of State Police, and \$300,000 shall be provided to the counties in the
32 form of grants.

33
34 10. This act shall take effect immediately, but shall remain
35 inoperative until the first day of the sixth month after enactment.

36
37 STATEMENT

38
39 This bill requires the State Police to develop and maintain a system
40 to make sex offender registry information compiled under Megan's
41 Law publicly available over the Internet.

42 Under the bill's provisions, a person would be able to gain access
43 through the Internet to all available information concerning sex
44 offenders who have been determined to be at high risk to re-offend
45 (Tier Three) or for whom the court has ordered Tier Three
46 notification.

1 With certain exceptions, the bill provides that the public would be
2 able to gain access to all available information concerning offenders
3 who have been determined to be at moderate risk to re-offend (Tier
4 Two) or for whom the court has ordered Tier Two notification.
5 Exceptions are provided for offenses committed by juveniles or
6 involving incest or consensual activity with a minor. Specifically,
7 those exceptions would be operative if the sole sex offense committed
8 by the offender is one of the following: (1) the offender was a juvenile
9 who was adjudicated delinquent for the sex offense; (2) a violation of
10 N.J.S.2C:14-2 or N.J.S.2C:14-3 where the offender was related to the
11 victim by blood or affinity to the third degree or was a foster parent,
12 a guardian or stands in loco parentis within the victim's household; or
13 (3) a violation of N.J.S.2C:14-2 or N.J.S.2C:14-3 if the victim
14 assented to the commission of the offense, but by reason of age was
15 not capable of giving lawful consent. Information about an offender
16 who falls within these exceptions may be made available to the public
17 on the Internet registry if the State establishes by clear and convincing
18 evidence that, given the particular facts and circumstances of the
19 offense and the characteristics and propensities of the offender, the
20 risk to the general public posed by the offender is substantially similar
21 to that posed by other moderate risk offenders who do not fall under
22 the exceptions.

23 Information would not be made available on the Internet for
24 offenders who had been determined to be low risk to re-offend (Tier
25 One) or for Tier Two offenders for whom the court has not ordered
26 Tier Two notification.

27 The bill requires the following sex offender information to be made
28 available: the offender's name and any aliases the offender has used;
29 any sex offense committed by the offender; the date and location of
30 disposition; a brief description of the offense, including the victim's
31 gender and minor status; the offender's modus operandi, if any;
32 whether the risk of re-offense by the offender is moderate or high; the
33 offender's age, race, sex, date of birth, height, weight, hair, eye color
34 and any distinguishing scars or tattoos; a photograph of the offender
35 and the date entered into the registry; the make, model, color, year and
36 license plate number of any vehicle operated by the offender; and the
37 street address, zip code, municipality and county in which the offender
38 resides.

39 The bill requires the Attorney General to ensure that the Internet
40 registry contains (1) warnings that any person who uses the
41 information to threaten, intimidate or harass another, or who misuses
42 the information may be criminally prosecuted, and (2) an explanation
43 of the registry's limitations.

44 The Attorney General is further required to strive to ensure that the
45 information contained in the Internet registry is accurate, and that the
46 registry is revised and updated as appropriate in a timely and efficient

1 manner. In addition, the web site would provide the text of applicable
2 State statutes and guidelines of the Attorney General, information
3 about sex offenders and Megan's Law, pertinent and appropriate
4 information concerning crime prevention and personal safety, and links
5 to other State web sites.

6 The bill also provides that no action is to be brought against any
7 person for failure to investigate or disclose any information from the
8 registry that is compiled or made available to the public through the
9 Internet registry.

10 Any information disclosed pursuant to the bill's provisions may be
11 used in any manner by any person or by any public, governmental or
12 private entity, organization or official, or any agent thereof, for any
13 lawful purpose consistent with the enhancement of public safety. A
14 person who uses the information to commit a crime is guilty of a crime
15 of the third degree. A person who uses the information to commit a
16 disorderly persons or petty disorderly persons offense is guilty of a
17 disorderly persons offense and would be fined at least \$500 to \$1,000,
18 in addition to the other applicable penalties.

19 Use of Internet registry information for the purpose of applying
20 for, obtaining, or denying any of the following, is prohibited: (1) health
21 insurance; (2) insurance; (3) loans; (4) credit; (5) education,
22 scholarships, or fellowships; (6) benefits, privileges, or services
23 provided by any business establishment, unless for a purpose
24 consistent with the enhancement of public safety; and (7) housing or
25 accommodations.

26 Whenever there is reasonable cause to believe that any person or
27 group of persons is engaged in a pattern or practice of misuse of the
28 information disclosed pursuant to the bill, the Attorney General, or any
29 county or municipal prosecutor having jurisdiction, or any person
30 aggrieved by the misuse of that information is authorized to bring a
31 civil action in the appropriate court requesting preventive relief,
32 including an application for a permanent or temporary injunction,
33 restraining order, or other order against any person responsible for the
34 pattern or practice of misuse. These remedies would be independent
35 of and in addition to any other remedies or procedures that may be
36 available under other provisions of law.

37 The original Megan's Law established a notification advisory
38 council to consult with and provide recommendations to the Attorney
39 General on the law's implementation. This bill establishes an Internet
40 Registry Advisory Council to assist in the implementation of the
41 Internet registry. The council would consist of nine persons who, by
42 experience or training, have a personal interest or professional
43 expertise in law enforcement, crime prevention, victim advocacy,
44 criminology, psychology, parole, public education or community
45 relations.

46 The bill provides for an appropriation to the Department of Law

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9

1 and Public Safety in the amount of \$500,000 for the bill's
2 implementation. Of that amount, \$200,000 would be provided to the
3 Division of State Police, and \$300,000 would be provided to the
4 counties in the form of grants.

5 It should be noted that this bill implements the provisions of
6 Assembly Concurrent Resolution No. 1, which amended the State
7 Constitution to establish the Legislature's authority to pass laws
8 authorizing the disclosure of information concerning sex offenders to
9 the general public.

10 This bill embodies the recommendations of the Senate Task Force
11 on Internet Access to Sex Offender Registration Information.

ASSEMBLY, No. 5

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MAY 11, 2000

Sponsored by:

Assemblyman JOEL WEINGARTEN

District 21 (Essex and Union)

Assemblyman JAMES W. HOLZAPFEL

District 10 (Monmouth and Ocean)

SYNOPSIS

Establishes sex offender Internet registry.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning sex offenders and supplementing and amending
2 P.L.1994, c.133.

3

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

6

7 1. (New section) The Legislature finds and declares that the public
8 safety will be enhanced by making certain information contained in the
9 sex offender central registry established pursuant to subsection d. of
10 P.L.1994, c.133 (C.2C:7-4) available to the public through the
11 Internet. Knowledge of whether a person is a convicted sex offender
12 could be a significant factor in protecting oneself and one's family
13 members from recidivist acts by the offender. The technology
14 afforded by the Internet would make this information readily accessible
15 to parents and private entities, enabling them to undertake appropriate
16 remedial precautions to prevent or avoid placing potential victims at
17 risk.

18

19 2. Section 4 of P.L.1994, c.133 (C.2C:7-4) is amended to read as
20 follows:

21 4. a. Within 60 days of the effective date of this act, the
22 Superintendent of State Police, with the approval of the Attorney
23 General, shall prepare the form of registration statement as required
24 in subsection b. of this section and shall provide such forms to each
25 organized full-time municipal police department, the Department of
26 Corrections, the Administrative Office of the Courts and the
27 Department of Human Services. In addition, the Superintendent of
28 State Police shall make such forms available to the Juvenile Justice
29 Commission established pursuant to section 2 of P.L.1995, c.284
30 (C.52:17B-170).

31 b. The form of registration required by this act shall include:

32 (1) A statement in writing signed by the person required to register
33 acknowledging that the person has been advised of the duty to register
34 and reregister imposed by this act and including the person's name,
35 social security number, age, race, sex, date of birth, height, weight,
36 hair and eye color, address of legal residence, address of any current
37 temporary residence, date and place of employment;

38 (2) Date and place of each conviction, adjudication or acquittal by
39 reason of insanity, indictment number, fingerprints, and a brief
40 description of the crime or crimes for which registration is required;
41 and

42 (3) Any other information that the Attorney General deems
43 necessary to assess risk of future commission of a crime, including

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 criminal and corrections records, nonprivileged personnel, treatment,
2 and abuse registry records, and evidentiary genetic markers when
3 available.

4 c. Within three days of receipt of a registration pursuant to
5 subsection c. of section 2 of this act, the registering agency shall
6 forward the statement and any other required information to the
7 prosecutor who shall, as soon as practicable, transmit the form of
8 registration to the Superintendent of State Police, and, if the registrant
9 will reside in a different county, to the prosecutor of the county in
10 which the person will reside. The prosecutor of the county in which
11 the person will reside shall transmit the form of registration to the law
12 enforcement agency responsible for the municipality in which the
13 person will reside and other appropriate law enforcement agencies.
14 The superintendent shall promptly transmit the conviction data and
15 fingerprints to the Federal Bureau of Investigation.

16 d. The Superintendent of State Police shall maintain a central
17 registry of registrations provided pursuant to this act.

18 e. The Superintendent of State Police shall develop and maintain
19 a system for making certain information in the central registry
20 established pursuant to subsection d. of this section publicly available
21 by means of electronic Internet technology.

22 (1) The information made publicly available on the Internet shall
23 include: the offender's name and any aliases the offender has used or
24 under which the offender may be or may have been known; any sex
25 offense as defined in subsection b. of section 2 of P.L.1994, c.133
26 (C.2C:7-2) committed by the offender, the date of disposition and a
27 brief description of any such offense; the determination of whether the
28 risk of re-offense by the offender is low, moderate or high; the
29 offender's age, race, sex, date of birth, height, weight, hair and eye
30 color; a photograph of the offender; and the street address, zip code,
31 municipality and county in which the offender resides.

32 (2) The public may, by submitting an individual's name and one
33 other item of personal identification information, obtain access to the
34 Internet registry to view an individual registration record for any
35 offender whose risk of re-offense is low. The public may, without
36 limitation, obtain access to the Internet registry to view an individual
37 registration record, any part of or the entire Internet registry
38 concerning all offenders whose risk of re-offense is moderate or high.

39 (cf: P.L.1995, c.280, s.20)

40

41 3. (New section) The provisions of this act shall be deemed to be
42 severable, and if any phrase, clause, sentence, word or provision of
43 this act is declared to be unconstitutional, invalid or inoperative in
44 whole or in part, or the applicability thereof to any person is held
45 invalid, by a court of competent jurisdiction, the remainder of this act
46 shall not thereby be deemed to be unconstitutional, invalid or

1 inoperative and, to the extent it is not declared unconstitutional,
2 invalid or inoperative, shall be effectuated and enforced.

3

4 4. This act shall take effect immediately, but shall remain
5 inoperative until the first day of the third month after the constitutional
6 amendment proposed by Senate Concurrent Resolution No. of
7 2000 or Assembly Concurrent Resolution No. of 2000, or a
8 substantially similar constitutional amendment, becomes a part of the
9 New Jersey Constitution and shall apply to all information maintained
10 in the central registry regardless of the date of the offense.

11

12

13

STATEMENT

14

15 This bill would require the Superintendent of State Police to
16 develop and maintain a system to make sex offender registry
17 information compiled under Megan's Law publicly available over the
18 Internet.

19 The bill requires the following sex offender information to be made
20 available over the Internet: the offender's name and aliases; the sex
21 offenses committed by the offender and the date of disposition; the
22 risk of re-offense posed by the offender, i.e., low, moderate or high;
23 the offender's age, race, sex, date of birth, height, weight, hair and eye
24 color; a photograph of the offender; and the street address, zip code,
25 municipality and county in which the offender resides.

26 Under the bill, a person would be able to gain access to through the
27 Internet any and all available information concerning sex offenders
28 who have been determined to be at moderate or high risk to reoffend.
29 To obtain information concerning a sex offender who has been
30 determined to be at low risk to reoffend, a person would be required
31 to submit the name of the sex offender, as well as an additional item
32 of identifying personal information, such as the offender's home
33 address, social security or date of birth.

34 The Legislature enacted Megan's Law to address the danger of
35 recidivism posed by sex offenders and offenders who commit other
36 predatory acts against children, the mentally ill and other vulnerable
37 citizens of this State. Megan's Law establishes a system of registration
38 and notification that permits law enforcement officials to identify sex
39 offenders and alert the public when necessary for the public safety.
40 Under the law, sex offender registry information is provided to law
41 enforcement agencies, community organizations and members of the
42 public "likely to encounter" a particular offender. This system of
43 notification safeguards those persons who are placed at risk due to
44 geographic proximity to the offender.

45 The system of notification established pursuant to Megan's Law has
46 been criticized because it does not account for situations in which sex

1 offenders commit crimes against persons outside their neighborhoods.
2 While the likelihood of encountering an offender may be lower for
3 persons not geographically proximate to the offender's residence or
4 place of employment, information identifying a person who is a
5 dangerous sex offender may nonetheless prevent such offenses from
6 occurring outside areas that have received notification of the sex
7 offender's presence.

8 The emergence and proliferation of the Internet since the enactment
9 of Megan's Law make it an effective means of providing the citizens
10 of this State with information concerning sex offenders, enabling them
11 to protect themselves and their families from these dangerous
12 predators. At least 15 other states have established publicly-accessible
13 statewide sex offender registries on the Internet, and at least 80 such
14 sites have been established by local or regional law enforcement
15 agencies.

16 The provision of sex offender information over the Internet as
17 provided in this bill will supplement the protection currently afforded
18 by the community notification provisions of Megan's Law to further
19 enhance the public's ability to take appropriate precautions to protect
20 children and others at risk of recidivist acts by sex offenders. For
21 example, under the bill, parents and employers would be able to access
22 the Internet registry to ensure that a babysitter, little league coach or
23 applicant for a position involving direct, unsupervised contact with
24 children was not a high-risk sex offender.

25 This bill would implement the provisions of a constitutional
26 amendment authorizing the Legislature to release information
27 concerning sex offenders to the public over the Internet.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5

STATE OF NEW JERSEY

DATED: MAY 22, 2000

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 5.

Assembly Bill No. 5 requires the Superintendent of State Police to develop and maintain a system to make sex offender registry information compiled under Megan's Law publicly available over the Internet.

The bill requires the following sex offender information to be made available over the Internet: the offender's name and aliases; the sex offenses committed by the offender, the date of disposition and a brief description of the offense; whether the offender has been determined to be at low, moderate or high risk to re-offend; the offender's age, race, sex, date of birth, height, weight, hair and eye color; a photograph of the offender; and the street address, zip code, municipality and county in which the offender resides.

Under the bill, a person would be able to gain access through the Internet to any and all available information concerning sex offenders who have been determined to be at moderate or high risk to re-offend. To obtain information concerning a sex offender who has been determined to be at low risk to re-offend, a person would be required to submit the name of the sex offender, as well as an additional item of identifying personal information, such as the offender's home address, social security or date of birth.

The bill implements the provisions of Assembly Concurrent Resolution No. 1, which proposes an amendment to the State Constitution establishing the Legislature's authority to pass laws authorizing the disclosure of information concerning sex offenders to the general public. The concurrent resolution was also reported by the committee on this same date.

STATEMENT TO
ASSEMBLY, No. 5

with Assembly Floor Amendments
(Proposed By Assemblymen WEINGARTEN and HOLZAPFEL)

ADOPTED: NOVEMBER 20, 2000

Assembly Bill No. 5 requires the Superintendent of State Police to develop and maintain a system to make sex offender registry information compiled under Megan's Law publicly available over the Internet. The bill implements the provisions of a constitutional amendment approved by the voters of this State on November 7, 2000, which authorizes the Legislature to release this information.

These Assembly Floor amendments establish that an action may not be brought against a real estate broker, broker-salesperson, salesperson, seller or lessor for failure to investigate or disclose any information contained in the registry.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 5
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: DECEMBER 7, 2000

SUMMARY

Synopsis: Establishes sex offender Internet registry.
Type of Impact: Expenditure increase, General Fund.
Agencies Affected: Department of Law and Public Safety, Division of State Police.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$93,275	\$0	\$0

- ! Makes publicly available on the Internet information compiled by the State Police on convicted sex offenders under the provisions of P.L.1994, c.133 (C.2C:7.1-et seq.), commonly known as “Megan’s Law.”
- ! The bill implements provisions of Assembly Concurrent Resolution No. 1, approved by the voters of this State in a ballot initiative on November 7, 2000, that establishes the Legislature’s authority to pass laws authorizing the disclosure of information concerning sex offenders to the general public.
- ! This estimate was based on information provided informally by the Department of Law and Public Safety.

BILL DESCRIPTION

Assembly Bill No. 5 of 2000 requires the Division of State Police in the Department of Law and Public Safety to make publicly available on the Internet the central registry of information on sex offenders that was compiled under P.L.1994, c.133 (C.2C:7.1-et seq.), commonly known as “Megan’s Law.”

The bill specifies that the offender’s name, offense, physical characteristics, address, photograph and estimated risk of re-offense be made publicly available on the Internet.

All available information concerning sex offenders who have been determined to be at moderate or high risk to re-offend would be publicly available. Information concerning sex offenders determined to be at low risk to re-offend, would be available upon submission of the name of the sex offender and an additional item of identifying personal information, such as the

offender's home address, social security number or date of birth.

The bill implements the provisions of Assembly Concurrent Resolution No. 1, which amended the State Constitution to sanction the Legislature to pass laws authorizing the disclosure of information concerning sex offenders to the general public.

FISCAL ANALYSIS

OFFICE OF LEGISLATIVE SERVICES

Information provided informally by the Department of Law and Public Safety indicates the cost of implementing this bill at \$93,275 in the first year after enactment. This figure includes \$2,275 to add a "tier" field to the existing sex offender registry; \$6,825 for an interim photo repository; \$4,550 to synchronize the database registry with the Internet site; \$18,200 to create batch process to extract and copy sex offender data to a separate server; \$4,550 for analysis and design; \$54,600 to program the Internet web site interface; and \$2,275 for testing and implementation. The department indicates that no additional costs will be incurred under this bill in years two and three.

Section: *Law and Public Safety*

Analyst: *James F. Vari*
Associate Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

[First Reprint]

ASSEMBLY, No. 5

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MAY 11, 2000

Sponsored by:

Assemblyman JOEL WEINGARTEN

District 21 (Essex and Union)

Assemblyman JAMES W. HOLZAPFEL

District 10 (Monmouth and Ocean)

Co-Sponsored by:

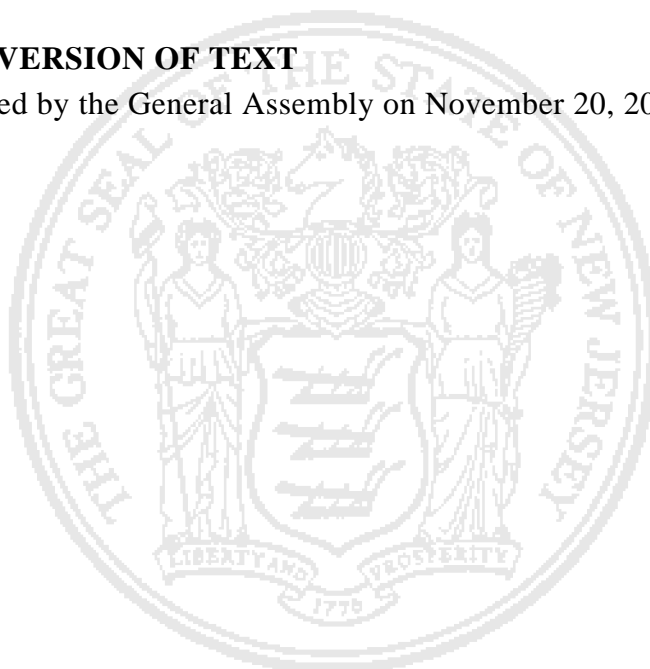
Assemblywoman Heck, Assemblymen LeFevre and O'Toole

SYNOPSIS

Establishes sex offender Internet registry.

CURRENT VERSION OF TEXT

As amended by the General Assembly on November 20, 2000.



(Sponsorship Updated As Of: 12/12/2000)

1 AN ACT concerning sex offenders and supplementing and amending
2 P.L.1994, c.133.

3

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

6

7 1. (New section) The Legislature finds and declares that the public
8 safety will be enhanced by making certain information contained in the
9 sex offender central registry established pursuant to subsection d. of
10 P.L.1994, c.133 (C.2C:7-4) available to the public through the
11 Internet. Knowledge of whether a person is a convicted sex offender
12 could be a significant factor in protecting oneself and one's family
13 members from recidivist acts by the offender. The technology
14 afforded by the Internet would make this information readily accessible
15 to parents and private entities, enabling them to undertake appropriate
16 remedial precautions to prevent or avoid placing potential victims at
17 risk.

18

19 2. Section 4 of P.L.1994, c.133 (C.2C:7-4) is amended to read as
20 follows:

21 4. a. Within 60 days of the effective date of this act, the
22 Superintendent of State Police, with the approval of the Attorney
23 General, shall prepare the form of registration statement as required
24 in subsection b. of this section and shall provide such forms to each
25 organized full-time municipal police department, the Department of
26 Corrections, the Administrative Office of the Courts and the
27 Department of Human Services. In addition, the Superintendent of
28 State Police shall make such forms available to the Juvenile Justice
29 Commission established pursuant to section 2 of P.L.1995, c.284
30 (C.52:17B-170).

31 b. The form of registration required by this act shall include:

32 (1) A statement in writing signed by the person required to register
33 acknowledging that the person has been advised of the duty to register
34 and reregister imposed by this act and including the person's name,
35 social security number, age, race, sex, date of birth, height, weight,
36 hair and eye color, address of legal residence, address of any current
37 temporary residence, date and place of employment;

38 (2) Date and place of each conviction, adjudication or acquittal by
39 reason of insanity, indictment number, fingerprints, and a brief
40 description of the crime or crimes for which registration is required;
41 and

42 (3) Any other information that the Attorney General deems

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted November 20, 2000.

1 necessary to assess risk of future commission of a crime, including
2 criminal and corrections records, nonprivileged personnel, treatment,
3 and abuse registry records, and evidentiary genetic markers when
4 available.

5 c. Within three days of receipt of a registration pursuant to
6 subsection c. of section 2 of this act, the registering agency shall
7 forward the statement and any other required information to the
8 prosecutor who shall, as soon as practicable, transmit the form of
9 registration to the Superintendent of State Police, and, if the registrant
10 will reside in a different county, to the prosecutor of the county in
11 which the person will reside. The prosecutor of the county in which
12 the person will reside shall transmit the form of registration to the law
13 enforcement agency responsible for the municipality in which the
14 person will reside and other appropriate law enforcement agencies.
15 The superintendent shall promptly transmit the conviction data and
16 fingerprints to the Federal Bureau of Investigation.

17 d. The Superintendent of State Police shall maintain a central
18 registry of registrations provided pursuant to this act.

19 e. The Superintendent of State Police shall develop and maintain
20 a system for making certain information in the central registry
21 established pursuant to subsection d. of this section publicly available
22 by means of electronic Internet technology.

23 (1) The information made publicly available on the Internet shall
24 include: the offender's name and any aliases the offender has used or
25 under which the offender may be or may have been known; any sex
26 offense as defined in subsection b. of section 2 of P.L.1994, c.133
27 (C.2C:7-2) committed by the offender, the date of disposition and a
28 brief description of any such offense; the determination of whether the
29 risk of re-offense by the offender is low, moderate or high; the
30 offender's age, race, sex, date of birth, height, weight, hair and eye
31 color; a photograph of the offender; and the street address, zip code,
32 municipality and county in which the offender resides.

33 (2) The public may, by submitting an individual's name and one
34 other item of personal identification information, obtain access to the
35 Internet registry to view an individual registration record for any
36 offender whose risk of re-offense is low. The public may, without
37 limitation, obtain access to the Internet registry to view an individual
38 registration record, any part of or the entire Internet registry
39 concerning all offenders whose risk of re-offense is moderate or high.
40 (cf: P.L.1995, c.280, s.20)

41

42 ^{13.} No action shall be brought against a real estate broker, broker-
43 salesperson, salesperson, seller or lessor for failure to investigate or
44 disclose any information from the registry that is compiled or made
45 available to the citizens of this State pursuant to P.L. c. (now
46 pending before the Legislature as this bill).¹

1 ¹[3.] 4.¹ (New section) The provisions of this act shall be deemed
2 to be severable, and if any phrase, clause, sentence, word or provision
3 of this act is declared to be unconstitutional, invalid or inoperative in
4 whole or in part, or the applicability thereof to any person is held
5 invalid, by a court of competent jurisdiction, the remainder of this act
6 shall not thereby be deemed to be unconstitutional, invalid or
7 inoperative and, to the extent it is not declared unconstitutional,
8 invalid or inoperative, shall be effectuated and enforced.

9

10 ¹[4.] 5.¹ This act shall take effect immediately, but shall remain
11 inoperative until the first day of the third month after the constitutional
12 amendment proposed by Senate Concurrent Resolution No. of
13 2000 or Assembly Concurrent Resolution No. of 2000, or a
14 substantially similar constitutional amendment, becomes a part of the
15 New Jersey Constitution and shall apply to all information maintained
16 in the central registry regardless of the date of the offense.

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1814 and
ASSEMBLY, No. 5

STATE OF NEW JERSEY
209th LEGISLATURE

ADOPTED JUNE 25, 2001

Sponsored by:

Senator PETER A. INVERSO

District 14 (Mercer and Middlesex)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Assemblyman JOEL WEINGARTEN

District 21 (Essex and Union)

Assemblyman JAMES W. HOLZAPFEL

District 10 (Monmouth and Ocean)

Co-Sponsored by:

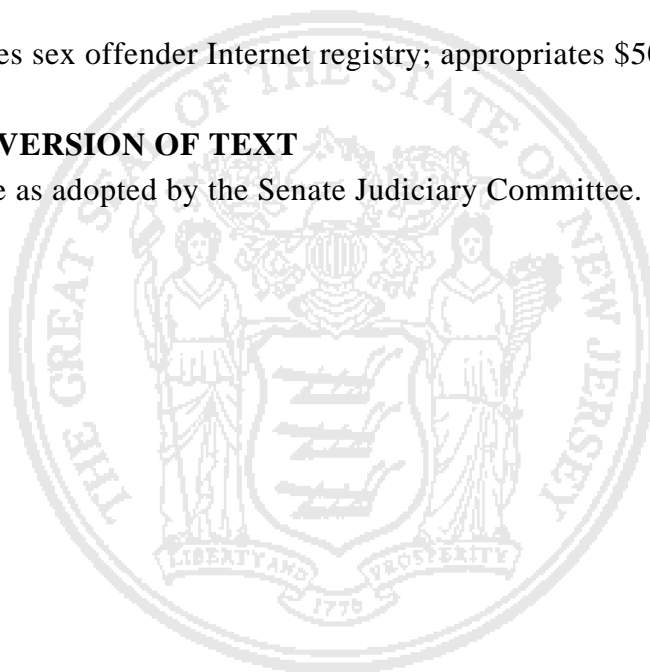
**Assemblywoman Heck, Assemblyman LeFevre, Senators O'Toole, Turner
and Baer**

SYNOPSIS

Establishes sex offender Internet registry; appropriates \$500,000.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Judiciary Committee.



(Sponsorship Updated As Of: 6/29/2001)

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

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

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

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

39
40 2. a. Pursuant to the provisions of this section, the Superintendent
41 of State Police shall develop and maintain a system for making certain
42 information in the central registry established pursuant to subsection
43 d. of section 4 of P.L.1994, c.133 (C.2C:7-4) publicly available by
44 means of electronic Internet technology.

45 b. The public may, without limitation, obtain access to the Internet

1 registry to view an individual registration record, any part of, or the
2 entire Internet registry concerning all offenders whose risk of
3 re-offense is high or for whom the court has ordered notification in
4 accordance with paragraph (3) of subsection c. of section 3 of
5 P.L.1994, c.128 (C.2C:7-8), regardless of the age of the offender.

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

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

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

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

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

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

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

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

19

20 3. The Attorney General shall:

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

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

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

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

40

41 4. No action shall be brought against any person for failure to
42 investigate or disclose any information from the registry that is
43 compiled or made available to the citizens of this State pursuant to
44 P.L. c. (C.) (now pending before the Legislature as this bill).

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

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

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

15 (1) Health insurance;

16 (2) Insurance;

17 (3) Loans;

18 (4) Credit;

19 (5) Education, scholarships, or fellowships;

20 (6) Benefits, privileges, or services provided by any business
21 establishment, unless for a purpose consistent with the enhancement
22 of public safety; or

23 (7) Housing or accommodations.

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

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

41
42 6. The provisions of this act shall be deemed to be severable, and
43 if any phrase, clause, sentence, word or provision of this act is
44 declared to be unconstitutional, invalid or inoperative in whole or in
45 part, or the applicability thereof to any person is held invalid, by a
46 court of competent jurisdiction, the remainder of this act shall not

1 thereby be deemed to be unconstitutional, invalid or inoperative and,
2 to the extent it is not declared unconstitutional, invalid or inoperative,
3 shall be effectuated and enforced.

4
5 7. An Internet Registry Advisory Council is established to consult
6 with and provide recommendations to the Attorney General
7 concerning the making of sex offender registration records available
8 to the public on the Internet. The council shall consist of nine persons
9 who, by experience or training, have a personal interest or professional
10 expertise in law enforcement, crime prevention, victim advocacy,
11 criminology, psychology, parole, public education or community
12 relations. The members of the council shall be appointed in the
13 following manner: three shall be appointed by the Governor, of whom
14 no more than two shall be of the same political party; three shall be
15 appointed by the President of the Senate, of whom no more than two
16 shall be of the same political party; and three shall be appointed by the
17 Speaker of the General Assembly, of whom no more than two shall be
18 of the same political party. Any vacancies occurring in the
19 membership shall be filled in the same manner as the original
20 appointments. The council shall hold at least two meetings per year
21 to review the implementation and operations of the Internet registry.

22
23 8. This act and the system of registration and community
24 notification provided pursuant to P.L.1994, c.133 and P.L.1994, c.128
25 (C.2C:7-1 through 11) shall be known and may be cited as "Megan's
26 Law."

27
28 9. There is hereby appropriated from the General Fund to the
29 Department of Law and Public Safety \$500,000 for the implementation
30 of this act; of this amount, \$200,000 shall be provided to the Division
31 of State Police, and \$300,000 shall be provided to the counties in the
32 form of grants.

33
34 10. This act shall take effect immediately, but shall remain
35 inoperative until the first day of the sixth month after enactment.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 1814 and ASSEMBLY, No. 5

STATE OF NEW JERSEY

DATED: JUNE 25, 2001

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1814 and Assembly Bill No. 5 (SCS).

This substitute requires the State Police to develop and maintain a system to make sex offender registry information compiled under Megan's Law publicly available over the Internet.

Under the bill, a person would be able to gain access through the Internet to all available information concerning sex offenders who have been determined to be at *high risk* to re-offend (Tier Three) or for whom the court has ordered Tier Three notification.

The substitute provides that, with certain exceptions, the public would be able to gain access to all available information concerning offenders who have been determined to be at *moderate risk* to re-offend (Tier Two) or for whom the court has ordered Tier Two notification. Exceptions are provided for offenses committed by juveniles or involving incest or consensual activity with a minor. Specifically, those exceptions would be operative if the sole sex offense committed by the offender is one of the following: (1) the offender was a juvenile who was adjudicated delinquent for the sex offense; (2) a violation of N.J.S.2C:14-2 (sexual assault) or N.J.S.2C:14-3 (criminal sexual contact) where the offender was related to the victim by blood or affinity to the third degree or was a foster parent, a guardian or stands in loco parentis within the victim's household; or (3) a violation of N.J.S.2C:14-2 or N.J.S.2C:14-3 if the victim assented to the commission of the offense, but by reason of age was not capable of giving lawful consent. Information about an offender who falls within these exceptions may 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 other moderate risk offenders who do not fall under the exceptions.

Information would not be made available on the Internet for offenders who had been determined to be *low risk* to re-offend (Tier One) or for Tier Two offenders for whom the court has not ordered

Tier Two notification.

The substitute requires the following sex offender information to be made available: the offender's name and any aliases the offender has used; any sex offense committed by the offender; the date and location of disposition; a brief description of the offense, including the victim's gender and minor status; the offender's modus operandi, if any; 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 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.

The substitute requires the Attorney General to ensure that the Internet registry contains (1) warnings that any person who uses the information to threaten, intimidate or harass another, or who misuses the information may be criminally prosecuted, and (2) an explanation of the registry's limitations.

The Attorney General is further required to strive to ensure that the information contained in the Internet registry is accurate, and that the registry is revised and updated as appropriate in a timely and efficient manner. In addition, the web site would provide the text of applicable State statutes and guidelines of the Attorney General, information about sex offenders and Megan's Law, pertinent and appropriate information concerning crime prevention and personal safety, and links to other State web sites.

The substitute also provides that no action is to be brought against any person for failure to investigate or disclose any information from the registry that is compiled or made available to the public through the Internet registry.

Any information disclosed pursuant to the bill's provisions 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. A person who uses the information to commit a crime is guilty of a crime of the third degree. A person who uses the information to commit a disorderly persons or petty disorderly persons offense is guilty of a disorderly persons offense and would be fined at least \$500 to \$1,000, in addition to the other applicable penalties.

Use of Internet registry information 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; and (7) housing or accommodations.

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 the bill, 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 any person responsible for the pattern or practice of misuse. These remedies would be independent of and in addition to any other remedies or procedures that may be available under other provisions of law.

The original Megan's Law established a notification advisory council to consult with and provide recommendations to the Attorney General on the law's implementation. This substitute establishes an Internet Registry Advisory Council to assist in the implementation of the Internet registry. The council would 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.

It is noted that this substitute implements the provisions of Assembly Concurrent Resolution No. 1, which amended the State Constitution to establish the Legislature's authority to pass laws authorizing the disclosure of information concerning sex offenders to the general public.

This substitute embodies the recommendations of the Senate Task Force on Internet Access to Sex Offender Registration Information.

FISCAL IMPACT

The substitute provides for an appropriation to the Department of Law and Public Safety in the amount of \$500,000 for the bill's implementation. Of that amount, \$200,000 would be provided to the Division of State Police, and \$300,000 would be provided to the counties in the form of grants.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1814 and ASSEMBLY, No. 5**

STATE OF NEW JERSEY

DATED: JUNE 25, 2001

The Senate Judiciary Committee reports favorably a committee substitute for Senate Bill No. 1814 and Assembly Bill No. 5

This bill requires the State Police to develop and maintain a system to make sex offender registry information compiled under Megan's Law publicly available over the Internet.

Under the bill's provisions, a person would be able to gain access through the Internet to all available information concerning sex offenders who have been determined to be at high risk to re-offend (Tier Three) or for whom the court has ordered Tier Three notification.

With certain exceptions, the bill provides that the public would be able to gain access to all available information concerning offenders who have been determined to be at moderate risk to re-offend (Tier Two) or for whom the court has ordered Tier Two notification. Exceptions are provided for offenses committed by juveniles or involving incest or consensual activity with a minor. Specifically, those exceptions would be operative if the sole sex offense committed by the offender is one of the following: (1) the offender was a juvenile who was adjudicated delinquent for the sex offense; (2) a violation of N.J.S.2C:14-2 or N.J.S.2C:14-3 where 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 victim's household; or (3) a violation of N.J.S.2C:14-2 or N.J.S.2C:14-3 if the victim assented to the commission of the offense, but by reason of age was not capable of giving lawful consent. Information about an offender who falls within these exceptions may 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 other moderate risk offenders who do not fall under the exceptions.

Information would not be made available on the Internet for offenders who had been determined to be low risk to re-offend (Tier One) or for Tier Two offenders for whom the court has not ordered

Tier Two notification.

The bill requires the following sex offender information to be made available: the offender's name and any aliases the offender has used; any sex offense committed by the offender; the date and location of disposition; a brief description of the offense, including the victim's gender and minor status; the offender's modus operandi, if any; 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 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.

The bill requires the Attorney General to ensure that the Internet registry contains (1) warnings that any person who uses the information to threaten, intimidate or harass another, or who misuses the information may be criminally prosecuted, and (2) an explanation of the registry's limitations.

The Attorney General is further required to strive to ensure that the information contained in the Internet registry is accurate, and that the registry is revised and updated as appropriate in a timely and efficient manner. In addition, the web site would provide the text of applicable State statutes and guidelines of the Attorney General, information about sex offenders and Megan's Law, pertinent and appropriate information concerning crime prevention and personal safety, and links to other State web sites.

The bill also provides that no action is to be brought against any person for failure to investigate or disclose any information from the registry that is compiled or made available to the public through the Internet registry.

Any information disclosed pursuant to the bill's provisions 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. A person who uses the information to commit a crime is guilty of a crime of the third degree. A person who uses the information to commit a disorderly persons or petty disorderly persons offense is guilty of a disorderly persons offense and would be fined at least \$500 to \$1,000, in addition to the other applicable penalties.

Use of Internet registry information 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; and (7) housing or accommodations.

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 the bill, 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 any person responsible for the pattern or practice of misuse. These remedies would be independent of and in addition to any other remedies or procedures that may be available under other provisions of law.

The original Megan's Law established a notification advisory council to consult with and provide recommendations to the Attorney General on the law's implementation. This bill establishes an Internet Registry Advisory Council to assist in the implementation of the Internet registry. The council would 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 bill provides for an appropriation to the Department of Law and Public Safety in the amount of \$500,000 for the bill's implementation. Of that amount, \$200,000 would be provided to the Division of State Police, and \$300,000 would be provided to the counties in the form of grants.

It should be noted that this bill implements the provisions of Assembly Concurrent Resolution No. 1, which amended the State Constitution to establish the Legislature's authority to pass laws authorizing the disclosure of information concerning sex offenders to the general public.

This bill embodies the recommendations of the Senate Task Force on Internet Access to Sex Offender Registration Information.

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1814 and ASSEMBLY, No. 5
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: JULY 19, 2001

SUMMARY

Synopsis: Establishes sex offender Internet registry; appropriates \$500,000.
Type of Impact: Expenditure increase. State and county.
Agencies Affected: Department of Law and Public Safety, Division of State Police. Counties, County Prosecutors' offices.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate	Indeterminate	Indeterminate
County Cost	Indeterminate	Indeterminate	Indeterminate

- ! Makes publicly available on the Internet information compiled by the State Police on convicted sex offenders under the provisions of P.L.1994, c.133 (C.2C:7.1-et seq.), commonly known as "Megan's Law."
- ! The bill implements provisions of a constitutional amendment, approved on November 7, 2000, that establishes the Legislature's authority to pass laws authorizing the disclosure of information concerning sex offenders to the general public.
- ! Appropriates \$500,000 from the General Fund to the Department of Law and Public Safety for the implementation of this act, including \$200,000 to the Division of State Police and \$300,000 to the counties in the form of grants.
- ! This estimate is based on information by the Department of Law and Public Safety.

BILL DESCRIPTION

Senate Committee Substitute for Senate Bill No. 1814 of 2001 and Assembly Bill No. 5 of 2000 requires the Division of State Police to make publicly available on the Internet the central registry of information on sex offenders that was compiled under P.L.1994, c.133 (C.2C:7.1-et seq.), commonly known as "Megan's Law."

The bill specifies that the name, photograph, address, offense, risk profile and various other information pertaining to certain offenders be disclosed. This information would be provided for sex offenders who have been determined to be at high risk to re-offend and, with certain exceptions, for those whose risk to re-offend has been determined to be moderate.

The bill requires the Attorney General to ensure that the Internet registry contains (1) warnings that any person who uses the information to threaten, intimidate or harass another, or who misuses the information may be criminally prosecuted, and (2) an explanation of the registry's limitations.

The bill implements a constitutional amendment which permits the Legislature to pass laws authorizing the disclosure of information concerning sex offenders to the general public.

FISCAL ANALYSIS

OFFICE OF LEGISLATIVE SERVICES

Information provided informally by the Department of Law and Public Safety for a similar bill in this session indicated that the cost to the Division of State Police to implement that bill at \$93,275 in the first year after enactment. The department indicated that no additional costs would be incurred in years two and three. However, this bill differs from the previous bill in certain respects that could affect the cost of implementation. It would omit from the Internet registry certain moderate risk offenders on the basis of their offenses. It also requires more details on the offenders to be recorded in the registry than the previous bill.

Counties also will incur additional costs in carrying out the provisions of this bill. County prosecutors will be responsible for informing sex offenders of the Internet registry and advising them of their legal rights. They also may be required to conduct new classification hearings in the event that moderate risk offenders choose to contest their classification.

Sufficient information is lacking to permit an estimate of additional State and county costs under this bill.

Section: *Law and Public Safety*

Analyst: *James F. Vari*
Associate Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

§§1-8 -
C.2C:7-12
to 2C:7-19
§9 - Approp.
§10 - Note to
§§1-9

P.L. 2001, CHAPTER 167, *approved July 23, 2001*
Assembly, No. 4 (*First Reprint*)

1 AN ACT concerning sex ¹[offenses] offender registration and
2 community notification¹, supplementing P.L.1994, c.128 ¹[and
3 amending N.J.S.2C:24-4]¹, and making an appropriation.
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

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

23 The Legislature further finds and declares that, in some instances,
24 countervailing interests support a legislative determination to exclude
25 from the Internet registry the registration information of certain sex
26 offenders. For example, the interest in facilitating rehabilitation of
27 juveniles who have been adjudicated delinquent for the commission of
28 one sex offense, but who do not present a relatively high risk of re-
29 offense, justifies the decision to limit public access to information
30 about such juveniles through the Internet. Other instances where the
31 Legislature has determined that making sex offender registry
32 information available to the general public through the Internet would
33 not necessarily serve the public safety purposes of the law include
34 moderate risk offenders whose sole sex offense involved incest or
35 consensual sex. However, in such cases, the legislature deems it
36 appropriate and consistent with the public safety purposes of the law

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted June 28, 2001.

1 to provide a process that permits inclusion of information about these
2 individuals in the Internet registry where public access would be
3 warranted, based on the relative risk posed by the particular offender.
4

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

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

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

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

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

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

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

42 e. Notwithstanding the provisions of paragraph d. of this
43 subsection, the individual registration record of an offender to whom
44 an exception enumerated in paragraph (1), (2) or (3) of subsection d.
45 of this section applies shall be made available to the public on the
46 Internet registry if the State establishes by clear and convincing

1 evidence that, given the particular facts and circumstances of the
2 offense and the characteristics and propensities of the offender, the
3 risk to the general public posed by the offender is substantially similar
4 to that posed by offenders whose risk of re-offense is moderate and
5 who do not qualify under the enumerated exceptions. ¹[The court
6 shall state on the record the factual basis supporting its determination
7 that the offender's registration information be made available to the
8 public.]¹

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

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

32

33 3. (New section) The Attorney General shall:

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

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

45 c. Strive to ensure the information contained in the Internet
46 registry is accurate, and that the data therein is revised and updated as

1 appropriate in a timely and efficient manner; and

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

7

8 4. (New section) No action shall be brought against any person for
9 failure to investigate or disclose any information from the registry that
10 is compiled or made available to the citizens of this State pursuant to
11 P.L. , c. (C.) (now pending before the Legislature as this bill).

12

13 5. (New section) a. Any information disclosed pursuant to this act
14 ¹[or pursuant to the provisions of section 3 of P.L.1994, c.128
15 (C.2C:7-8)]¹ may be used in any manner by any person or by any
16 public, governmental or private entity, organization or official, or any
17 agent thereof, for any lawful purpose consistent with the enhancement
18 of public safety.

19 b. Any person who uses information disclosed pursuant to this act
20 ¹[or section 3 of P.L.1994, c.128 (C.2C:7-8)]¹ to commit a crime
21 shall be guilty of a crime of the third degree. Any person who uses
22 information disclosed pursuant to this act ¹[or section 3 of P.L.1994,
23 c.128 (C.2C:7-8)]¹ to commit a disorderly persons or petty disorderly
24 persons offense shall be guilty of a disorderly persons offense and shall
25 be fined not less than \$500 or more than \$1,000, in addition to any
26 other penalty or fine imposed.

27 c. ¹Except as authorized under any other provision of law, use of
28 any of the information disclosed pursuant to this act for the purpose
29 of applying for, obtaining, or denying any of the following, is
30 prohibited:

31 (1) Health insurance;

32 (2) Insurance;

33 (3) Loans;

34 (4) Credit;

35 (5) Education, scholarships, or fellowships;

36 (6) Benefits, privileges, or services provided by any business
37 establishment, unless for a purpose consistent with the enhancement
38 of public safety; or

39 (7) Housing or accommodations.

40 d.¹ Whenever there is reasonable cause to believe that any person
41 or group of persons is engaged in a pattern or practice of misuse of the
42 information disclosed pursuant to this act, the Attorney General, or
43 any county or municipal prosecutor having jurisdiction, or any person
44 aggrieved by the misuse of that information is authorized to bring a
45 civil action in the appropriate court requesting preventive relief,
46 including an application for a permanent or temporary injunction,

1 restraining order, or other order against the person or group of
2 persons responsible for the pattern or practice of misuse. The
3 foregoing remedies shall be independent of and in addition to any other
4 remedies or procedures that may be available under other provisions
5 of law.

6 ¹[d.] e.¹ Evidence that a person obtained information about an
7 offender from the Internet registry ¹[or notification pursuant to
8 section 3 of P.L.1994, c.128 (C.2C:7-8)]¹ within one year prior to
9 committing a criminal offense against that offender shall give rise to
10 an inference that the person used information in violation of subsection
11 b. of this section.

12

13 6. (New section) The provisions of this act shall be deemed to be
14 severable, and if any phrase, clause, sentence, word or provision of
15 this act is declared to be unconstitutional, invalid or inoperative in
16 whole or in part, or the applicability thereof to any person is held
17 invalid, by a court of competent jurisdiction, the remainder of this act
18 shall not thereby be deemed to be unconstitutional, invalid or
19 inoperative and, to the extent it is not declared unconstitutional,
20 invalid or inoperative, shall be effectuated and enforced.

21

22 7. (New section) An Internet Registry Advisory Council is
23 established to consult with and provide recommendations to the
24 ¹[Governor and Legislature] Attorney General ¹concerning the
25 making of sex offender registration records available to the public on
26 the Internet. ¹[The Attorney General, or his designee, shall serve ex-
27 officio and shall serve as chairman of the council.]¹ The council
28 ¹[also]¹ shall consist of ¹[eight public members] nine persons¹ who,
29 by experience or training, have a personal interest or professional
30 expertise in law enforcement, crime prevention, victim advocacy,
31 criminology, psychology, parole, public education or community
32 relations. The ¹[public]¹ members of the council shall be appointed
33 in the following manner: ¹[two] three¹ shall be appointed by the
34 Governor, of whom no more than ¹[one] two¹ shall be of the same
35 political party; three shall be appointed by the President of the Senate,
36 of whom no more than two shall be of the same political party; and
37 three shall be appointed by the Speaker of the General Assembly, of
38 whom no more than two shall be of the same political party. Any
39 vacancies occurring in the membership shall be filled in the same
40 manner as the original appointments. The council shall hold at least
41 two meetings per year to review the implementation and operations of
42 the Internet registry.

43

44 8. (New section) ¹[Sections 1 through 7 of this] This¹ act and the
45 system of registration and community notification provided pursuant

1 to P.L.1994, c.133 and P.L.1994, c.128 (C.2C:7-1 through 11) shall
2 be known and may be cited as "Megan's Law."
3

4 ¹[9. N.J.S.2C:24-4 is amended to read as follows:

5 2C:24-4. Endangering Welfare of Children.

6 a. Any person having a legal duty for the care of a child or who has
7 assumed responsibility for the care of a child who engages in sexual
8 conduct which would impair or debauch the morals of the child, or
9 who causes the child harm that would make the child an abused or
10 neglected child as defined in R.S.9:6-1, R.S.9:6-3 and P.L.1974,
11 c.119, s.1 (C.9:6-8.21) is guilty of a crime of the second degree. Any
12 other person who engages in conduct or who causes harm as described
13 in this subsection to a child under the age of 16 is guilty of a crime of
14 the third degree.

15 b. (1) As used in this subsection:

16 "Child" means any person under 16 years of age.

17 "Internet" means the international computer network of both federal
18 and non-federal interoperable packet switched data networks.

19 "Prohibited sexual act" means

20 (a) Sexual intercourse; or

21 (b) Anal intercourse; or

22 (c) Masturbation; or

23 (d) Bestiality; or

24 (e) Sadism; or

25 (f) Masochism; or

26 (g) Fellatio; or

27 (h) Cunnilingus;

28 (i) Nudity, if depicted for the purpose of sexual stimulation or
29 gratification of any person who may view such depiction ; or

30 (j) Any act of sexual penetration or sexual contact as defined in
31 N.J.S.2C:14-1.

32 "Reproduction" means, but is not limited to, computer generated
33 images.

34 (2) [A person commits a crime of the second degree if he causes
35 or permits a child to engage in a prohibited sexual act or in the
36 simulation of such an act if the person knows, has reason to know or
37 intends that the prohibited act may be photographed, filmed,
38 reproduced, or reconstructed in any manner, including on the Internet,
39 or may be part of an exhibition or performance. If the person is a
40 parent, guardian or other person legally charged with the care or
41 custody of the child, the person shall be guilty of a crime of the first
42 degree.] Deleted by amendment, P.L. , c. (C.)(now
43 pending before the Legislature as this bill).

44 (3) A person commits a crime of the second degree if he causes or
45 permits a child to engage in a prohibited sexual act or in the simulation
46 of such an act if the person knows, has reason to know or intends that

1 the prohibited act may be photographed, filmed, reproduced, or
2 reconstructed in any manner, including on the Internet, or may be part
3 of an exhibition or performance. If the person is a parent, guardian or
4 other person legally charged with the care or custody of the child, the
5 person shall be guilty of a crime of the first degree.

6 (4) Any person who photographs or films a child in a prohibited
7 sexual act or in the simulation of such an act or who uses any device,
8 including a computer, to reproduce or reconstruct the image of a child
9 in a prohibited sexual act or in the simulation of such an act is guilty
10 of a crime of the second degree.

11 [(4)] (5) (a) Any person who knowingly receives for the purpose
12 of selling or who knowingly sells, procures, manufactures, gives,
13 provides, lends, trades, mails, delivers, transfers, publishes, distributes,
14 circulates, disseminates, presents, exhibits, advertises, offers or agrees
15 to offer , through any means , including the Internet, any photograph,
16 film, videotape, computer program or file, video game or any other
17 reproduction or reconstruction which depicts a child engaging in a
18 prohibited sexual act or in the simulation of such an act, is guilty of a
19 crime of the second degree.

20 (b) Any person who knowingly possesses or knowingly views any
21 photograph, film, videotape, computer program or file, video game or
22 any other reproduction or reconstruction which depicts a child
23 engaging in a prohibited sexual act or in the simulation of such an act,
24 including on the Internet, is guilty of a crime of the fourth degree.

25 [(5)] (6) For purposes of this subsection, a person who is depicted
26 as or presents the appearance of being under the age of 16 in any
27 photograph, film, videotape, computer program or file, video game or
28 any other reproduction or reconstruction shall be rebuttably presumed
29 to be under the age of 16. If the child who is depicted as engaging in,
30 or who is caused to engage in, a prohibited sexual act or simulation of
31 a prohibited sexual act is under the age of 16, the actor shall be strictly
32 liable and it shall not be a defense that the actor did not know that the
33 child was under the age of 16, nor shall it be a defense that the actor
34 believed that the child was 16 years of age or older, even if such a
35 mistaken belief was reasonable.

36 (cf: P.L.1998, c.126, s.1)]¹

37

38 ¹[10.] 9.¹ (New section) There is hereby appropriated from the
39 General Fund to the Department of Law and Public Safety \$500,000
40 for the implementation of this act; of this amount, \$200,000 shall be
41 provided to the Division of State Police, and \$300,000 shall be
42 provided to the counties in the form of grants.

43

44 ¹[11. Sections 1 through 8 and section 10] 10. This act¹ shall take
45 effect immediately, but shall remain inoperative until the first day of
46 the sixth month after enactment ¹[; section 9 shall take effect

1 immediately and shall be retroactive to May 1, 1999, the effective date
2 of P.L.1998, c.126]¹.

3

4

5

6

7 Establishes sex offender Internet registry; appropriates \$500,000.

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.

Office of the Governor
NEWS RELEASE

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RELEASE: July 23 , 2001

**DiFRANCESCO SIGNS LEGISLATION GIVING PUBLIC ACCESS TO NJ'S
SEX OFFENDER REGISTRY**
New Law Extends Scope of "Megan's Law"

Acting Governor Donald T. DiFrancesco signed legislation today that establishes a sex offender Internet registry, which will enable the public to have access to information about convicted sex offenders.

"This bill will make New Jersey a safer place for all families. Anyone with access to the Internet will now be able to check the website, which contains information on all high-risk sex offenders and most moderate-risk offenders," said the acting Governor.

The website, developed and maintained by the State Police, will contain information on individuals determined to be Tier 3 or high-risk for repeating their crime and most Tier 2 or those at moderate-risk for repetition. The sex offender Internet registry will exclude low-risk offenders and those who pose a moderate risk who are first-time juvenile offenders. This provision was adopted because of the potential adverse consequences for their rehabilitation.

"The list of exceptions points to the care and thought that went into this legislation. I am confident that it will be a model for balancing the right to know against the danger of inadvertently creating more victims," said DiFrancesco.

The bill, A-4, appropriates \$500,000 to the Department of Law and Public Safety for the implementation of the Internet registry. This legislation also officially changes the registration and community notification laws to "Megan's Law."

"Sometimes, there are bills that you wish you didn't have to sign because they touch on issues you wish you didn't even have to consider -- problems that you wish you never had to encounter. I recognize that no matter how innovative or comprehensive we are in crafting legislation like this, we can't legislate safety. We acknowledge that parents and families and concerned citizens will and must always be the first line of protection for our children," said the acting Governor.

"Megan's Law," enacted in October 1994, establishes a state sex offender registry and a community notification procedure to help protect communities by providing information about convicted sex offenders to law enforcement agencies and the appropriate community members.

Acting Governor DiFrancesco signed A-4 at Megan's Place in Hamilton Township, a park dedicated in memory of Megan Kanka. The Rotary-Club of Hamilton-Washington raised money to purchase the house where Megan Kanka was murdered and replaced it with a public park.

Megan's parents, Richard and Maureen Kanka, run the Megan Nicole Kanka Foundation and joined DiFrancesco and bill sponsors, Senators Peter Inverso (R-Mercer/Middlesex) and Joe Vitale (D-Middlesex) and Assemblymen Joel Weingarten (R-Essex/Union) and Jim Holzapfel (R-Monmouth/Ocean), at today's bill signing.