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Sex offender must tell date's parents

Appeals court upholds unusual order to Sussex teenager who endangered his half-sister

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When a Sussex County teenager admitted endangering the welfare of his 6-year-old half sister, a judge sentenced him to three years probation and added an unprecedented condition: The boy must tell the parents of any girl he dates that he is a registered sex offender.

Yesterday, a state appeals court ruled that family court judges have the power to impose such conditions, even though they go beyond the warnings provided to the public under Megan's Law.

The Public Defender's Office plans to ask the state Supreme Court to review the ruling. Spokesman Tom Rosenthal said, "We are concerned this may be adopted in other cases. We really don't want to see that happen."

It is a case that involves conflicting state policies. State law protects the confidentiality of juvenile delinquents in order to foster their rehabilitation. But since the 1994 rape and murder of Megan Kanka, the state has developed an elaborate system for warning schools and neighbors about sex offenders in their midst.

Those conflicting policies were evident in yesterday's appeals court ruling, which took pains to protect the anonymity of the teenage sex offender, identifying him only as "D.A." It did not disclose his home town, age or details of his offense. It revealed only that when he was sentenced on Feb. 26, 2004, he was given credit for 102 days spent in juvenile detention and ordered to have no unsupervised contact with children 10 or younger. All other records in the case are sealed.

But the opinion also recognized the goal of protecting the public.

"Clearly," Appellate Division Judge Mary Catherine Cuff wrote, the family court judge "was concerned about the safety of young girls with whom D.A. may form a dating relationship" and recognized that neither they nor their parents would be entitled to learn about D.A.'s sex offense under other laws. As a low-risk sex offender, D.A.'s identity would be disclosed only to police, Cuff noted.

Requiring D.A. to disclose his status as a sex offender to the parents of any girls he dates protects "a certain limited class of teenage girls who may come into contact with D.A.," Cuff wrote. "Moreover, the judge opined that disclosure of this information would require D.A. to be accountable for his actions, thereby aiding his

rehabilitation."

"The Juvenile Code expressly seeks a balance between the safety of the public, accountability of the juvenile for his conduct, and rehabilitation of the juvenile offender," Cuff added. "The special condition imposed by the family judge in this case furthers those goals."

Both Rosenthal and West Trenton lawyer Jack Furlong, co-author of a guidebook to Megan's Law, said it was the first time they had heard of a teenager being ordered to disclose his sex offense to a date's parents.

"As a practical proposition, this kid doesn't date for three years," said Furlong, a long-time critic of Megan's Law.

"It's another example of judges being hyper-cautious whenever dealing with sex offenses for fear that something, hypothetically, could happen in the future and were it to happen the judge would be called to account," Furlong added. "That's not what judging is about."

Rosenthal said the ruling violates both the confidentiality provisions of the Code of Juvenile Justice and the "careful" mechanism in Megan's Law for notifying the public about sex offenders.

Cuff rejected those arguments, ruling family court judges have power "separate and apart from Megan's Law" to impose conditions on juvenile sex offenders. Appellate Division Judges Jack Lintner and John Holston Jr. joined her ruling.

Assistant Sussex County Prosecutor Jerome Neidhardt, who handled the appeal for the state, said, "We agree with the reasoning behind the judge's decision."

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