



The Star-Ledger

A flaw in Megan's Law

Tuesday, May 23, 2006

How would the conversation begin? Something like: "Hello, Mr. and Mrs. Smith. I'm John Doe. I would like to date your daughter. Oh, by the way, I'm a convicted sex offender."

While it's hard to imagine, something like that would have to occur in accordance with a recent ruling by a state judge who also ordered the juvenile defendant to serve three years' probation.

The case of the 15-year-old boy, who was ordered to tell the parents of any girl he dates that he was convicted of molesting his 6-year-old half-sister, underscores one of the glaring problems with Megan's Law.

Elements of the widely emulated New Jersey law conflict with the guiding principles behind the juvenile justice system. The linchpin of that system is that it is primarily designed to rehabilitate, not punish, youthful offenders. That's why proceedings in the system are confidential. Even victims and their family members are barred from being present at juvenile court hearings or from reviewing records, which are sealed.

All of this is done because the hope is that with proper intervention -- counseling and treatment -- a teen who commits a crime can be rehabilitated.

Megan's Law changed the calculus.

The Legislature's understandable desire to alert the community to sexual predators has turned the confidentiality of juvenile proceedings upside down. The case of the teenage boy, described in court papers simply as D.A., reveals the conflicts. For example, the teen was expected to be classified as a tier-one offender under Megan's Law, meaning only local police would be notified of his offense. Yet the judge felt his dates' parents should know, too. That potentially transforms what was intended to be limited notification into very broad notification.

Of course, most responsible parents want to know if their teenage daughter is dating a boy with a history of sexually abusing children. But divulging that information is certainly punitive and clearly conflicts with the goals of the juvenile justice system. Not even adult offenders are required to tell women they are dating about their criminal history.

What is clear is that the law, as applied to juveniles, has not been carefully crafted to balance the competing interests of protecting the public and preserving the confidentiality of juvenile proceedings.

Part of the problem is that the Legislature has never focused on juvenile sex offenders. The rules as applied to juveniles have evolved mostly by court decree rather than through the legislative process. That's a disservice to this unique population of offenders.

© 2006 The Star Ledger

© 2006 NJ.com All Rights Reserved.