

RULING: Sex offenders' failure to verify addresses not a crime

Megan's Law loophole still needs a mend

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TOMS RIVER — When a state Supreme Court decision last year pointed out a loophole in Megan's Law, some area legislators said they would work quickly to close it.

Now, more than eight months later, the loophole remains, and legislation proposed to close it sits dormant in an Assembly committee.

As a result, prosecutors cannot seek sanctions against convicted sex offenders who fail to periodically verify their addresses with authorities, as required under Megan's Law.

That has some parents upset.

"It's horrible," said Diana Gerlach of Brick, mother of a 5-year-old son and 6-year-old daughter. Gerlach also has a 16-year-old stepson.

"It's just easier for (sex offenders) not to be tracked," she said. "They don't wear name tags. I don't know who they are, and all I have to rely on is what the law puts in place. Apparently we can't rely on that if (lawmakers) come through with false promises and just sit on them.

"Our children deserve to be safe," Gerlach said.

With little fanfare, on Dec. 29, the state Supreme Court decided a Morris County case involving a sex offender named Frank Gyori Jr.

In so doing, the court partially dismantled a key Megan's Law provision — the requirement that law enforcement be kept current on where convicted sex offenders are living.

Megan's Law is named for Megan Kanka, a 7-year-old girl from Hamilton, Mercer County, who was raped and killed by a neighbor, Jesse Timmendquas, who had previously been an inmate at the state facility for adult sex offenders in Woodbridge's Avenel section.

The law requires sex offenders to register their addresses with authorities when first released from prisons or mental institutions, and when they move, and the law makes it a crime punishable by up to 18 months in prison if they fail to do so.

Megan's Law also requires periodic verifications of existing addresses. Some must do this annually, but more serious offenders must report in every 90 days.

Gyori was under indictment on charges he failed to verify his address. What the court said, in dismissing the indictment, was that his lapse was not a crime.

Bill quickly introduced

In adopting a dissenting opinion by a lower-court judge in the Gyori case, the Supreme Court said Megan's Law, while it contains the requirement for sex offenders to periodically verify their addresses, fails to establish that it is a crime if they fail to do so.

When the decision was brought to the attention of some area legislators, they vowed to quickly close the loophole. Among them was Assemblyman Brian E. Rumpf, R-Ocean, who in February introduced a bill to clearly establish that

such failures by sex offenders would be a fourth-degree crime punishable by up to 18 months in prison.

Assemblywoman Amy Handlin, R-Monmouth, quickly signed on as a co-sponsor. The proposal was revised in the Senate Law and Public Safety Committee to include a recommendation by Sen. Ellen Karcher, D-Monmouth, to increase the penalties to up to five years in prison for failing to initially register with authorities or to notify them of a change of address.

Rumpf in February said, "I hope this bill goes quickly, to ensure that at all times, we know exactly where (sex offenders) are living."

The Senate unanimously passed the bill on June 22 and referred it to the Assembly Judiciary Committee, where it still sits.

Rumpf, though not a member of that committee, said there have been no Assembly committee meetings scheduled, except for the committees looking at property tax reform. After the bill was referred to the Judiciary Committee in late June, the Legislature was kept busy with the state budget until the summer break, he said.

Assemblywoman Linda Greenstein, chairwoman of the Judiciary Committee, said the committee had been looking at a package of bills to tweak Megan's Law.

Greenstein, D-Mercer, said that unless she is made aware of an urgent need to pass Rumpf's bill, it will be considered when the committee looks at the whole package of bills. She said she had hoped that package would have been passed before the summer break, but that did not happen.

But, she said, "There was no one issue where anyone said, 'This must be done tomorrow.' I like doing things comprehensively."

With the anticipation that committee meetings will soon be starting again, Rumpf said he intends to communicate to Greenstein the urgency of his bill.

"You hate to say it, but the repercussions could be the lack of knowledge of where an offender may be located . . . and some kind of recidivism that leads to another incident," Rumpf said.

212 convictions reversed

Since the Supreme Court decided the Gyori case, 212 sex offenders who had been convicted in New Jersey of failing to verify their addresses have had their convictions vacated, said Tom Rosenthal, a spokesman for the state Public Defender's Office. That number included only one from Ocean County and none in Monmouth County, he said.

Rosenthal said the numbers show that, at least in Ocean and Monmouth counties, prosecutors aren't using scarce resources on prosecuting sex offenders who already have registered their whereabouts with police, but have simply failed to verify them periodically.

"Authorities know where the registered offender is located," Rosenthal said. "I think limited resources should be dedicated and allocated to where they will have the more effective benefit."

Rachel Sacharow, a spokeswoman for the state Attorney General's Office, said the office does not have statistics on how many sex offenders are not verifying their addresses.

"However, we have not heard from prosecutors that this is a major problem," she said.

"Every loophole is serious," Handlin countered. "It's like asking, what kind of cancer do we not need to worry about."

"This may not be front and center now," Handlin continued. "The time is right to remind legislators and remind the public to pressure their legislators to close this loophole fast."

"We don't want to wait for a cancer to metastasize," she said. "We don't want another child to be victimized before we close this loophole."

ON THE WEB: Visit our Web site, www.app.com, and look under Special Reports for a link to: Tracking Sex Offenders: The Impact of Megan's Law for a series of stories, video, maps and links to information on offenders in your town.

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