

Megan's Law

I. INTRODUCTION

In response to the public's demand for greater information regarding the identity and whereabouts of previously convicted sex offenders who might prove a threat to the safety of those in the community, the Governor and Legislature passed the Registration and Community Notification Laws (RCNL), N.J.S.A. 2C:7-1 et seq., commonly known as Megan's Law. This law provides for the creation of a state registry of sex offenders, as well as an Internet web site registry, and a community notification procedure, which mandates County Prosecutors to place offenders into one of three categories which are distinguished by the level of risk of re-offense by the offender. N.J.S.A. 2C:7-6 et seq. Following passage of the legislation, certain offenders filed suit in State court, raising a number of constitutional bars to the implementation of the law, culminating in Doe v. Poritz, 142 N.J. 1 (1995) in the Supreme Court of New Jersey, which upheld the constitutionality of the statute. Further, the Court's opinion required the inclusion of a judicial review of the Prosecutor's determination as to risk of re-offense and the scope of notification to the community.

As the Supreme Court of New Jersey made clear, the purpose of this legislation is to provide pertinent information to law enforcement and, in appropriate circumstances, to neighbors, parents and children, as well as community organizations which care for or supervise women or children. It is hoped that, armed with knowledge of the descriptions and whereabouts of sex offenders and pedophiles, community members will be in the best possible position to protect their children and themselves. To facilitate this process, various state agencies have been charged with the responsibility of informing County Prosecutors about the imminent release of such offenders. In turn, the County Prosecutors have been charged with the responsibility of determining the risk of re-offense and placing the offender in a "tier" based upon that determination. Further, pursuant to these Guidelines, the County

Prosecutors have been charged with overseeing the actions of local law enforcement agencies and the State Police who will, pursuant to N.J.S.A. 2C:7-6 and 7, disseminate the appropriate notification required in each case.

Since handing down the Doe decision, the Supreme Court of New Jersey further refined the hearing process in response to the decision of the U.S. Court of Appeals for the Third Circuit in E.B. v. Verniero, 119 F.3d 1077 (3d Cir. 1997). Also upholding the constitutionality of the statute, the Third Circuit held that due process requires a standard of proof of clear and convincing evidence, with the burden of persuasion on the State for the purpose of determining the risk level of the offender, the geographic area within which notice is to occur and those to whom the notice will be provided. The Supreme Court of New Jersey incorporated these principles into the judicial review procedures.