



NEW YORK STATE SENATOR

Dean G. Skelos

Strengthening Megan's Law

DEAN G. SKELOS

The Original Megan's Law

Ten years ago, Senator Skelos wrote, and led the effort to enact, New York State's Sex Offender Registration Act--or "Megan's Law." Named after seven year-old Megan Kanka, Megan's Law requires convicted sex offenders to register with the state and provides parents and other concerned members of the community with access to this lifesaving information.

Strengthening Megan's Law in 2006

In January, Senator Skelos wrote a new law to prevent 3,579 convicted sex offenders from escaping the state's Sex Offender Registry this year.

Senator Skelos' new law requires all Level 2 and Level 3 sex offenders to register for life, with Level 2 offenders able to petition the sentencing court for removal after 30 years. Now, all Level 1 sex offenders must register for 20 years.

Under the old law, most Level 1 and 2 sex offenders were automatically removed from the Sex Offender Registry after 10 years. Level 3 offenders who registered before March 11, 2002, and were not designated as a heightened risk under federal law, could petition the sentencing court for removal from the registry after 13 years.

Without an extension of the Sex Offender Registry's ten-year registration period, 226 sex offenders would have been automatically removed from the Registry by January 31, 2006, with 3,579 scheduled to escape registration by the end of 2006. During the next five years, 5,365 Level 2 and 46 Level 3 sex offenders would have been removed from the Registry. In addition, 4,231 Level 1 offenders would have been removed from the Registry without any judicial review.

The Megan's Law Reform Act

After three public hearings across New York State (Albany, Long Island and Brooklyn), Senator Skelos wrote the Megan's Law Reform Act (Senate Bill 4793-B) to strengthen Megan's Law in 25 different ways, including mandatory notification by police when a registered sex offender moves into a community, lifetime registration of all sex offenders, requiring information about all levels of sex offenders to be posted on the Internet and GPS monitoring for the worst offenders.

Through the public hearings, the legislation was drafted to reflect the input of law enforcement officials, teachers, school officials, parents and advocates and it has passed the Senate. Megan's mother, Maureen Kanka, who partnered with Senator Skelos in 1995 to champion the passage of Megan's Law in both houses of the Legislature, spoke at the first hearing in Albany.

Since enacting Megan's Law in 1995, the New York State Senate has acted on over 100 separate occasions to pass legislation strengthening Megan's Law and more than 200 times on other legislation dealing with sex offenders.

Since 1997, the Senate has passed legislation that would provide for the civil commitment of sexually violent predators who are likely to engage in repeated acts of sexual violence. Unfortunately, the Assembly Leadership has failed to act on this important bill.

The Megan's Law Reform Act would enhance New York State's Sex Offender Registry as follows:

* **Mandatory Community Notification**

Under current law, it is left up to the discretion of the police whether they notify community members about the presence of a sex offender. Under this legislation, police must take the following actions based on the offender's level:

Level One Offenders: Law enforcement agencies where the crime was committed and, upon release, where the offender intends to reside must be notified.

Level Two Offenders: Law enforcement agencies where the crime was committed and, upon release, where the offender intends to reside must be notified, In addition, they must disseminate information, including a photograph, to entities with vulnerable populations located within the area where the offender intends to reside that have been approved to receive such information. At their discretion, both may further disseminate this information to other

persons.

Level Three Offenders: The requirements for notification for Level Three offenders are the same as Level Two but in addition, law enforcement agencies must issue a new release to local media. They also may use their discretion to conduct other notification activities within the community, including public meetings, flyers, etc.

* **Website and Electronic Communication**

This legislation expands the Division of Criminal Justice Services' website to include information about all sex offenders, not only the Level Three offenders under current law. In addition, visitors to the website would be able to register for e-mail notification regarding sex offenders living in, or relocating to, their zip code.

Level One Offenders: The website must provide a name, a dated photograph, and approximate address.

Level Two Offenders: The website must provide the same information as Level One Offenders, plus additional material regarding the offender's crime and type of victim.

Level Three Offenders: The website must provide a name, a dated photograph, place of employment, exact address, and other information relating to the offender and his criminal MO.

* **Global Positioning System (GPS) Tracking**

This legislation would require all Level Three offenders to wear a GPS monitoring device for the duration of his or her registration. The Act includes numerous provisions relating to the type of GPS system the offender must wear, the offender's required contribution to its cost, penalties for the removal or disabling of the tracking device, and judicial authority to modify the tracking equipment.

* **Miscellaneous Megan's Law Enhancements**

In addition, the Megan's Law Reform Act of 2005:

A. Adds three crimes to the list of registerable offenses:

1. sexual assault against a child by a person in a position of trust in the first degree
2. sexual assault against a child by a person of trust in the second degree
3. endangering the welfare of a child where sexual activity is involved

B. Adds sexual assault against a child by a person in a position of trust in the first degree to the list of sexually violent offenses.

C. Provides that verification forms will be mailed to sex offenders twice a year on a random basis, rather than once a year on the anniversary date.

D. Provides that, even if an offender has not moved, they will be in violation if they do not send back their signed verification card.

E. Changes the determination hearing process in the following ways:

1. the notice to the sex offender will tell them the hearing will determine how much information the community will receive
2. requires sex offenders to appear at the hearing which will determine their level of notification and whether they are designated as a sexual predator, sexually violent offender, or predicate sex offender
3. if an offender fails to appear at their registration hearing, the hearing will be conducted in their absence
4. a sex offender who has been convicted outside of New York will be given notice of the hearing that will determine how long they must register and how much information will be given to the public
5. if an out of state offender fails to appear, the court will still make a determination

F. No longer allows sex offenders to petition the court for a change in their duration of registration.

G. Amends the correction law in relation to what constitutes failure to register on the part of the sex offender, and the penalties for failing to register.

H. Changes the conditions of probation or parole that prohibit a sex offender from going on school grounds to eliminate the necessity that the victim be less than 18 at the time of the offense.

I. Creates the new crime of unlawfully residing or entering upon school grounds in the second degree. No sex offender may go on school grounds.

J. Increases the statute of limitations for a sex offense against a child under the age of 17 to 15 years, from 5 years, after the child reaches the age of 18 and

K. Requires that when individual who is charged with a sex offense, incest, or sexual performance, any plea agreement must include a guilty plea to one of these crimes.

Although the Senate has passed the Megan's Law Reform Act two times, the Assembly Leadership has failed to act on this important legislation or many of the most significant provisions that it contains.

Strengthening Megan's Law in 2005

While the Assembly refused to join Senator Skelos and the Senate in support of the Megan's Law Reform Act, Senator Skelos did successfully enact the following Megan's Law improvements during the 2005 State Legislative Session:

S. 1168-A – This legislation allows courts to hold level designation hearings for convicted sex offenders in absentia. Currently, courts cannot designate a sex offender's level if he/she doesn't show up to the designating hearing, thereby delaying the sex offender's registration and community notification.

S. 479-A – Under current law, convicted sex offenders whose victim was under age 18 cannot enter onto school grounds while on probation or parole. This legislation prohibits these convicted sex offenders and all level 3 sex offenders, regardless of the age of their victim, from coming within 1,000 feet of the school grounds during their period of probation or parole.

S. 3507 – In 2000, Senator Skelos enacted a law that required victims to be notified when an offender petitioned to legally change his/her name. The law also required the state to keep a record of this name change. This legislation retroactively applies this notification requirement to all name change petitions granted before 2000.

S. 5753 – Under current law, law enforcement officials may notify entities with vulnerable populations when a level 2 or 3 offender moves into an area. This legislation requires law enforcement agencies to keep a record of all organizations that qualify as entities with vulnerable populations within its jurisdiction. The list would be used for notification when it is determined that a level 2 or 3 sex offender poses a risk.

Such a list would include superintendents of schools (public) or chief school administrators (private), superintendent of parks, public and private libraries, public and private school bus transportation companies, day care centers, nursery schools, pre-schools, neighborhood watch groups, community centers, civic associations, nursing homes, victims' advocacy groups and places of worship.

S. 493-A – This legislation enables law enforcement to include any known aliases used by the level 2 or 3 sex offender in their community notification, as discussed above.