



Should Being Registered as a Youth Sex Offender Be Grounds for Termination of Parental Rights?

As a general proposition, federal and state laws seek to keep families intact and keep children with their parents. Terminating a parent's rights is a decision with unequivocal consequences: The parent whose rights have been terminated has absolutely no obligations or rights whatsoever in regard to their child. Because of the finality of this decision, each state demands that certain specific procedures must be complied with in order to successfully terminate parental rights. The U.S. Supreme Court in *Santosky v. Kramer*¹ held that a moving party must meet an elevated standard—"clear and convincing"—to terminate parental rights.

Every state has some form of legislation that allows the government to notify the public about sex offenders whom it believes may pose a risk to the public. These laws are often named after seven-year-old Megan Kanka who was raped and killed by a known child molester who moved across the street from the Kanka family home in New Jersey.

What is the connection between terminating parental rights and sex offender registries? In California,² Hawaii,³ Minnesota,⁴ South Dakota,⁵ and West Virginia⁶ the requirement to register as a sexual or predatory offender may constitute grounds for termination of parental rights. For these five states, the total number of sex offender registrants in 2015 was 111,485. For the years 2013–2015, the numbers for these five states look like this:

| State | 2013 | 2014 | 2015 |
|---|----------------|----------------|----------------|
| California | 80,848 | 82,646 | 82,646 |
| Hawaii | 2,940** | 2,974 | 3,035* |
| Minnesota | 17,541 | 17,376 | 17,777 |
| South Dakota | 3,132 | 3,323 | 3,436 |
| West Virginia | 3,534* | 3,798 | 4,591 |
| Total Number of Registered Sex Offenders | 107,995 | 110,117 | 111,485 |

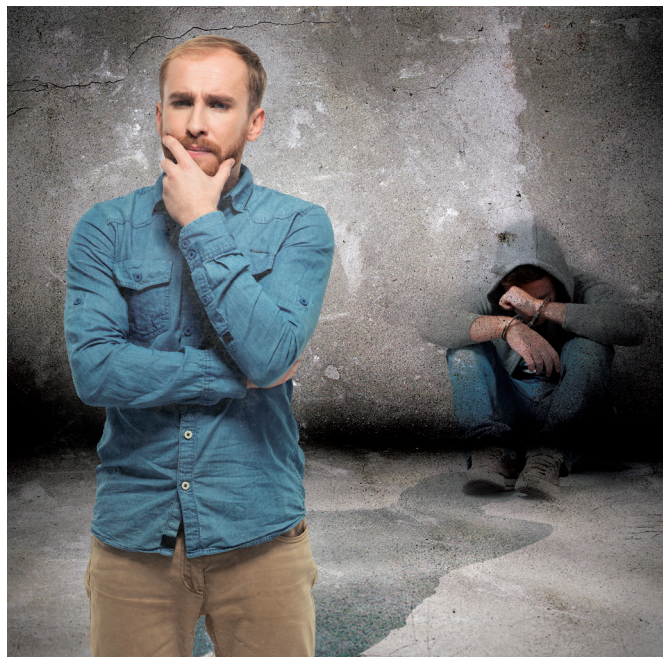
Source: Parents for Megan's Law and The Crime Victim's Center. Available at: <https://www.parentsformeganslaw.org/public/meganReportCard.html>

Notes: Sex offender counts are as reported by state agencies.

*Sex offender count as reported on state Internet Registry.

**Source: National Center for Missing & Exploited Children

If all other states followed the lead of these five states, more than 800,000 people in 2015 would have been affected.



To be listed on a sex offender registry, a perpetrator may have committed a range of crimes—some undeniably despicable, but some less so. At the federal level, Congress enacted the *Adam Walsh Child Protection and Safety Act*. Title I of the act, the *Sex Offender Registration and Notification Act* (SORNA), subjects many children adjudicated delinquent to the same registration requirements as convicted adult sex offenders.

Do we know how many youth are on sexual offender registries? According to Nicole Pittman, Attorney, Vice President, and Director of the Center on Youth Registration Reform, IMPACT JUSTICE, "The short answer to that question is 'no.' There is no central place to obtain this information. You would think after placing children on registries for over 20 years that there would be a system to identify how many kids are being affected. One of the main challenges in obtaining these numbers is that many states do not have a mechanism to distinguish between adults and juveniles placed on the registry. For instance, children handled in juvenile court are not 'convicted,' they are adjudicated delinquent. Yet, in most states, a 14 year-old adjudicated

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delinquent in juvenile court is listed on the registry, just like adults, as 'convicted.' This means that manual searches must be done to flesh out which people went on as juveniles."

According to the Juvenile Law Center in Philadelphia, "At least twenty-eight states include juvenile offenders on a public registry with little or no restrictions."⁷ At the state level, in California for instance, minors cannot legally consent to sexual activity. Therefore, some acts of impermissible sexual activity between minors can be considered criminal even if both individuals are under the age of 18.⁸

Because minors in California, Hawaii, Minnesota, South Dakota, and West Virginia can wind up on a sex offender registry for a period of years, decades, or even indefinitely, in theory, once they become parents, they could immediately have their parental rights terminated. Is this really what the respective state legislatures intended? Probably not. It's time to allow for sensible enforcement

of these laws, going beyond a simplistic, unilateral approach. ■

Reference Notes

1. 455 U.S. 745 (1982).
2. Welf. & Inst. Code § 361.5(b)(16).
3. Haw Rev. Stat. Ann § 587A-4.
4. Ann. Stat. §§ 260.012; 260C.301.
5. Ann. Laws §§ 22-24B.
6. Ann. Code § 49-6-5.
7. <http://www.jlc.org/current-initiatives/promoting-second-chances/juvenile-sex-offender-registration>. See Ala. Code § 15-20A-08; Ariz. Rev. Stat. § 13-3827; Cal. Pen. Code §§ 290-045 to 046 (placing out of state working and student registrants on the website); Colo. Rev. Stat. § 16-22-112 (once over the age of 18); Del. Code. tit. 11 § 4121(e); Fl. Stat. § 943.043; (2013); Ga. Code § 42-1-12(i) (2012); Haw. Rev. Stat. § 846E-3; 730 Ill. Comp. Stat. 152/115 and 152/21 (2013); Ind. Code § 11-8-8-7(j) (2013); Iowa Code § 692A.121 (2013); Kan. Stat. § 22-4909; Ky. Rev. Stat. § 17.580(3); La. R.S. 15:542.1.5; Miss. Code § 45-33-36; (b); Mo. Rev. Stat. §§ 211.425(1)-(3) (because PA juvenile offenders will likely be deemed to qualify

as adult/serious offenders); Mont. Code § 46-23-508; Neb. Rev. Stat. § 29-4009 (2013); Nev. Rev. Stat. § 179D.475 (2012); N.M. Stat. § 29-11A-3 (2013); N.Y. Correct. Law §168-p (special telephone database); N.D. Cent. Code, § 12.1-32-15(15) (2012); Or. Rev. Stat. § 181.592 (2012); S.C. Code § 23-3-490 (2012); S.D. Codified Laws §§ 22-24B-15, -21 (2012); Tex. Code Crim. Proc. art. § 62.005 (2013); Vt. Stat. tit. 13 § 5411(a) (2013); Va. Code § 9.1-913; Wash. Rev. Code § 4.24.550 (2012); W. Va. Code § 15-12-5 (2013). Utah and Ohio disclosure is not clear based upon current legal status. See Human Rights Watch. (2013) *Raised on the registry: The irreparable harm of placing children on sex offender registries in the U.S.* Available at https://www.hrw.org/sites/default/files/reports/us0513_ForUpload_1.pdf

8. Calif. Penal Code, Part. Title 9. Chapter 1 (261.5).

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