Registration and Community Notification

Does Including Adolescents Make Us Safer?

Considering Age-Appropriate Responses to Problematic Adolescent Sexual Behavior in Massachusetts

# Registration and Community Notification: Does Including Adolescents Make Us Safer?

## **Introduction**

In Massachusetts, sex offender legislation does not currently differentiate between children or adolescents[[1]](#footnote-1) who have violated sex offense laws and adult sex offenders. Given the substantial body of research that shows how damaging such laws can be to the still-developing youth and the larger community, there is a growing movement in the USA to clarify the distinction between adults who sexually offend and the children or adolescents who engage in sexually abusive behaviors. This paper outlines the problem in Massachusetts, provides a systematic presentation of relevant research, and suggests a path to rectifying that problem. With this information in hand, it is time to create a sound, research-based, age-appropriate approach to dealing with youth who sexually offend. These changes have the potential to reduce recidivism, minimize the number of sexual abuse victims, and create safer communities.

***“We can do a better job of protecting the public and at the same time of creating a fair system of classification against offenders to allow them to rebuild their lives and move forward in a positive way.”***

***-Massachusetts State Senator Katherine Clark***

## **The Problem**

It is true that a small percentage of adolescents use violence and/or drugs to facilitate sexual offending but the vast majority of youth do not. For that small percentage of high-risk adolescent sexual offenders, experts agree that they may need to be held accountable in a manner similar to adults. This may include facilities-based supervision and intensive specialized intervention. However, there is a growing consensus among experts who advocate for more rehabilitative and less punitive approaches to effectively address the more pervasive issue of problematic sexual behaviors by adolescents. Youth have relatively low sexual recidivism rates and, in fact, responses which unnecessarily remove youth from their families and communities for facilities-based care may actually increase rather than decrease risk of sexual re-offense. Communities must consider the financial, risk management, and ultimately the ethical consequences of labeling youth as sex offenders and whether current approaches support or undermine public safety.

Unfortunately, current Massachusetts sex offender laws do not reflect this trend towards treating adolescents differently from adults. This “one-size-fits-all” practice is in direct contrast to the developmental underpinnings of our juvenile justice system: that youth and adults are different. Our statutes often do not recognize that youth who commit sexual crimes are different from adults in several significant ways. For example, an adult downloading pornography involving youth likely has a very different profile than a teenager exploring age-appropriate sexual interests although through illegal sexual websites.

Young people are still developing, emotionally, socially, and psychologically. Research consistently shows that with the appropriate intervention they are more amendable to change. Our juvenile justice system was created in recognition of these differences. Yet, this developmentally appropriate, research-based understanding of youth within the juvenile justice system is missing from current sex offender laws in Massachusetts. This means that adolescents may be required to register as a sex offender like their adult counterparts, and may also be subject to public notification requirements. Massachusetts is one of the few states that does not make a clear distinction between adolescents and children and their adult counterpart.

## **Current Law in Massachusetts**

Beginning in the mid-1990s there was a rise in media coverage of horrific sexual abuse cases, and many state and a few key national laws were created to address the issue of sexual offenders living in the community.[[2]](#endnote-1),[[3]](#endnote-2) These laws generally have two components: registration and public notification. In Massachusetts, r*egistration* requires adults and youth convicted of certain sexual offenses, to register their home, work, and school address, and confirm other personal information on a regular basis with the Sexual Offender Registry Board (SORB). *Notification* levels are determined by SORB, and notification laws require that the public be notified of sexual offenders, including youth living in the community, through means such as public websites, police bulletins, and/or community flyers.

The registration period for a sex offender in Massachusetts can range from 20 years to life. Those who are categorized as Level 2 or Level 3 sex offenders will have their identifying information available for public viewing through the online sex offender registry. This information can include: current photograph, age, race, sex, height, hair color, eye color, and work/school/home address. When adolescents are adjudicated on a sex offense, they are automatically subject to registry and notification requirements unless the judge makes the determination to relieve them from these requirements. The judge must make that determination shortly after the case is decided so the judge will not have information about a youth’s behavior or responses to intervention during a term of probation or commitment to the Department of Youth Services.

## **The Research**

Over the past 25 years, researchers have studied the impact of these laws and highlight their unintended consequences. These findings are discussed briefly below.

***Public safety***: While sex offender registration and notification laws were implemented in an effort to keep the public safe from sexual offenders, research shows that these laws may not be very effective in decreasing sexual offending.[[4]](#endnote-3) Furthermore, adolescents who have sexually abused and are placed on the sex offender registry show no greater risk for sexual re-offense than non-registered adolescents.[[5]](#endnote-4)

***Harm to kids***: Research studies have shown again and again that children and adolescents are amenable to treatment, especially if the intervention is early in their sexually abusive behaviors. Research has also shown that with treatment, the likelihood of an adolescent re-engaging in future sexually abusive behavior is extremely low .[[6]](#endnote-5),[[7]](#endnote-6) Requiring youth to register as sex offenders will not only subject them to public humiliation, but also create obstacles for more pro-social development, positive peer relationships, positive connections to school, and lower family stress. Additionally, because teens are most likely to sexually abuse children or other teens in their families and those close to them, any public notification may unintentionally cause harm to the victim and their family.

## **Recommendations**

Given research that suggests that adolescents’ rate of sexual recidivism is very low, the step of placing youth on the registry or subject to public notification should be reserved for only the most extraordinary of adolescent cases.

Developmentally, youth are still growing and maturing well into their mid-20s. The young person who commits a sexual offense at 14, for instance, will change dramatically over his/her next few years. Therefore, any decision regarding the imposition of registration should be delayed by the juvenile court until further maturation of the young person, if considered still relevant at that time.

Moreover, in order to assure that only the most concerning of adolescent cases are considered for registration, the court should have the authority to impose registration only after a motion to require registration has been filed by the District Attorney. The District Attorney’s office would have the burden to prove that a particular youth poses a sufficiently high risk of sexual re-offense to the community to warrant registration. This process would present the opportunity for the prosecution to carefully consider the public safety value of registration for a youth. The hearing should occur as a youth nears the end of a term of probation or commitment to the Department of Youth Services so that all concerned can know how a youth has behaved or responded to interventions while under supervision and/or in treatment.

After the filing of such a petition, and before a judge makes a decision to impose registration, the youth should undergo an assessment, subject to evidence-based research guidelines, regarding that youth’s current risk to the community, and the cost and benefits of registration for that particular youth. Youth should be entitled to a full evidentiary hearing regarding the important decision to register.

For the small percentage of youth determined by the court as appropriate for registration, the SORB will still be responsible for classification and notification decisions. Given the importance of these decisions, SORB should have juvenile expertise reflected in the Board’s membership and its regulations to assure adolescent development is considered in all decision-making.

Finally, to assure the process continues to target only the most dangerous of youth, a further automatic judicial review of any decision regarding registration should be conducted again at age 25. At this time, depending upon the assessment and how the teen has lived in the community, a juvenile judge may determine that registration is no longer warranted.

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| It is time for Massachusetts to enact laws that clearly differentiate adult sex offenders from adolescents and children who have sexually abused. These changes will have the potential to align adolescent registration more closely with other juvenile justice practices, and to ultimately reduce recidivism, minimize the number of sexual abuse victims, and create a safer community. |  |  |

1. “Adolescent” and “youth” are used interchangeably throughout this document to refer to all individuals under the age of 18. [↑](#footnote-ref-1)
2. *Justice Policy Institute (2008). Registering harm: How sex offense registries fail youth and communities.* Retrieved from <http://www.justicepolicy.org/research/1939> [↑](#endnote-ref-1)
3. *Association for the Treatment of Sexual Abusers (2012). Adolescents who have engaged in sexually abusive behavior: Effective policies and practices.* Retrieved from:[*http://www.atsa.com/pdfs/Policy/AdolescentsEngagedSexuallyAbusiveBehavior.pdf*](http://www.atsa.com/pdfs/Policy/AdolescentsEngagedSexuallyAbusiveBehavior.pdf) [↑](#endnote-ref-2)
4. Zimring, F. E. (2004). An American Travesty: Legal Responses to Adolescent Sexual Offending. Chicago, IL: University of Chicago Press. [↑](#endnote-ref-3)
5. Letourneau, E. J. & Armstrong, K. S. (2008). Recidivism rates for registered and nonregistered juvenile sexual offenders. *Sexual Abuse: A Journal of Research and Treatment*, 20, 393-408. [↑](#endnote-ref-4)
6. Reitzel, L. R., & Carbonell, J. L. (2006). The effectiveness of sexual offender treatment for juveniles as measured by recidivism: A meta-analysis. *Sexual Abuse: A Journal of Research and Treatment*, 18,401-421. [↑](#endnote-ref-5)
7. Worling, J. R., Bookalam, D., & Litteljohn, A. (2012). Prospective validity of the estimate of risk of adolescent sexual offense recidivism (ERASOR). *Sexual Abuse: A Journal of Research and Treatment*, 24(3), 203-223. [↑](#endnote-ref-6)