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THE PROBLEM WITH JUVENILE SEX OFFENDER REGISTRATION: THE DETRIMENTAL EFFECTS OF PUBLIC DISCLOSURE

I. INTRODUCTION

Children are our Nation's most precious resource, and lawmakers lead the crusade to protect them.¹ The national child molester and sex offender² registration and disclosure law, known as "Megan's Law," is one important and progressive tactic recently enacted to pursue this noble goal.³ However, important concerns arise as a by-product of this new legislation.⁴ One concern is the application of the registration laws to juvenile sex offenders.⁵ Adjudication in the juvenile justice system may bring these juveniles under the requirements of the registration laws. While the registration of juvenile sex offenders is not itself objectionable,⁶

¹ See generally 139 CONG. REC. H10,316-27 (daily ed. Nov. 20, 1993) (proposing the Youth Handgun Safety Act, the Jacob Wetterling Crimes Against Children Registration Act, the National Child Protection Act of 1993, and the International Parental Kidnaping Crime Act).

² Though major differences exist between child molesters, sex offenders, and sexual predators, they will be collectively referred to as "sex offenders" hereinafter for the sake of brevity. Juveniles adjudicated delinquent in juvenile court for committing sex offenses and molestation will be referred to as "juvenile sex offenders."

³ See Violent Crime Control and Law Enforcement Act, 42 U.S.C. § 14071 (1994), as amended by Pub. L. No. 104-145, § 2, 110 Stat. 1345 (1996) (enacting legislation, commonly known as "Megan's Law," for Megan Kanka, a seven-year-old New Jersey girl raped and murdered by a neighbor who was a released and non-disclosed child sex offender).

⁴ See, e.g., Michele L. Earl-Hubbard, *The Child Sex Offender Registration Laws: The Punishment, Liberty Deprivation, and Unintended Results Associated with the Scarlet Letter Laws of the 1990's*, 90 NW. U. L. REV. 788, 792 n.19 (1996) (listing cases dealing with the potential constitutional violations associated with sex offender registration laws, namely violations of: procedural due process under the Fifth and Fourteenth Amendments, the Eighth Amendment prohibition against cruel and unusual punishment, the Ex Post Facto Clause, the right to travel, the right to freedom of association, the Fifth Amendment privilege against self-incrimination, the Fourth Amendment unreasonable search and seizure provision, and the general right to privacy).

⁵ This Note addresses only the concerns of the registration requirement for juveniles adjudicated in the juvenile court system, not the issues raised by juveniles who commit violent or serious crimes and are "waived" into the adult criminal justice system and prosecuted as adults.

⁶ Such registration is not objectionable because it helps society combat the high recidivism rate among juvenile sex offenders and the general increase in the incidence of juvenile violence. See 139 CONG. REC. H10,316, 10,320 (daily ed. Nov. 20, 1993) (statement of Rep. Sensenbrenner).

the required disclosure of a juvenile sex offender's identity to the public contradicts both the state's interest in protecting minors under the philosophy of *parens patriae* and the basic premise underlying the creation of juvenile courts — rehabilitation⁷ — because disclosure inhibits such rehabilitation.

This Note addresses the implications of the public disclosure of juvenile sex offender registration information and the contradicting interests at stake. This Note then concludes that registration laws must be tailored to protect juvenile sex offenders because they are children and, therefore, belong to the very class the legislation was enacted to protect.

II. BACKGROUND

A. Sexual Offender Registration Laws

1. The History of Megan's Law

The incident that propelled the approval of Megan's Law is tragic.⁸ On July 29, 1994, a neighbor invited seven-year-old Megan Kanka, of Hamilton Township, New Jersey, to his home to see a puppy.⁹ No one ever saw Megan alive again after this invitation.¹⁰ Several days later, police discovered her body in a wooded area in her neighborhood.¹¹ The killing was gruesome. Megan's attacker had covered her head with a plastic bag before he choked her with a belt and raped her as she lay unconscious.¹² The authorities charged the neighbor, a twice-convicted sex offender, with the murder and sexual assault of Megan.¹³ Unbeknownst to Megan's parents, this man had previously served time for child molestation and, upon his release from prison, moved next door.¹⁴

In response to this gruesome incident, on May 7, 1996, a unanimous House of Representatives approved Megan's Law,¹⁵ which amended the Violent Crime Control and Law Enforcement Act of 1994 ("Federal Registration Statute") to allow the disclosure of registration information to the public.¹⁶ Several other factors influenced the passage of Megan's Law: 1) the local activism resulting from community outrage over brutal rapes and murders of children,¹⁷ 2) the high rate

⁷ See, e.g., Lisa A. Stanger, *Conflicts Between Attorneys and Social Workers Representing Children in Delinquency Proceedings*, 65 *FORDHAM L. REV.* 1123, 1127 (1996).

⁸ See *Sex Offender Indicted in Megan Kanka's Slaying - Death Penalty Will be Sought, Prosecutor Says*, *THE BERGEN RECORD* (New Jersey), Oct. 20, 1994, at A3 [hereinafter *Sex Offender Indicted*].

⁹ See *id.*

¹⁰ See *id.*

¹¹ See *id.*

¹² See *id.*

¹³ See *id.*

¹⁴ See *id.*

¹⁵ See *National "Megan's Law" is Approved in House*, *WASH. POST*, May 8, 1996, at A14 (noting that the House passed "Megan's Law" by a vote of 418 to 0).

¹⁶ See 42 U.S.C. § 14071 (1994).

¹⁷ See Kellie Hudson, *How Outrage Sparked Law to Commit Sex Predators*, *TORONTO*

of recidivism by child sex offenders and the need to protect our nation's children,¹⁸ 3) the increase in the incidence of child abuse and child molestation nationally,¹⁹ 4) the belief that registration deters released child sex offenders from future offenses,²⁰ and 5) the fact that registration furnishes a list of potential suspects that would allow law enforcement to quickly track down the abductor and the child, which is crucial because the abductor often takes the child out of the area quickly.²¹

2. The Federal Registration Scheme

The Federal Registration Statute directs each State Attorney General to establish guidelines for the creation of a state program that requires a person convicted of a "criminal offense against a minor"²² or a "sexually violent offense"²³ to register his or her current address with a designated state law

STAR, Dec. 13, 1992, at A1 (describing how a community became enraged when a convicted sex offender brutally raped a seven-year-old boy, cut off his penis, and left him to die in the woods of Tacoma, Washington); Susan Schramm, *Tape Played in Molester's Slaying Trial: Detective Says Man Denied Seeing Boy Day he Vanished, Then Said He Had*, INDIANAPOLIS STAR, Feb. 7, 1995, at E1 (describing the highly publicized molestation and murder of a ten-year-old boy whose body and bicycle were then thrown off a bridge); *Sex Offender Indicted*, *supra* note 8, at A3 (explaining the public demand for governmental action in New Jersey based on the rape and murder of seven-year-old Megan Kanka); Daniel Golden, *Sex-Cons*, BOSTON GLOBE, Apr. 4, 1993, at 12 (indicating that many states are passing sex offender registration laws in response to public demand).

¹⁸ See 139 CONG. REC. H10,320 (daily ed. Nov. 20, 1993) (statement of Rep. Sensenbrenner). When a child has been abducted or victimized, law enforcement officials look to a list of previous offenders in that community or area. See *id.*

¹⁹ See Earl-Hubbard, *supra* note 4, at 789-90 (stating that an epidemic exists where one of every three girls and one of every seven boys will be sexually abused before reaching their eighteenth birthday).

²⁰ See 139 CONG. REC. H10,321 (daily ed. Nov. 20, 1993) (statement of Rep. Ramstad). Registration places the released sex offender on notice that he will be subject to investigation if sex offenses are committed in his community. See *id.* See also Earl-Hubbard, *supra* note 4, at 789-90.

²¹ See 139 CONG. REC. H10,321 (daily ed. Nov. 20, 1993) (statement of Rep. Ramstad) (stating that "time is of the essence"). See also N.J. Stat. Ann. § 2C:7-1 (West 1995) (indicating that registration provides law enforcement with additional information critical to the prevention and prompt resolution of incidents involving sexual abuse and missing persons).

²² 42 U.S.C. § 14071(a)(3)(A) (1994). A "criminal offense against a victim who is a minor" means any criminal offense consisting of kidnaping of a minor by a non-parent; false imprisonment of a minor by a non-parent; criminal sexual conduct toward a minor; solicitation of a minor to engage in sexual conduct; use of a minor in a sexual performance; solicitation of a minor to practice prostitution; any conduct that by its nature is a sexual offense against a minor; and any attempt of the previously listed offenses, if a state makes such an attempt a criminal offense, and chooses to include such attempt under this definition. See *id.*

²³ 42 U.S.C. § 14071(a)(3)(B). "Sexually violent offense" is "any criminal offense

enforcement agency.²⁴ Sexually violent predators²⁵ must also register with a designated state law enforcement agency.²⁶ Each state was required to develop a registration program in accordance with this statute by September 13, 1997.²⁷ A state that failed to implement an appropriate registration program would lose ten percent of its federal anti-crime funds.²⁸

that consists of aggravated sexual abuse or sexual abuse . . . or an offense that has as its elements engaging in physical contact with another person with intent to commit aggravated sexual abuse or sexual abuse." *Id.*

Under federal law, "aggravated sexual abuse" can be several types of action. Aggravated sexual abuse occurs when a person "knowingly causes or attempts to cause another person to engage in a sexual act by using force against that other person, or by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnaping." 18 U.S.C. § 2241 (1994). Additionally, aggravated sexual abuse occurs when a person "knowingly renders another person unconscious and thereby engages in a sexual act with that other person." *Id.* Aggravated sexual abuse also occurs when a person "knowingly administers or attempts to administer to another person, by force, threat of force, or without knowledge or permission of the other person, a drug, intoxicant, or other similar substance and substantially impairs the ability of the other person to appraise or control conduct and proceeds to engage in a sexual act with that other person." *Id.*

"Sexual abuse" under federal law occurs when a person knowingly causes or attempts to cause another person to engage in a sexual act by threatening or placing that person in fear, other than the type of threats under "aggravated sexual abuse." 18 U.S.C. § 2242 (1994). Sexual abuse also occurs when a person knowingly engages or attempts to engage in a sexual act with another person who is incapable of appraising the nature of the conduct, physically incapable of declining participation, or unable to communicate their unwillingness to engage in that sexual act. *See id.*

²⁴ *See* 42 U.S.C. § 14071(a)(1)(A).

²⁵ *See* 42 U.S.C. § 14071(a)(3)(C). A "sexually violent predator" is "a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses." *Id.* A "predatory" act is an act directed at a stranger or a person with whom a relationship has been established or promoted for the primary purpose of victimization. 42 U.S.C. § 14071(a)(3)(E).

A "mental abnormality" is a "congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts" so that person is considered a "menace to the health and safety of other persons." 42 U.S.C. § 14071(a)(3)(D).

However, the requirement of a person to register under this subparagraph shall terminate if it is determined that "the person no longer suffers from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense." 42 U.S.C. § 14071(b)(6)(B).

²⁶ *See* 42 U.S.C. § 14071(a)(1)(B).

²⁷ *See* 42 U.S.C. § 14071(f)(1). However, the U.S. Attorney General may grant an additional two years to a state that is making a good faith effort to implement a program. *See id.*

²⁸ *See* 42 U.S.C. § 14071(f)(2)(A). The statute mandates reallocation of lost funds to states that have complied with its registration program criteria. *See* 42 U.S.C.

A sex offender is required to register²⁹ and comply with the registration requirements for ten years after release from prison, placement on parole, supervised release, or probation.³⁰ A sex offender who is required to register must re-register every year on the anniversary of the original registration.³¹ A person required to register under a state program established pursuant to this statute is

§ 14071(f)(2)(B).

²⁹ See 42 U.S.C. § 14071(b). Child molesters and sex offenders must register at a designated state law enforcement agency upon release from prison, parole, supervised release, or probation. See *id.* Upon release, a state prison officer, or in the case of probation, the court, must inform the offender: (1) that he has a duty to register, (2) that if he changes his residence within the state he must, within two days, give his new address to a designated state law enforcement agency in writing, and (3) that if he changes his residency outside his current state, he must register the new address with the enforcement agency with whom he last registered, and must register with a designated law enforcement agency in the new state within ten days of establishing a residence in his new state, if they have a registration program. See 42 U.S.C. § 14071(b)(1)(A)(i-iii).

The state prison official or the court must also fingerprint and photograph the offender, who must read and sign a form stating that the requirements and duty to register under this section were explained. See 42 U.S.C. § 14071(b)(1)(A)(iv & v). The official must also obtain the name, identifying factors, anticipated future residence, offense history, and documentation of any treatment of a sexually violent predator for mental abnormality or personality disorder. See 42 U.S.C. § 14071(b)(1)(B).

Within three days of the sex offender's initial registration, the state prison officer or the court must send all the required information to a designated state law enforcement agency. See 42 U.S.C. § 14071 (b)(2). That agency is then required to immediately enter the information into the appropriate state law enforcement record system and notify the appropriate law enforcement agency that has jurisdiction where the offender expects to reside. See *id.* In addition, the state law enforcement agency must immediately send the conviction data and fingerprints to the FBI. See *id.*

³⁰ See 42 U.S.C. § 14071(b)(6)(A).

³¹ See 42 U.S.C. § 14071(b)(3)(A). To facilitate this re-registration, the designated state law enforcement agency must mail a non-forwardable verification form to the sex offender's last reported residence and the offender must then verify this residence by signature and mail the form back within ten days of receipt. *Id.* If the sex offender fails to mail the form back within ten days, he is in violation of the statute unless he proves he still resides at the same address. See 42 U.S.C. § 14071(b)(3)(A)(iv). A sexual predator must comply with the registration requirements until it is determined he no longer suffers from a mental abnormality or personality disorder that predisposes him to engage in a predatory sexually violent offense. See 42 U.S.C. § 14071(b)(6)(B). The sexual predator must follow the same verification standards as the child molester or sex offender, except that the sexual predator must verify the registration every ninety days after the date of the initial release or parole. See 42 U.S.C. § 14071(b)(3)(B).

Once the designated state law enforcement agency receives an in-state change of address, they must immediately report this change to the appropriate law enforcement agency who has jurisdiction over the offender under his changed address. See 42 U.S.C. § 14071(b)(4). If a sex offender reports a move out-of-state, the state law enforcement agency must notify the law enforcement agency in the new state, if that state has a registration requirement. See *id.*

subject to criminal penalties in any state in which he knowingly fails to register or fails to keep his registration current.³²

The registration scheme requires that state law enforcement agencies notify local law enforcement officials whenever convicted child molesters or rapists move into their jurisdiction.³³ Megan's Law allows the disclosure of registration information to the public for any purpose permitted under state law and states that local law enforcement "shall release relevant information that is necessary to protect the public [from] a specific person required to register"³⁴

All fifty states³⁵ have enacted some sort of sex offender registration legislation.³⁶ These state sex offender registration statutes vary as much as their respec-

³² See 42 U.S.C. § 14071(c).

³³ See 42 U.S.C. § 14071(b)(2).

³⁴ 42 U.S.C. § 14071(d), amended by Pub. L. No. 104-145, § 2, 110 Stat. 1345 (1996). Additionally, the statute holds law enforcement officials, employees, agencies, and state officials immune from any liability for disclosure if conducted in good faith. See 42 U.S.C. § 14071(e).

³⁵ In June, 1997, Vermont became the last state to enact sex offender registration legislation. See VT. STAT. ANN. tit. 13, §§ 5401-5413 (Supp. 1997).

³⁶ See ALA. CODE §§ 13A-11-200 to -203 (1994); ALASKA STAT. §§ 12.63.010 to .100 (Michie 1996); ARIZ. REV. STAT. ANN. §§ 13-3821 to -3836 (West 1989 & Supp. 1997); ARK. CODE ANN. §§ 12-12-901 to -920 (Michie 1995 & Supp. 1997); CAL. PENAL CODE §§ 290 to 290.9 (West 1988 & Supp. 1998); COLO. REV. STAT. § 18-3-412.5 (1997); CONN. GEN. STAT. ANN. § 54-102r (West Supp. 1995); DEL. CODE ANN. tit. 11, § 4120 (1995 & Supp. 1996); FLA. STAT. ANN. § 775.21 (West Supp. 1998); GA. CODE ANN. § 42-1-12 (1997); HAW. REV. STAT. ANN. § 846-E (Michie Supp. 1997); IDAHO CODE §§ 18-8301 to -8311 (1997); 730 ILL. COMP. STAT. ANN. 5/3-3-11.5 (West 1997); IND. CODE ANN. § 5-2-12 (West Supp. 1997); IOWA CODE ANN. § 692.A (West Supp. 1998); KAN. STAT. ANN. §§ 22-4901 to -4910 (1995); KY. REV. STAT. ANN. §§ 17.500 to .540 (Michie 1996); LA. REV. STAT. ANN. §§ 540-549 (West Supp. 1998); ME. REV. STAT. ANN. tit. 34-A, §§ 11001-11144 (West Supp. 1997); MD. ANN. CODE art. 27, § 792 (1996 & Supp. 1997); MASS. GEN. LAWS ch. 6, § 178D (1996); MICH. COMP. LAWS ANN. §§ 28.721 to .732 (West Supp. 1997); MINN. STAT. ANN. § 243.166 (West 1992 & Supp. 1998); MISS. CODE ANN. §§ 45-33-1 to -19 (Supp. 1997); MO. ANN. STAT. §§ 589.400 to .425 (West Supp. 1998); MONT. CODE ANN. §§ 46-23-501 to -511 (1997); NEB. REV. STAT. §§ 29-4001 to -4013 (Supp. 1996); NEV. REV. STAT. §§ 207-151 to -157 (1997); N.H. REV. STAT. ANN. §§ 651-B:1 to :9 (Supp. 1997); N.J. STAT. ANN. §§ 2C:7-1 to -11 (West 1995 & Supp. 1997); N.M. STAT. ANN. §§ 29-11A-1 to -8 (Michie 1997); N.Y. CORRECT. LAW §§ 168-a to -v (Consol. Supp. 1998); N.C. GEN. STAT. §§ 14-208.5 to .32 (Supp. 1997); N.D. CENT. CODE § 12.1-32-15 (Supp. 1997); OHIO REV. CODE ANN. § 2950 (Anderson 1996 & Supp. 1997); OKLA. STAT. ANN. tit. 57, §§ 581-588 (West 1991 & Supp. 1998); OR. REV. STAT. §§ 181.594 to .606 (1997); 42 PA. CONS. STAT. ANN. §§ 9791-9799.6 (West Supp. 1997); R.I. GEN. LAWS § 11-37-16 (1994); S.C. CODE ANN. §§ 23-3-400 to -490 (Law Co-op. Supp. 1997); S.D. CODIFIED LAWS §§ 22-22-31 to -41 (Michie Supp. 1997); TENN. CODE ANN. §§ 40-39-101 to -110 (1997); TEX. REV. CIV. STAT. ANN. art. 4413(51) (West Supp. 1998); UTAH CODE ANN. § 77-27-21.5 (1995 & Supp. 1997); VT. STAT. ANN. tit. 13, §§ 5401-5413 (Supp. 1997); VA. CODE ANN. §§ 19.2-298.1 to .4 (Michie 1995 & Supp. 1997); WASH. REV. CODE ANN. §§ 9A.44.130 to .140

tive rape and sexual assault statutes.³⁷ For example, statutes differ with respect to their definition of terms,³⁸ the type of violations that constitute sex offenses,³⁹ whether the law applies retroactively,⁴⁰ the type of information required on the registration form,⁴¹ the duration of the requirement to register,⁴² penalties for non-compliance,⁴³ and whether there is relief from the duty to register.⁴⁴

(West 1998); W. VA. CODE §§ 61-8F-1 to -10 (1997); WIS. STAT. ANN. §§ 301.45 to .46 (West Supp. 1997); WYO. STAT. ANN. §§ 7-19-301 to -306 (Michie 1997). *See also* D.C. CODE ANN. §§ 24-1101 to -1117 (Supp. 1997).

³⁷ *See* RICHARD A. POSNER & KATHARINE B. SILBAUGH, A GUIDE TO AMERICA'S SEX LAWS 5-34 (1996) (listing alphabetically rape and sexual assault statutes of the fifty states and the federal government, effectively illustrating the variance of elements of these crimes from state to state).

³⁸ *Compare* ARK. CODE ANN. § 12-12-905 (Michie Supp. 1997) (requiring registration for any person who is adjudicated guilty of a sexually violent offense, a sex offense, or an offense against a victim who is a minor) *with* COLO. REV. STAT. § 18-3-412.5(1) (1997) (requiring registration of any person convicted of "unlawful sexual behavior").

³⁹ *See, e.g.*, ALA. CODE § 13A-11-200 (1994) (defining a sex offense as including rape, sodomy, sexual misconduct, indecent exposure, promoting prosecution, obscenity, incest, or an attempt to commit any of these offenses); ARK. CODE ANN. § 12-12-903(12) (Michie Supp. 1997) (explaining that "sex offense" includes rape, carnal abuse, sexual misconduct, sexual abuse, sexual solicitation, violation of a minor, incest, engaging children in sexually explicit conduct for use in visual or print material, and an offense in another state that is substantially equivalent).

⁴⁰ *See, e.g.*, ALA. CODE § 13A-11-200 (1994) (indicating that registration requirements should be applied retroactively).

⁴¹ *See, e.g.*, ARK. CODE ANN. § 12-12-908 (Michie Supp. 1997) (requiring name, age, date of birth, sex, race, height, weight, hair and eye color, offense committed, date of conviction, city or county of conviction, a photograph, fingerprints, social security number, etc.).

⁴² *Compare* ALASKA STAT. § 12.63.020 (Michie 1996) (requiring lifetime registration when convicted of two or more sex offenses, or fifteen years for a single sex offense) *with* MD. ANN CODE art. 27, § 792 (Supp. 1997) (requiring registration annually for ten years after release from prison, probation, or a sentence that does not require imprisonment).

⁴³ *See, e.g.*, ARK. CODE ANN. § 12-12-904(a) (Michie Supp. 1997) (classifying a violation of the registration laws as a felony); N.Y. CORRECT LAWS § 168(t) (Consol. Supp. 1997) (failing to register is a misdemeanor for the first instance, a felony for subsequent convictions, and parole may be revoked).

⁴⁴ *See, e.g.*, ARK. CODE ANN. § 12-12-919 (Michie Supp. 1997) (stating that a sex offender may apply to the circuit court, obtain a hearing, and if the court finds by a preponderance of the evidence that the sex offender is rehabilitated, he may be relieved of the duty to register); N.J. STAT. ANN. § 2C:7-2(f) (West 1995) (allowing a person to petition to terminate his registration requirement fifteen years after a sex offense conviction or release from a correctional institution, whichever is later, if no other offense has been committed).

B. *Registration and Juvenile Sex Offenders*

State registration statutes are complex and confusing with respect to the individuals required to register, particularly, whether juvenile sex offenders must register.⁴⁵ Seventeen states specifically require registration by juvenile sex offenders who have been adjudicated delinquent in the juvenile court system.⁴⁶ Five states exempt juvenile sex offenders adjudicated in the adult systems or the juvenile system from registration.⁴⁷ The remaining states require registration of persons who have been "convicted" of,⁴⁸ found "guilty" of,⁴⁹ or discharged

⁴⁵ Each state statute defines "sex offender" differently. For instance, New Jersey legislation defines sex offenders by referring to a person convicted, adjudicated delinquent, or found not guilty by reason of insanity of committing a sex offense. N.J. STAT. ANN. § 2C:7-2(a) (West 1995).

⁴⁶ See, e.g., ARIZ. REV. STAT. ANN. §§ 13-3821 to -3836 (West 1989 & Supp. 1997); CAL. PENAL CODE §§ 290 to 290.0 (West 1988 & Supp. 1998); COLO. REV. STAT. § 18-3-412.5 (1997); DEL. CODE ANN. tit. 11, § 4120 (1995 & Supp. 1996); IND. CODE ANN. § 5-2-12 (West Supp. 1997); IOWA CODE ANN. § 692.A (West Supp. 1998); MD. ANN. CODE art. 27, § 792 (1996 & Supp. 1997); MASS. GEN. LAWS ch. 6, § 178D (1996); MICH. COMP. LAWS ANN. §§ 28.721 to .732 (West Supp. 1997); MINN. STAT. ANN. § 243.166 (West 1992 & Supp. 1998); MISS. CODE ANN. §§ 45-33-1 to -19 (Supp. 1997); N.J. STAT. ANN. §§ 2C:7-1 to -11 (West 1995 & Supp. 1997); OR. REV. STAT. §§ 181.594 to .606 (1997); R.I. GEN. LAWS § 11-37-16 (1994); S.C. CODE ANN. §§ 23-3-400 to -490 (Law Co-op Supp. 1997); TEX. REV. CIV. STAT. ANN. art. § 4413(51) (West Supp. 1998); WIS. STAT. ANN. §§ 301.45 to .46 (West Supp. 1997).

⁴⁷ See, e.g., ALA. CODE §§ 13A-11-200 to -203 (1994) (stating that delinquent children need not register); KY. REV. STAT. ANN. §§ 17.500 to .540 (Michie 1996) (requiring registration only of those who were eighteen years or older at the time of the offense); LA. REV. STAT. ANN. §§ 540-549 (West Supp. 1998); NEB. REV. STAT. §§ 29-4001 to -4013 (Supp. 1996) (requiring only adults to register); VA. CODE §§ 19.2-298.1 to .4 (Michie 1995 & Supp. 1997) (requiring only adults and juveniles tried and convicted in circuit court to register).

⁴⁸ E.g., ALASKA STAT. §§ 12.63.010 to .100 (Michie 1996); CONN. GEN. STAT. ANN. § 54-102r (West Supp. 1995); FLA. STAT. ANN. § 775.21 (West Supp. 1998); GA. CODE ANN. § 42-1-12 (1997); HAW. REV. STAT. ANN. § 846-E (Michie Supp. 1997); 730 ILL. COMP. STAT. ANN. 5/3-3-11.5 (West 1997); KAN. STAT. ANN. §§ 22-4901 to -4910 (1995); ME. REV. STAT. ANN. tit. 34-A, §§ 11001-11144 (West Supp. 1997); MO. ANN. STAT. §§ 589.400 to .425 (West Supp. 1998); MONT. CODE ANN. §§ 46-23-501 to -511 (1997); NEV. REV. STAT. §§ 207-151 to -157 (Michie 1995); N.H. REV. STAT. ANN. §§ 651-B:1 to :9 (Supp. 1997); N.M. STAT. ANN. §§ 29-11A-1 to -8 (Michie 1997); N.Y. CORRECT. LAW §§ 168-a to -v (Consol. Supp. 1998); N.C. GEN. STAT. §§ 14-208.5 to .32 (Supp. 1997); OHIO REV. CODE ANN. § 2950 (Anderson 1996 & Supp. 1997); OKLA. STAT. ANN. tit. 57, §§ 581-588 (West 1991 & Supp. 1998); 42 PA. CONS. STAT. ANN. §§ 9791-9799.6 (West Supp. 1997); S.D. CODIFIED LAWS §§ 22-22-31 to -41 (Michie Supp. 1997); TENN. CODE ANN. §§ 40-39-101 to -110 (1997); UTAH CODE ANN. § 77-27-21.5 (1995 & Supp. 1997); VT. STAT. ANN. tit. 13, §§ 5401-5413 (Supp. 1997); WASH. REV. CODE ANN. §§ 9A.44.130 to .140 (West 1998); W. VA. CODE §§ 61-8F-1 to -10 (1997); WYO. STAT. ANN. §§ 7-19-301 to -306 (Michie 1997).

⁴⁹ E.g., ARK. CODE ANN. §§ 12-12-901 to -920 (Michie 1995 & Supp. 1997); IDAHO

from a "penal" institution for committing one or more sex offenses.⁵⁰ These states, by their ambiguity, may require juvenile sex offenders in the juvenile court system to comply with the same provisions as adults and juvenile sex offenders in the adult system if they have committed the prohibited acts.⁵¹

For instance, New Jersey has addressed the issue of juvenile sex offender registration. In the deciding case, a juvenile was found delinquent for conduct committed when he was twelve years old that would constitute a second degree sexual assault if committed by an adult.⁵² The juvenile spent ten days in a juve-

CODE §§ 18-8301 to -8311 (1997); N.D. CENT. CODE § 12.1-32-15 (Supp. 1997).

⁵⁰ Stanger, *supra* note 7, at 1127 n.15.

⁵¹ See Earl-Hubbard, *supra* note 4, at 802. See also State v. S.M.H., 887 P.2d 903, 906-07 (Wash. Ct. App. 1995) (noting that the legislature often misuses the word "conviction" when referring to juvenile adjudications, and thus the court could not rely on the plain meaning of this word to conclude that "conviction" excludes juvenile adjudications); State v. Acheson, 877 P.2d 217 (Wash. App. Div. 2 1994). Washington's sex offender registration law requires adults and juveniles who are "convicted" of a sex offense to register. See *id.* at 218. The court of appeals found that the statute uses the term "conviction" to mean both adult convictions and juvenile adjudications in juvenile court. See *id.* at 219. See also Stanger, *supra* note 7, at 1127 n.15. Juvenile adjudications use different terminology than adult proceedings: "incarceration," "guilty," and "crime," are words that indicate adult criminal proceedings and not juvenile adjudications. See *id.* The juvenile system traditionally uses "disposition" instead of "sentencing," "admissions" instead of "guilty pleas," and "respondent" instead of "defendant." See *id.* Some states have specifically decided through the courts that registration by juvenile sex offenders is not required. See Gonzales v. State, 521 P.2d 512 (Alaska), *cert. denied*, 419 U.S. 868 (1974) (stating that a juvenile offender may not be considered a criminal by reason of the adjudication, nor may the adjudication be afterward deemed a conviction); State v. Ward, 886 P.2d 890, 895 (Kan. 1994) (stating that adjudications under the Juvenile Offenders Code are not criminal convictions for purposes of the Habitual Offender Registration Act).

⁵² See In the Interest of B.G., 674 A.2d 178, (N.J. Super. Ct. App. Div. 1996). B.G. raised the defense that he did not consciously intend to gain sexual gratification or to degrade the victim, his eight year old brother. See *id.* at 180. The court disbelieved B.G.'s testimony and gave no credence to an expert witness's testimony that the occurrence was only an impulsive act, exploratory in nature. See *id.*

An actor is guilty of second degree sexual assault if he commits an act of sexual conduct with a victim who is less than thirteen years old and the actor is at least four years older than the victim. See N.J. STAT. ANN. § 2C:14-2(b) (West 1995). "Sexual conduct" means any conduct or behavior relating to sexual activities of the victim including previous and subsequent sexual penetration or sexual contact. N.J. STAT. ANN. § 2A:61B-1(d)(3)(West 1995). "Sexual penetration" is vaginal intercourse, cunnilingus, fellatio, or anal intercourse between persons; or insertion of the hand, finger, or object into the anus or vagina either by the adult or upon the adult's instruction. N.J. STAT. ANN. § 2A:61B-1(a)(3). "Sexual contact" means intentional touching by the victim or actor, either directly or through clothing, of the victim's or actor's sexual organs, genital area, anal area, inner thigh, groin, buttock, or breast, for the purpose of sexually arousing or sexually gratifying the actor. N.J. STAT. ANN. § 2A:61B-1(a)(2 & 4). Sexual contact of the adult with himself must be in view of the victim whom the adult knows to be present. N.J.

nile detention center and received three years probation.⁵³ Additionally, the court advised him of his duty to register in accordance with New Jersey's sex offender registration law.⁵⁴ The juvenile objected to the registration requirement.⁵⁵ He claimed that this disclosure violated longstanding state and federal policy decisions regarding the privacy rights of juvenile offenders and was contrary to the juvenile code.⁵⁶ In rejecting these claims, the court cited a New Jersey Supreme Court case that held that registration must apply to "all convicts, all juveniles, no matter what their age,"⁵⁷ in order to protect society, as opposed to serving merely as punishment.⁵⁸

1. Characteristics of the Juvenile Sex Offender?

Requiring juvenile sex offenders to register is appropriate due to the drastic rise in our society of "violence against the person," especially sexual offenses,⁵⁹ committed by juveniles.⁶⁰ In the past, society wrote-off sexual abuse committed by juveniles as "exploratory behavior."⁶¹ With the increase of its incidence, however, this so-called "exploratory behavior" is now considered a social crisis created by actual deviant sexual behavior.⁶² According to the Federal Bureau of Investigation, juveniles under the age of eighteen account for nearly 17% of all rape arrests in urban areas in the United States.⁶³ Approximately 7% are boys under fifteen years of age.⁶⁴ Additionally, today's juvenile sex offender exhibits more physical aggression and violence in his or her sexually abusive behavior than in the past.⁶⁵

STAT. ANN. § 2A:61B-1(a)(2).

⁵³ See *In the Interest of B.G.*, 674 A.2d at 180.

⁵⁴ See *id.*

⁵⁵ See *id.* at 181.

⁵⁶ See *id.*

⁵⁷ *Id.* at 184 (quoting *Doe v. Poritz*, 662 A.2d 367, 392 (N.J. 1995)).

⁵⁸ See *id.*

⁵⁹ Anthony Crowell, *Minor Restrictions: the Challenge of Juvenile Curfews*, PUB. MGMT., Aug. 1, 1986 (stating that forcible rape by adolescents increased by 27% from 1988 to 1992); see also SCOTT W. HENGGELER, *DELINQUENCY IN ADOLESCENCE* 72 (Alan E. Kazdin ed., 1989). In 1987, adolescents under age 18 accounted for 15% of all rapes and 16% of all other sexual offenses. See *id.* In a study of 300 adolescent sex offenders, 59% had committed indecent liberties against a child. See *id.*

⁶⁰ See OLIVER JAMES, *JUVENILE VIOLENCE IN A WINNER-LOSER CULTURE: SOCIO-ECONOMIC AND FAMILIAL ORIGINS OF THE RISE IN VIOLENCE AGAINST THE PERSON* 120 (1995).

⁶¹ Craig Horowitz, *Kids Who Prey on Kids*, GOOD HOUSEKEEPING, Oct. 1, 1996, at 94 (stating that higher visibility of the problem may cause an increase in the reporting of abuse, however, experts acknowledge a bona fide increase of sexual abuse by juveniles).

⁶² *Id.*

⁶³ See F.B.I., U.S. DEP'T OF JUST., *UNIFORM CRIME REP. FOR THE U.S.* 1993 242 (1994). A total of 4052 juveniles fell within this age bracket in 1993. See *id.*

⁶⁴ See *id.* There are 1622 juveniles in this age category. See *id.*

⁶⁵ See Horowitz, *supra* note 61, at 94 (citing Judith Becker, Ph.D., Professor of Psy-

A juvenile sex offender is typically an individual, at or below the maximum age of juvenile court jurisdiction, who commits a sex offense against another individual.⁶⁶ Based on a nationwide study, researchers have developed a "juvenile sex offender profile" by compiling data on 1600 youths admitted to specialized treatment programs.⁶⁷ This study concluded that in 97.4% of all cases, the juvenile sex offender is a male, with an average age of fourteen.⁶⁸ Females comprise 2.6% of all arrests of those individuals between ten and eighteen years old.⁶⁹ The juvenile sex offender participates in the same types of sexually abusive behavior, such as fondling, rape, and exhibitionism, as an adult offender.⁷⁰

Sociological factors, such as family environment and past sexual victimization,⁷¹ are possible causes of juvenile sexual misconduct.⁷² One theory credits physical and psychological abuse by the juvenile's family as the seed that encourages juvenile sexual aggression.⁷³ The loss of a parent, living with parents who are violent or abuse drugs or alcohol, and not living with both natural parents are also factors that contribute to a higher incidence of juvenile sexually abusive behavior.⁷⁴ Additional factors that contribute to the juvenile's sexually

chology and Psychiatry at the University of Arizona). During the past decade there has been an increase in violent crimes committed by juveniles, but the number of young adults between the ages of 15 and 24 has declined. See Karen Leah Chinn, *National Trends in Juvenile Violence*, CORRECTIONS TODAY 70, July 1, 1996. These figures indicate that the juvenile population has grown disproportionately more violent. See *id.*; see also JAMES, *supra* note 60, at 120.

⁶⁶ See *infra* note 99.

⁶⁷ Gail Ryan et al., *Trends in a National Sample of Sexually Abusive Youths*, J. OF THE AM. ACAD. OF CHILD AND ADOLESCENT PSYCHIATRY Jan. 1, 1996, at 17 [hereinafter *Trends in a National Sample*].

⁶⁸ See *id.*

⁶⁹ See *id.*

⁷⁰ See Peter A. Fehrenbach et al., *Adolescent Sexual Offenders: Offender & Offense Characteristics*, 56 AM. J. ORTHOPSYCHIATRY 225, 225-33 (1986).

⁷¹ See Raymond A. Knight & Robert A. Prentky, *Exploring Characteristics for Classifying Juvenile Sex Offenders*, in THE JUV. SEX OFFENDER 1, 49 (1993). The number of juvenile sex offenders who are victims of sexual abuse is higher than estimates for adult males who are sexual offenders. See *id.* A 1988 study reveals that 81% of juvenile sex offenders are victims of sexual abuse. See *id.*

⁷² See Russell Eisenman, *Society Confronts the Hardcore Youthful Offender*, USA TODAY, Jan. 15, 1994 (Magazine), at 27.

⁷³ See *id.* (asserting that immaturity, confusion, and stress make parents ill-equipped to parent their children and the residual effect is abuse and indifference).

⁷⁴ See Gail Ryan, *The Juvenile Sex Offender's Family*, JUVENILE SEX OFFENDING 143, 144 (Gail D. Ryan & Sandy L. Lane eds., 1991). A compilation from one thousand cases of juvenile sex offenders in specialized treatment programs resulted in the following statistics:

- 57% of the juvenile sex offenders suffered parental loss;
- 28% were subjected to parental violence;
- 27% had mothers who abused drugs or alcohol;
- 43% had fathers who abused drugs or alcohol; and

abusive behavior include humiliation of the juvenile, trauma, the lack of nurturing and emphatic care, early loss of a parent, inconsistent care, and the lack of a mentor and confidant for the child.⁷⁵

Biological abnormalities also contribute to sexually aggressive behavior.⁷⁶ The chemical make-up of the juvenile's brain contributes to the juvenile's overwhelming need for sensation and encourages sexually aggressive behavior.⁷⁷ Though most juveniles can exhibit restraint, some juveniles, especially those in the face of encouragement, channel this need for thrill-seeking into sexually aggressive behavior.⁷⁸

III. ANALYSIS: WHAT'S WRONG WITH DISCLOSING TO THE COMMUNITY THE EXISTENCE OF NEARBY JUVENILE SEX OFFENDERS?

Neither the registration requirement for juvenile sex offenders nor its community notification requirement, defined as notice to local law enforcement,⁷⁹ is objectionable when information is kept confidential and accessible only to local police. Problems arise, however, when local authorities publicly disclose this information pursuant to Megan's Law's mandate that local authorities release the relevant registration information "necessary to protect the public" from the registrant.⁸⁰ Such public disclosure occurs when local law enforcement agents disseminate registration information to the general public,⁸¹ whether to local child care centers, schools, neighbors,⁸² or when they release relevant information upon request by a specific member of the public.⁸³

Public disclosure of a juvenile sex offender's registration information will alert the public to the juvenile sex offender's past, and create the potential for public violence and anger against the juvenile. This state-influenced harm is contrary to the state's protective role under *parens patriae*,⁸⁴ which aims to protect

72% did not live with both natural parents at the time of their sexual offense.

See *id.*

⁷⁵ See *id.*

⁷⁶ See Eisenman, *supra* note 72, at 27.

⁷⁷ See *id.*

⁷⁸ See *id.*

⁷⁹ See 42 U.S.C. § 14071(d) (1994).

⁸⁰ 42 U.S.C. § 14071(d), *amended by* Pub. L. No. 104-145, § 2, 110 Stat. 1345 (1996). This public disclosure and information release requirement, however, varies widely from state to state.

⁸¹ See N.J. STAT. ANN. § 2C:7-5, 6, 8 (West 1995). Public notification is required if risk of re-offense is moderate or high, but not if risk of re-offense is low. See *id.*

⁸² See MISS. CODE ANN. § 45-33-17 (Supp. 1997). Law enforcement may notify members of the public who are exposed to danger. See *id.*

⁸³ See COLO. REV. STAT. § 18-3-412.5 (6.5)(b) (1997) (releasing information to those who request it and reside in that jurisdiction).

⁸⁴ See *infra* Part III.A. See also *Hawaii v. Standard Oil Co.*, 405 U.S. 251, 257 (1972) (explaining that the classic example of the *parens patriae* role is when the state undertakes to act as "the general guardian of all infants, idiots, and lunatics").

the child in the juvenile system, and the rehabilitative goals on which the juvenile court system was built.⁸⁵ The danger in this public disclosure is so acute that some states specifically prohibit the release of registration information to the public.⁸⁶

A. *Disclosure Contradicts the State's Role as Protector Under Parens Patriae*

1. The *Parens Patriae* Philosophy

Our legal system currently treats juvenile delinquents and adults who commit the same offense differently.⁸⁷ Adjudication of the violent juvenile occurs in the juvenile court system whereas an adult's case is processed through the criminal court system.⁸⁸ The philosophy of *parens patriae* guides the rehabilitative scheme in juvenile court proceedings.⁸⁹ Before the creation of juvenile courts and the adoption of the *parens patriae* philosophy, the legal system convicted juveniles as adults and imprisoned juveniles in adult facilities.⁹⁰ The juvenile courts of the nineteenth century, however, created special proceedings for juveniles because they considered the practices and penalties of adult adjudica-

⁸⁵ See *infra* Part III.B.

⁸⁶ See DEL. CODE ANN. tit. 11, § 4120(i) (1995 & Supp. 1996) (stating that only law enforcement officers, and those potential employers of a person in a sensitive area dealing with children, may obtain the registration information).

⁸⁷ See Brian R. Suffredini, Note, *Juvenile Gunslingers: A Place for Punitive Philosophy in Rehabilitative Juvenile Justice*, 35 B.C. L. REV. 885, 888 (1994).

⁸⁸ See *id.* The United States did not address the problem of juvenile delinquency until the nineteenth century. See *id.* The first institutions designed to control juvenile delinquency were the Houses of Refuge, established in 1825. See *id.* The Houses of Refuge concentrated on rehabilitation. See *id.* With the end of the nineteenth century came the creation of the Child Savers. See *id.* This group focused on placing juvenile delinquents with farming families in an effort to provide "moral, compassionate, and hardworking role models." *Id.* at 889. In 1899, states began creating juvenile courts to deal with juvenile delinquency. See *id.* at 888. In 1899, Illinois adopted the first juvenile court statute. See *id.* The rest of the states, the District of Columbia, and Puerto Rico soon followed suit. See *id.*

⁸⁹ See *id.* at 890. See also *Commonwealth v. Fisher*, 62 A. 198, 200 (1905).

To save a child from becoming a criminal, or from continuing in a career of crime, to end in maturer years in public punishment and disgrace, the legislature surely may provide for the salvation of such a child, if its parents or guardian be unable or unwilling to do so, by bringing it into one of the courts of the state without any process at all, for the purpose of subjecting it to the state's guardianship and protection. The natural parent needs no process to temporarily deprive his child of its liberty by confining it in his own home, to save it and to shield it from the consequences of persistence in a career of waywardness; nor is the state, when compelled, as *parens patriae*, to take the place of the father for the same purpose, required to adopt any process as a means of placing its hands upon the child to lead it into one of its courts.

⁹⁰ See Suffredini, *supra* note 87, at 890.

tion contrary to the *parens patriae* philosophy.⁹¹ Instead of determining the child's guilt or innocence based on the notions of crime and punishment, the juvenile courts oversaw proceedings by assessing what steps needed to be taken to save the child from a bleak future.⁹²

The idea behind *parens patriae* is for the state to act in the best interest of the child,⁹³ to "assume paternalistic responsibility."⁹⁴ State action under *parens patriae* includes the removal of an errant parent, the appointment of substitute guardians for his or her children, and the institution of protective proceedings on behalf of these neglected and abused children.⁹⁵ The state's *parens patriae* authority generally covers those who, unlike "normal" functioning adults, are unable to protect and care for themselves.⁹⁶ Similarly, the American legal system recognizes differences, which must be accommodated for, in determining the rights and duties of children as compared with those of adults.⁹⁷ For example, each state prohibits any person under seventeen years of age to vote or serve on a jury, drive without parental consent, marry without parental consent, buy por-

⁹¹ See George Bundy Smith & Gloria M. Dabiri, *The Judicial Role in the Treatment of Juvenile Delinquents*, 3 J.L. & POL'Y 347, 351-52 (1995).

⁹² See *id.* at 351.

⁹³ See *id.*

⁹⁴ Stephen Wizner, *On Youth Crime and the Juvenile Court*, 36 B.C. L. REV. 1025, 1031 (1995). The doctrine of *parens patriae* originated with the English sovereign, through the courts of chancery, "to protect his feudal land interests when property was subject to ownership by 'enfants.'" *Id.*

⁹⁵ See *id.*

⁹⁶ See *Cruzan v. Missouri Department of Health*, 497 U.S. 261, 315 (1990) (Brennan, J., dissenting) (stating that "Missouri has a *parens patriae* interest in providing [an incompetent] with as accurate as possible a determination of how she would exercise her rights" to waive medical treatment); *Washington v. Harper*, 494 U.S. 210, 244 (1990) (Stevens, J., concurring/dissenting) (describing the states' *parens patriae* interest in mentally ill or dangerous inmates); *Thompson v. Oklahoma*, 487 U.S. 815, 825 n.23 (1988) (quoting *Schall v. Martin*, 467 U.S. 253, 265 (1984) (explaining that children cannot take care of themselves and are "assumed to be subject to the control of their parents, and if parental control falters, the state must play its part as *parens patriae*")); *Bowen v. American Hosp. Ass'n*, 476 U.S. 610, 627-28 n.13 (1986) (stating that infants fall under the *parens patriae* power of the state "when parents are not capable of participating in the decision making or when they have made decisions that evidence substantial lack of concern for the child's interest" because children are unable to protect themselves); *Addington v. Texas*, 441 U.S. 418, 426 (1979) (explaining that "[t]he state has a legitimate interest under its *parens patriae* powers in providing care to its citizens who are unable because of emotional disorders to care for themselves"); *Hawaii v. Standard Oil Co.*, 405 U.S. 251, 257 (1972) (stating that the states are vested with the historic *parens patriae* power, including the duty to protect persons under legal disabilities to act for themselves).

⁹⁷ See *Thompson*, 487 U.S. at 823. Examples of the distinction between adults and children in the law occur in the areas of torts, criminal law and procedure, criminal sanctions and rehabilitation, and in the right to vote and to hold office. See *id.*

nographic materials, and participate in gambling without parental consent.⁹⁸ The maximum age for juvenile court jurisdiction is no less than sixteen years of age nationwide.⁹⁹ This collective legislation indicates that "consistent with the experience of mankind, as well as the long history of our law, . . . the normal [fifteen]-year-old is not prepared to assume the full responsibilities of an adult."¹⁰⁰ Thus, the state makes choices for the child, in his or her best interest, like a caring, nurturing, beneficent parent.¹⁰¹ As evidence of this special care, juvenile ad-

⁹⁸ See *id.* at 824.

⁹⁹ See *id.* As a result of increased violence by young adults, the juvenile court system has increasingly "waived" its jurisdiction, thus allowing prosecutors to indict the juvenile in circuit court as an adult. See also *Kent v. United States*, 383 U.S. 541, 560-64 (1966). The Supreme Court determined that the juvenile court may waive jurisdiction over a juvenile only after it executes a full investigation. See *id.* The juvenile who is subject to this waiver process must have a hearing, including access to the social work records and probation or similar reports which presumably were considered by a court, and to the reasons for the juvenile court's decision. See *id.* Typically, waiver is effectuated under state statute. See, e.g., ALA. CODE § 12-15-34 (Supp. 1997). Some states give juvenile courts exclusive jurisdiction if the offense committed by the juvenile is a misdemeanor. See ARK. CODE ANN. § 9-27-318(a)(3) (Michie Supp. 1997). However, after a certain delineated age cut-off, such as 14 or 16 years of age, see, e.g., ALA. CODE § 12-15-34 (stating the cut-off age as 14 years old); ALASKA STAT. § 47.12.030 (Michie 1996) (allowing waiver of 16 year olds); ARK. CODE ANN. § 9-27-318 (allowing waiver when the minor is 14), if the juvenile commits an offense that would constitute a crime if committed by an adult, see, e.g., ALA. CODE § 12-15-34 (defining the applicable crime as a capital offense or a felony resulting in a serious physical injury or involving physical force, a deadly weapon, or a dangerous instrument); ALASKA STAT. § 47.12.030 (defining a serious, violent felony as an unclassified felony, a class A felony, or arson in the first degree); ARK. CODE ANN. § 9-27-318(b)(2) (allowing waiver of a 14-year-old for committing capital murder, first or second degree murder, kidnaping, aggravated robbery, rape, battery in the first degree, aggravated assault, possession of a handgun on school property), the court either grants the juvenile court and the circuit court concurrent jurisdiction, or requires automatic waiver to circuit court. See ARK. CODE ANN. § 9-27-318(b) (granting concurrent jurisdiction). If concurrent jurisdiction exists, the judge in the court where charges were filed will determine whether to retain jurisdiction or transfer the case to the other court having jurisdiction. See, e.g., ARK. CODE ANN. § 9-27-318(d). Factors that courts may consider in determining whether to transfer include the seriousness of the offense, whether violence was employed, whether the juvenile is a repeat offender, and any prior history, character trait, mental maturity or other factor which reflects upon the juvenile's prospects of rehabilitation. See, e.g., ALASKA STAT. § 47.12.100 (Michie 1996). If the state can prove by a preponderance of the evidence that there is probable cause for believing that a minor is delinquent and that the minor is not amenable to treatment, (i.e. cannot be rehabilitated by treatment before reaching 20 years of age), the child will be prosecuted as an adult. The child is presumed not to be amenable to treatment if he commits an unclassified felony, a class A felony, or arson. See *id.* Usually either side can appeal this decision. See, e.g., ARK. CODE ANN. § 9-27-318(h).

¹⁰⁰ *Thompson*, 487 U.S. at 824-25.

¹⁰¹ See *id.* at 825 n.23. The Court states that "[i]t would be ironic if these assumptions that we so readily make about children as a class — about their inherent difference from

judications, unlike adult trials, are typically closed to the public in an effort to preserve confidentiality to protect the child.¹⁰²

2. Disclosure Leads to Violence Against Sex Offenders

Reported incidents of violence against sex offenders has been widespread in areas that allow the public access to registration information.¹⁰³ One such example of violence occurred in New Jersey on December 27, 1994, when police provided neighbors with the address and photograph of a recently released adult sex offender who had been convicted of child molestation.¹⁰⁴ This adult sex offender was the first Warren County resident subject to community notification under New Jersey's sex offender registration law.¹⁰⁵ A father and son broke into the house at the disclosed address, looking for the adult sex offender.¹⁰⁶ Once inside they attacked a man thought to be the rapist, but actually attacked the wrong man.¹⁰⁷ The beating was so severe the man had to be hospitalized.¹⁰⁸ In another incident in New Jersey, on January 3, 1995, Carlos Diaz, an adult sex offender convicted of rape and released from prison on January 1, 1995, won a preliminary injunction enjoining the dissemination of his registration information to schools and community groups.¹⁰⁹ Word of Diaz's suit, however, reached the public and the Guardian Angels instituted a protest outside of Diaz's residence, handing out photographs of Diaz.¹¹⁰ Hundreds of residents protested in the street holding, photographs of Diaz, rallying in support of Megan's Law. Several local

adults . . . were suddenly unavailable in determining whether it is cruel and unusual to treat children the same as adults for purposes of inflicting capital punishment." *Id.* "As *parens patriae*, the State's goal is to provide the child with a permanent home." *Santosky v. Kramer*, 455 U.S. 745, 766 (1982).

¹⁰² See, e.g., ALA. CODE § 12-15-65 (1994);

¹⁰³ See Donna M. Weston, *Vigilantes Beat Wrong Man After Rapist's Release*, THE TRENTONIAN (New Jersey), Jan. 11, 1995, at 5. Vigilantes in New Jersey beat up a man they believed was a recently released child molester. See *id.* They based the identification on information the police had disseminated to the neighborhood about the released sex offender. See *id.*

¹⁰⁴ See *id.*

¹⁰⁵ See *id.*

¹⁰⁶ See Iver Peterson, *Mix-ups and Worse Arising from Sex-Offender Notification*, N.Y. TIMES, Jan. 12, 1995, at B1.

¹⁰⁷ See *id.*

¹⁰⁸ See Weston, *supra* note 103, at 5.

¹⁰⁹ See N.J. STAT. ANN. §§ 2C:7-1 to 7-5 (West 1995 & Supp. 1997). New Jersey has a "tier" system for disclosure where sex offenders are placed into one of three levels based on the severity of the act committed. See *id.* Carlos Diaz was a "tier two" sex offender, requiring police to notify schools and community groups in the community of Diaz's release and residence in the area. See also Frederick Kunkle, *Rapist's Plan to Live in Pas-saic Sparks Demonstration*, THE BERGEN REC. (New Jersey), Jan. 6, 1995, at A11.

¹¹⁰ See Rosemarie Ross, *Rapist, Beware: Resident's Fear Turns to Anger, Revenge*, THE N. JERSEY HERALD & NEWS, Jan. 6, 1995, at A1.

residents threatened to beat up Diaz if he came outside.¹¹¹

3. Disclosure and the Juvenile Sex Offender

The underlying premise of *parens patriae* is protection, but to allow the dissemination of a juvenile's identity would put that juvenile's health in jeopardy by subjecting him to community violence and social outrage. For example, law enforcement officers in the state of Washington routinely notify the public when an adult sex offender moves into the community by posting signs and handing out fliers door-to-door.¹¹² Washington also notifies the public of juvenile sex offenders when they move into a neighborhood.¹¹³ The ABC News series *Turning Point* showed police in one particular community in Washington distributing fliers warning of the relocation of a twelve-year-old sex offender.¹¹⁴

Alan Groome, a juvenile sex offender who spent three years in a Washington prison for raping two boys, moved into an Olympia, Washington, apartment with his mother.¹¹⁵ The local police department knocked on seven hundred doors in the neighborhood, handing out fliers containing Groome's photo and address.¹¹⁶ The landlord eventually evicted Groome and his mother, and after eviction, they moved into his grandmother's apartment. Local officials then notified the new neighbors of Groome's conviction.¹¹⁷ The grandmother's landlord pressured Groome and his mother into leaving by threatening to evict the grandmother.¹¹⁸ Groome is now sheltered at a facility for the homeless in a different part of the state and he is consistently rejected for employment.¹¹⁹

The *potential* for treatment like that experienced by Alan Groome in Washington state is contrary to the *parens patriae* philosophy that has guided the juvenile court system for almost a century.¹²⁰ The state's disclosure of juvenile sex offender registration information does not protect the child. In fact, such disclosure may inspire vigilantism, public shame, social ostracism, and various types of adverse legal action, including loss of employment and eviction.¹²¹ Certainly, subjecting a child to these harms is not nurturing or caring,¹²² but stigmatizing,

¹¹¹ See *id.*

¹¹² See Earl-Hubbard, *supra* note 4, at 809-10 (explaining that the fliers contain the sex offender's photograph, address, and careful details of his offense).

¹¹³ See *id.* (highlighting various community notification procedures).

¹¹⁴ See *id.* (discussing *Turning Point: The Revolving Door: When Sex Offenders Go Free* (ABC television broadcast, Sept. 21, 1994)).

¹¹⁵ See Gayle M.B. Hanson, *Experts Vexed at What to Do with Sex Offenders*, WASH. TIMES, June 6, 1994, at A8.

¹¹⁶ See *id.*

¹¹⁷ See *id.*

¹¹⁸ See *id.*

¹¹⁹ See Golden, *supra* note 17, at 24.

¹²⁰ See Suffredini, *supra* note 87, at 890.

¹²¹ See *W.B. v. Poritz*, 931 F. Supp. 1199, 1212 (D.N.J. 1996).

¹²² See *Addington v. Texas*, 441 U.S. 418, 426 (1979) (stating that the state has an interest under its *parens patriae* authority to provide care to its citizens).

and clearly contradicts the state's *parens patriae* duty and authority.¹²³ Disclosing information about a juvenile sex offender and subjecting that juvenile to public ridicule and physical harm not only fails to protect the juvenile, but actually constitutes neglect. Therefore, allowing public disclosure of a juvenile sex offender's identity is counter to the state's responsibilities to the child. Registration of juvenile sex offenders needs to be tailored so that records are kept confidential. Only then can the state fulfill its *parens patriae* duty and commitment to protect children and act as their guardians.

B. Registration and Disclosure Inhibits Rehabilitation

1. *Parens Patriae* Facilitates Rehabilitation

Following the creation of the juvenile court system, under *parens patriae*, children in delinquency proceedings were not treated as criminals, but as children in need of guidance and nurturing in a non-adversarial system.¹²⁴ This system was meant to nurture and ultimately rehabilitate juveniles. As originally planned, the juvenile court system was "to be a clinic, not a court; the judge and all of the attendants were visualized as white-coated experts there to supervise, enlighten, and cure, not to punish . . . [and] were surrogates, so to speak, of the natural parent."¹²⁵ These experts were supposedly motivated by "love" and intended to use this love to transform troubled juveniles into normal children, saving them from careers as criminals.¹²⁶ The early rehabilitative programs focused less on punishment and more on education and the prevention of juvenile delinquency.¹²⁷ The rehabilitative goal aimed at mentally and morally preparing youths for productive roles in society upon their release.¹²⁸

Although the juvenile court system has changed over the years, it has retained its essential goal of rehabilitation, and even today it encourages judges to use their discretion "to steer the errant child onto the right path."¹²⁹ The ensuing struggle between this wide discretion and the need for rational procedure, however, prompted the Supreme Court to limit the juvenile court judge's discretion

¹²³ See *Bowen v. American Hosp. Ass'n*, 476 U.S. 610, 627-28 n.13 (1986). Though parents enjoy a substantial range of discretion in raising their children, if their conduct amounts to abuse or neglect, the infant falls under the *parens patriae* power of the state. See *id.* The state's job is to guard children against abusive and neglectful parents. See *id.*

¹²⁴ See Jay Blitzman, *Delinquency Proceedings*, in MASSACHUSETTS CRIMINAL DEFENSE § 49.1 (Eric D. Blumenson et al. eds., Butterworth Legal Publishers 1990) (outlining delinquency proceedings in Massachusetts state court). Massachusetts relies on *parens patriae* to label delinquency proceedings "non-criminal." *Id.*

¹²⁵ *DeBacker v. Brainard*, 396 U.S. 28, 36 (1969) (Douglas, J., dissenting).

¹²⁶ *Id.* at 37.

¹²⁷ See Suffredini, *supra* note 87, at 888.

¹²⁸ See *id.*

¹²⁹ Catherine J. Ross, *Disposition in a Discretionary Regime: Punishment and Rehabilitation in the Juvenile Justice System*, 36 B.C. L. REV. 1037, 1039 (1995).

to provide the proper balance between the rehabilitative ideal and sufficient procedural protections under the U.S. Constitution.¹³⁰ The proceedings in juvenile court differ in both form and substance from those in adult criminal trials.¹³¹

First, to emphasize that juvenile proceedings in juvenile court are rehabilita-

¹³⁰ See *id.* at 1040 (noting the importance of *In re Gault*, 387 U.S. 1 (1967), and *Kent v. United States*, 383 U.S. 541 (1966)). In 1967, the Supreme Court in *In re Gault* altered this ideal by holding that children accused of delinquent acts must be afforded due process in their proceedings. 387 U.S. at 20. The Court looked to the Due Process Clause of the Fourteenth Amendment in holding that some criminal procedures, based on due process, are so essential to individual freedom and the "social compact which defines the rights of the individual" that they must be applied to both adult and juvenile proceedings. *Id.* (explaining that procedural rules are the "best instruments for the distillation and evaluation of essential facts from the conflicting welter of data of life and our adversary methods present"). The court further emphasized the impact of denying fundamental procedural due process to the large and growing number of juveniles involved in delinquency by citing statistics that show that one of nine children would come before a juvenile tribunal before he or she was eighteen. See *id.* at 21 n.26. "Under our Constitution, the condition of being a boy does not justify a kangaroo court." *Id.* at 28. The *Gault* Court acknowledged the benefits of special procedures for juvenile offenders in the juvenile process. However, relying on the startling findings of recidivism they concluded that the special procedures of the juvenile system were not effective in reducing crime or rehabilitating offenders. See *id.* at 22. The Court therefore decided that the juvenile process needed some changes. See *id.* The Court did not mean to denigrate the entire juvenile court system, in particular the system's unique benefits did not require change, namely: the processing and treatment of juveniles separately from adults remains unchanged, classification of the juvenile as a "delinquent" instead of a "criminal" will be avoided, the protection of juveniles by non-disclosure of their court records. See *id.* A juvenile charged with being a delinquent as a result of committing a criminal act became entitled to notice of the charges against him, the right to counsel, protection against compulsory self-incrimination, and the right to confront and cross-examine witnesses. See *id.* Note that a juvenile does not have a constitutional right to a jury trial even when the juvenile commits a crime that would afford a jury trial if he or she were an adult. See *DeBacker*, 396 U.S. at 34-35 (Black, J., dissenting). Presently, minors before a juvenile court accused of a crime punishable by confinement also have a constitutional right to protection from double jeopardy, see *Breed v. Jones*, 421 U.S. 519, 541 (1975) (requiring proof of delinquency judgment by the "beyond a reasonable doubt" standard); *In re Winship*, 397 U.S. 358, 364 (1970), and the protection from waiver to adult criminal court without a statement of reasons, a hearing, and effective assistance of counsel by disclosure of all social reports and probation reports used by the court in its waiver determination. See *Kent*, 383 U.S. at 553. The Court has also determined that minors in juvenile court do not have the full spectrum of rights accorded adults in criminal court. See *Ross*, *supra* note 129, at 1040 (stating that juveniles do not have a constitutional right to a jury trial, citing *McKeiver v. Pennsylvania*, 403 U.S. 528, 545 (1971)). However some states do provide for jury trials in juvenile proceedings. See *id.* at 1059 n.17. Additionally, minors may be detained prior to trial on a much lower standard than adults would. See *id.* at 1040 (quoting *Schall v. Martin*, 467 U.S. 253, 256 (1984)).

¹³¹ See *Stanger*, *supra* note 7, at 1127.

tive as opposed to punitive, juvenile courts use different terminology.¹³² A juvenile is "taken into custody" by police who must abide by the same standards used while arresting an adult.¹³³ After arrest, a juvenile is transported to a police station and turned over to a youth officer who notifies the juvenile's parents that he is in police custody.¹³⁴ The juvenile is then held in a juvenile detention center pending a detention hearing in which a juvenile court judge either releases the juvenile into his parent's custody or detains the juvenile pending an adjudicatory hearing.¹³⁵ At the adjudicatory hearing, like an arraignment, the court advises the child of the charges against him, and the child makes an admission or a denial.¹³⁶ Counsel is then appointed and an adjudicatory hearing is held several months after arraignment.¹³⁷ At the hearing, if the court finds the juvenile delinquent, it then schedules a dispositional hearing to determine if the child can be rehabilitated in the community or whether out-of-home placement is necessary.¹³⁸

Today, the juvenile court system is in an awkward position because it is neither wholly regulated by constitutional criminal procedures, nor as rehabilitative as the juvenile court founders intended it to be.¹³⁹ The continued administration of these special procedures, however, necessarily shows that our society still believes in rehabilitation and that less culpability attaches to a crime committed by a juvenile than a comparable crime committed by an adult.¹⁴⁰ As the Supreme Court stated, while holding that executing juveniles would be cruel and unusual punishment, "it would be ironic if these assumptions [that] we so readily make about children as a class — about their inherent difference from adults in their capacity as agents, as choosers, as shapers of their own lives — were suddenly unavailable" in determining whether inflicting capital punishment was cruel and

¹³² See *id.* at 1160 n.15. Juvenile courts use the terms: "petition" vs. "indictment," "allegations" vs. "charges" that if committed by an adult would constitute a crime, "respondent" rather than "defendant," "admissions or denials" versus "guilty or innocent pleas," "disposition" rather than "sentencing," and "placement" as opposed to "commitment." *Id.*

¹³³ *Id.* at 1160 n.17. The "arrest" must be made either pursuant to a magistrate issuing an arrest warrant based on an affidavit sufficient to establish reasonable cause, or a warrantless search where the officer's determines reasonable cause exists. See *id.*

¹³⁴ See Wizner, *supra* note 94, at 1028.

¹³⁵ See *id.*

¹³⁶ See Stanger, *supra* note 7, at 1127-28.

¹³⁷ See *id.* at 1128.

¹³⁸ See *id.* at 1129.

¹³⁹ See Ross, *supra* note 129, at 1040.

¹⁴⁰ See *Thompson v. Oklahoma*, 487 U.S. 815, 835 (1988) (holding that the execution of a fifteen-year-old, based on a sentence of death for conviction of first-degree murder, would violate the constitutional prohibition against the infliction of cruel and unusual punishment). Because juveniles are less blameworthy than adults, their diminished responsibility means that they "deserve" less punishment than adults for the same crime. BARRY C. FELD, *JUSTICE FOR CHILDREN: THE RIGHT TO COUNSEL AND THE JUVENILE COURTS* 286 (Northeastern University Press) (1993).

unusual punishment.¹⁴¹ Here too, society needs to look at a juvenile sex offender's status as a child before allowing disclosure of registration information.

2. Disclosure Thwarts Rehabilitation of Juvenile Sex Offender

Registration, in essence, is a form of punishment when the information is disclosed to the public and contradicts the remedial nature of the juvenile justice system's rehabilitative plan.¹⁴² At the discretion of the juvenile court judge, juvenile sex offenders are given an opportunity for rehabilitation, a remedial cure instead of punishment.¹⁴³ Admittedly, reports conflict over whether juvenile sex offenders respond to rehabilitative treatment.¹⁴⁴ Behavioral psychologists, however, do believe that violent behavior in children can be changed.¹⁴⁵ Child psychologists and those who work in the juvenile justice system believe that in 70-90% of all juvenile sex offender cases the child is treatable and can be rehabilitated into a law abiding citizen.¹⁴⁶ These experts agree that the most important factor for rehabilitation is that the juvenile sex offender accept responsibility for his

¹⁴¹ *Thompson*, 487 U.S. at 825 n.23.

¹⁴² *See Doe v. Poritz*, 662 A.2d 367, 424 (N.J. 1995) (Stein, J., dissenting). Public disclosure constitutes punishment because it makes the punishment for a crime more burdensome. *See id.*

¹⁴³ *See* Sander N. Rothchild, *Beyond Incarceration: Juvenile Sex Offender Treatment Programs Offer Youths a Second Chance*, 4 J.L. & POL'Y 719, 719-23 (1996). *See* Horowitz, *supra* note 61, at 94 (describing the Pines Treatment Center in Portsmouth, VA, a treatment center specializing exclusively in rehabilitating juvenile sex offenders). The growing concern over the rise of sexual abuse by children against children has led to the creation of many juvenile sex offender rehabilitation centers across the country. *See id.* Children placed in these treatment centers are often there as an alternative to a juvenile detention center or prison. *See id.* These programs treat children, many of whom have been sexually abused themselves, with therapy designed to overcome these disorders. *See id.* Fifty percent of all boys treated were physically abused, 50% to 75% of boys were sexually abused, and 75% to 90% of all girls treated were sexually abused at one time. *See id.* The Pines program focuses on getting the children to recognize what they've done wrong, to understand society's laws and values, and learn techniques designed to cope with and control impulses. *See id.* The program also focuses on inspiring empathy in these children for themselves and for their victims. *See id.* Importantly, the violent behavior may subside if children who commit sexual abuse can get in touch with their inner hurt and understand how their aggression can cause similar hurt to their victims. *See id.*

¹⁴⁴ *See* HENGGLER, *supra* note 59, at 76-82. Studies suggest that after the first arrest and treatment only 14.3% of juvenile sex offenders are re-arrested within twenty-nine months for a sexual offense. *See id.* Many experts believe that these findings are incomplete and it is premature to assume juvenile sex offenders are treatable. *See id.*

¹⁴⁵ *See* Mark W. Fraser, *Aggressive Behavior in Childhood and Early Adolescence: an Ecological-Developmental Perspective on Youth Violence*, SOCIAL WORK 347 (July 1, 1996).

¹⁴⁶ *See* Rothchild, *supra* note 143, at 758 n.147; *Trends in a National Sample*, *supra* note 67.

sexually aggressive behavior.¹⁴⁷ Public disclosure, however, thwarts rehabilitation by relieving the juvenile sex offender of the burden for "community safety and 'appropriate individual conduct' by shifting the responsibility to the community."¹⁴⁸ Additionally, while registration and public disclosure helps define people as sex offenders, it fails to address the sex offenders' sexually aggressive behavior itself and will only encourage new avenues of molestation such as child pornography. Additionally, given the fact that 60-80% of adult sex offenders start sex offending as juveniles, experts deduce that without effective rehabilitation, the majority of juvenile sex offenders will inevitably continue their sex offending into adulthood.¹⁴⁹

Typically, juvenile sex offenders have difficulty maintaining close interpersonal relations and are isolated from their peers.¹⁵⁰ This alienation may encourage sexually aggressive behavior.¹⁵¹ One way to assist juvenile sex offenders in their rehabilitation is to encourage interpersonal development through positive interaction with family members, school personnel, peers, and the community.¹⁵² Strategies addressing juvenile violence that are delivered across a variety of social settings increase a child's "pro-social behavior" and reduce illegal behavior.¹⁵³ Incorporating the youth into community organizations and functions is one important way to attain this positive interaction.¹⁵⁴ Positive community and neighborhood influences "build hope, a sense of control over one's environment, expectations for success in school and work," and a chance at conformity.¹⁵⁵

Disclosure of a juvenile sex offender's past to his community may only serve to increase his or her alienation, possibly encouraging re-offending, because of the negative attitudes the public will emit toward the youth.¹⁵⁶ In fact, society

¹⁴⁷ See Rothchild, *supra* note 143, at 758 n.104 (citing ROBERT E. FREEMAN-LONGO, PUBLIC NOTIFICATION OF SEX OFFENDER RELEASE: PREVENTION OR PROBLEM 8-9 (1995)).

¹⁴⁸ *Id.*

¹⁴⁹ See Rothchild, *supra* note 143, at 722.

¹⁵⁰ See HENGGELER, *supra* note 59, at 75 (detailing the incidence of violence in today's youth).

¹⁵¹ See *id.*

¹⁵² See Chinn, *supra* note 65 (noting the importance of positive interaction with resident supervisors in the rehabilitation of institutionalized juveniles who commit violent crimes).

¹⁵³ Fraser, *supra* note 145.

¹⁵⁴ See HENGGELER, *supra* note 59, at 205. Successful interactions with family members, peers, teachers, neighbors, ministers, coaches, and many others, promotes healthy building attachments to other children and adults for success in school, work, and other life settings. See *id.* This reduces feelings of helplessness and stress, which encourage youth violence and aggression. See *id.*

¹⁵⁵ Fraser, *supra* note 145 (detailing promising results from recent research on the effectiveness of various kinds of services for children who demonstrate aggressive, deviant behavior).

¹⁵⁶ See Alexander D. Brooks, *Megan's Law: Constitutionality and Policy*, CRIM. JUST. ETHICS, Jan. 1, 1996 (noting that critics assert that registration may confirm to sex offenders that they are "bad" and, therefore, "that they might as well act bad and re-offend").

recognizes the potential harm a person required to register may face. For instance, the Washington Supreme Court acknowledged these harms in a recent juvenile sex offender case dealing with registration.¹⁵⁷ The court noted its understanding of the youth's family in seeking to avoid registration in order "to avoid the public ignominy" likely to ensue upon the child's registration and public disclosure.¹⁵⁸

Additionally, a district court in New Jersey, while deciding that community notification laws for child sex offenders do not constitute double jeopardy, acknowledged the potential harm that public disclosure may cause.¹⁵⁹ While upholding the laws, the court explained that the impact of disclosure on sex offenders might be to expose them to public shame and "various types of adverse legal action such as loss of employment, eviction, and social ostracism."¹⁶⁰ Therefore, if we allow public disclosure we are essentially giving up on rehabilitative efforts for these juvenile sex offenders even though reports are inconclusive as to whether rehabilitation has been effective.

VI. CONCLUSION

How can we explain the paradox of states affirmatively placing the long-lasting and damaging stigma of a hardened sex offender onto a child while professing to protect children who are victims? Juvenile sex offenders may not be endearing to society or stir society's compassion like their victims, however, should society just write them off? The Supreme Court continuously reinforces the notion that government must ideally conduct juvenile proceedings informally and protectively with an eye toward rehabilitation.¹⁶¹ However, even while the legal system recognizes the need to protect children, state registration schemes still require public disclosure, subjecting these juvenile sex offenders to physical and psychological harm directly attributable to that disclosure. Condemning these children to the shame and social ostracism that disclosure causes does not comport with the traditional notions of nurturing and love embodied in the *parens patriae* philosophy and rehabilitation. Rehabilitation is about restoring a child to a healthy stature in society. However, a child cannot restore himself in his own eyes when social stigma may inhibit his ability to get a job or even walk into a store without neighbors casting doubtful looks in his direction while quickly rounding up their children in an effort to protect them. Therefore, registration laws must be tailored to prohibit public disclosure for juvenile sex offenders in order to ensure confidentiality of juvenile sex offender registration information.

Stacey Hiller

¹⁵⁷ See *State v. Heiskell*, 916 P.2d 366 (Wash. 1996).

¹⁵⁸ *Id.* at 369.

¹⁵⁹ See *W.P. v. Poritz*, 931 F. Supp. 1199 (D.N.J. 1996).

¹⁶⁰ *Id.* The court decided that the community notification laws were motivated by a remedial purpose, to protect children and others from previously convicted sex offenders, and that the means employed were rationally related and proportional to this end. See *id.*

¹⁶¹ See *McKeiver v. Pennsylvania*, 403 U.S. 528, 545 (1971).

