

ASSEMBLY, No. 752

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 37 (Bergen)
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SYNOPSIS

Requires prosecutor to determine risk of re-offense under Megan's Law prior to offender's release from incarceration.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning sex offenders and amending P.L.1994, c.128.

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3 **BE IT ENACTED** *by the Senate and General Assembly of the State*
4 *of New Jersey:*

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6 1. Section 3 of P.L.1994, c.128 (C.2C:7-8) is amended to read
7 as follows:

8 3. a. After consultation with members of the advisory council
9 established pursuant to section 6 of **【this act】** P.L.1994,
10 c.128 (C.2C:7-11) and within 60 days of the effective date, the
11 Attorney General shall promulgate guidelines and procedures for
12 the notification required pursuant to the provisions of this act. The
13 guidelines shall identify factors relevant to risk of re-offense and
14 shall provide for three levels of notification depending upon the
15 degree of the risk of re-offense.

16 b. Factors relevant to risk of re-offense shall include, but not be
17 limited to, the following:

18 (1) Conditions of release that minimize risk of re-offense,
19 including but not limited to whether the offender is under
20 supervision of probation or parole**【;】** or receiving counseling,
21 therapy or treatment **【;** or residing in a home situation that provides
22 guidance and supervision**】**;

23 (2) Physical conditions that minimize risk of re-offense,
24 including but not limited to advanced age or debilitating illness;

25 (3) Criminal history factors indicative of high risk of re-offense,
26 including:

27 (a) Whether the offender's conduct was found to be
28 characterized by repetitive and compulsive behavior;

29 (b) Whether the offender served the maximum term;

30 (c) Whether the offender committed the sex offense against a
31 child;

32 (4) Other criminal history factors to be considered in
33 determining risk, including:

34 (a) The relationship between the offender and the victim;

35 (b) Whether the offense involved the use of a weapon, violence,
36 or infliction of serious bodily injury;

37 (c) The number, date and nature of prior offenses;

38 (5) Whether psychological or psychiatric profiles indicate a risk
39 of recidivism;

40 (6) The offender's response to treatment;

41 (7) Recent behavior, including behavior while confined or while
42 under supervision in the community as well as behavior in the
43 community following service of sentence; and

44 (8) Recent threats against persons or expressions of intent to
45 commit additional crimes.

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 c. The **【regulations】** guidelines shall provide for three levels of
2 notification depending upon the risk of re-offense by the offender as
3 follows:

4 (1) If risk of re-offense is low, law enforcement agencies likely
5 to encounter the person registered shall be notified;

6 (2) If risk of re-offense is moderate, organizations in the
7 community including schools, religious and youth organizations
8 shall be notified in accordance with the Attorney General's
9 guidelines, in addition to the notice required by paragraph (1) of
10 this subsection;

11 (3) If risk of re-offense is high, the public shall be notified
12 through means in accordance with the Attorney General's guidelines
13 designed to reach members of the public likely to encounter the
14 person registered, in addition to the notice required by paragraphs
15 (1) and (2) of this subsection.

16 d. In order to promote uniform application of the notification
17 guidelines required by this section, the Attorney General shall
18 develop procedures for evaluation of the risk of re-offense and
19 implementation of community notification. These procedures shall
20 require, but not be limited to, the following:

21 (1) The county prosecutor of the county where the person was
22 convicted and the county prosecutor of the county where the
23 **【registered person】** offender will reside, together with any law
24 enforcement officials that either deems appropriate, shall assess the
25 risk of re-offense by the **【registered person】** offender prior to the
26 offender's release from incarceration;

27 (2) The county prosecutor of the county in which the **【registered**
28 **person】** offender will reside, after consultation with local law
29 enforcement officials, shall determine the means of providing
30 notification.

31 e. The Attorney General's guidelines shall provide for the
32 manner in which records of notification provided pursuant to this
33 act shall be maintained and disclosed.

34 (cf: P.L.1994, c.128, s.3)

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36 2. This act shall take effect immediately.

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STATEMENT

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41 This bill amends Megan's Law to require that the county
42 prosecutors determine a sex offender's risk of re-offense, or tier,
43 prior to the offender's release from incarceration. Currently, many
44 sex offenders are not tiered until they have been released into the
45 community because the offender's residence is a factor that may be
46 considered in determining risk of re-offense.

47 Under current law, the factors relevant to the risk of re-offense,
48 which the prosecutor is required to consider in determining the tier

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1 designation, include conditions of release that minimize risk of re-
2 offense such as, whether the offender is residing in a home situation
3 that provides guidance and supervision. In order to enable
4 prosecutors to tier offenders prior to their release from
5 incarceration, the bill removes this factor.