

Houston Chronicle

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Feb. 17, 2008, 11:10PM

Sex registry called too harsh for juveniles

New offender law groups teens with adults, regardless of recidivism risk

By LISA SANDBERG

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AUSTIN Texas officials may soon begin ignoring a new federal sex offender law that would require some juveniles as young as 14 to register on a national Web site.

A federal community notification act approved by Congress and signed by President Bush is so sweeping, it's raising concern among even those who traditionally have pushed for greater public sex offender disclosure.

Scores of prosecutors, victims' rights advocates and normally get-tough lawmakers say provisions of the Adam Walsh Child Protection and Safety Act of 2006 are Draconian and costly and may end up harming the victims they're supposed to protect.

"We think our laws are strong enough," said Sen. Florence Shapiro, R-Plano, a leading advocate of sex offender registration laws in Texas.

"When the pendulum swings, it tends to swing pretty hard," said Bill Hawkins, chief of the juvenile division of the Harris County District Attorney's Office. "There are an awful lot of sexual assault cases, and then there are kids who engage in sex at an early age. The Adam Walsh Act wants to put them all together."

The law is named for the 6-year-old son, murdered in 1981, of John Walsh, host of *America's Most Wanted*. The act requires all states to participate in a national sex offender registry and makes no exception for many younger offenders, putting juveniles who engage in consensual sex with children younger than 13 in the same category as armed adult rapists and pedophiles, in some instances for life.

States have until July 2009 to enact the new law's provisions or lose millions of dollars in federal criminal justice funds. The Justice Department is expected to issue final guidelines this spring.

A handful of states have enacted the law's provisions, but others are balking.

Complying is costly

After initially championing the law, state Rep. Jim McReynolds, D-Lufkin, now opposes the juvenile provisions and believes compliance would be a bad financial deal for Texas. It would cost local communities more to enact the stringent requirements, he says, than what the state would earn if it complied.

"It's a financial loser ... an unfunded mandate," McReynolds said.

Texas' sex offender registry has for years included juveniles. But it's not automatic, giving judges broad discretion in deciding which ones are placed there.

Of the more than 47,000 people listed on the state's Department of Public Safety Web site, only 275 are under 18, while 3,853 are registered based on offenses they committed as juveniles, according to DPS data.

Judges would lose all discretion under the federal act. The national registry would include everyone 14 or older convicted of a sex offense.

A 14-year-old boy convicted of having sex with his 12-year-old girlfriend, for example, would be treated the same as a repeat adult predator who attacked a 3-year-old. Both would fall into the most severe category, Tier III, requiring them to register four times a year for at least 25 years and possibly for the rest of their lives.

Unlike adults, juveniles could petition to be removed from the registry after a quarter-century.

"It's based on the offense of conviction and not on the risk level," said Allison Taylor, executive director of Texas' Council on Sex Offender Treatment.

Few seem to have qualms about adding low-risk adult offenders to the rolls, even if they've served their time and haven't committed an offense in years.

Shapiro said putting both low- and high-risk offenders on the database makes communities safer.

"I don't have any problems if they're adults. ... It's much more difficult to change the behavior pattern of a 35- or 40-year-old man," she said.

Branding all juvenile offenders as predators is different, Shapiro and others say, partly because juvenile sex offenders are said to be more capable of rehabilitation. Studies show that less than 10 percent of juveniles who commit sex offenses re-offend as adults.

In that way, the new law "is rounding up all the wrong suspects," said Franklin Zimring, a law professor at the University of California, Berkeley, who directs the school's criminal justice research program.

In a study conducted in Philadelphia, Zimring found that juveniles who committed

nonsexual offenses were twice as likely to become adult sex offenders as juveniles who committed sex offenses.

Amie Zyla, 20, is unconvinced by the go-softer-on-juveniles rhetoric. She was 8 when a 14-year-old family friend named Joshua Wade molested her in their Wisconsin town. His case was handled in juvenile court but, because of his age, he was not placed on a registry.

Years later, she learned a now-adult Wade had molested other children. Zyla, who plans to attend a technical school in the fall, believes Wade's later crimes might have been prevented had her community known about what he did to her. That's what she told members of Congress in hearings leading up to passage of the Adam Walsh Act.

Opposite effect

Annette Burrhus-Clay, executive director of the Texas Association Against Sexual Assault, says her group believes the juvenile registration provisions would increase, not reduce, sexual assaults by giving families less incentive to turn in young offenders.

"What you think would make it safer for victims would in fact make reporting go down," she said.

There is at least anecdotal evidence for that. A West Texas woman says she regrets ever turning in her son for touching a 15-year-old female relative on several occasions when he was 12. In a recent interview, the mother said she knew her son had boundary problems and wanted to get him help.

The family lived in Idaho at the time, and authorities there assured her that her son's record would be expunged after he completed probation and sex abuse treatment. But three months before his probation ended, the family moved to a small town in West Texas, where authorities said he would have to register for 10 years.

Word filtered through his school, and he was taunted, she said. A teacher told neighbors about the boy's offense, and he dropped out of school.

"What is wrong with our society?" the mother asked. "Do we want to scar these kids for the rest of their lives?"

She's comforted by one thought: If Texas does pass the Adam Walsh Act, her son would not be placed on the national registry because he committed his crime at 12, not 14.

lsandberg@express-news.net