

Plan May Require Sex Offender Identification

BY JENNIFER ADAMS
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As controversy stirs about methods for crime prevention throughout the state and country, most recently under fire is a program to require convicted sexual offenders to be registered in the community where they live.

In his State of the State address Feb. 9, Gov. Jim Hunt called for the mandatory registration of convicted sexual offenders and community notification, "so communities will know exactly who is in their midst."

State legislators are of the same mind; N.C. Senate Bill 53, now in committee hearings, would create a registration program for convicted sex offenders in North Carolina.

Last year's federal violent crime control bill asked states to register released sex offenders and permitted them to establish community notification plans, although such plans are not mandatory. If states fail to enact registration plans by 1997, the federal government will withhold 10 percent of funds otherwise provided by the Omnibus Crime Control and Safe Streets Act of 1968.

Forty states now require sexual offenders to be registered with local authorities; 16 states passed these laws last year.

New Jersey's statutes have received the most press. Known collectively as "Megan's Law," the statutes require convicted sex offenders to register with local law enforcement officials when they are released from prison.

Depending on how dangerous the individual is believed to be, the community at large may be notified as well.

Jayne Rebovich, spokeswoman for the N.J. attorney general's office, said New Jersey's law distinguishes between serious and less serious offenders.

When an individual is released, the department of corrections notifies the county prosecutor. The prosecutor evaluates how much of a threat the individual poses for the community and then places him or her in one of three "tiers" that determine who is notified: law enforcement only; law enforcement, community organizations that supervise children and the victims; or the public at large.

Rebovich said there were two main constitutional arguments being used against New Jersey's statutes.

First, opponents say the statutes violate ex post facto because they place an additional punishment on offenders who have already served their sentences in jail.

Secondly, they violate "due process" because county prosecutors determine the categorization without input from offenders. Offenders have no right to appeal this decision.

"This is not a punishment," Rebovich said. "This is a community or public safety measure."

Dan Pollitt, a UNC constitutional law professor, said civil liberties groups were fighting the New Jersey law and recently had won a case in trial court testing its constitutionality.

The law is hazy," Pollitt said. "Either it saves the community or incites the community against persons."

He said the laws denied due process for two reasons. First, the law delegates too much authority to those who determine the risk factor of the released offender. Second, there is a violation of the right to privacy.

"This is a denial of the due process right to privacy, the right not to be branded," Pollitt said. "It also may be cruel and unusual punishment."

N.C. Senate Bill 53 calls for establishing a sexual offender registration program. In the preamble to the bill, it states that the General Assembly "recognizes that sex offenders often pose a high risk of engaging in sex offenses even after being released from incarceration."

It states that sex offenders "have a reduced expectation of privacy because of the public's interest in public safety."

The bill requires the court to determine the threat the individual poses to the community and to place them in one of three risk levels: low, moderate or high.

Convicted sexual offenders would be required to register with their local sheriff's department. Like New Jersey's law, the community at large would be notified only if someone in the "high" risk category were released.

Catherine Smith of the Victims Assis-

tant Network in Raleigh said she thought this was "a small step in the right direction."

"Sexual offenders have very high recidivism rates," Smith said. "This is a great crime prevention method."

If the sheriff had information (about local sex offenders) at hand, he could have a sense as to where to start looking," she said.

She said she thought registration programs also provided a deterrent factor.

Smith said opposition to passage of this bill was coming primarily from trial lawyers who claimed it was a violation of the constitutional right to privacy.

"But victims have no such protection," she said.

Deborah Ross, executive legal director for the American Civil Liberties Union of North Carolina, said she opposed the proposal.

"Sexual offender notification is constitutionally suspect — it's a violation of privacy and other civil liberties," Ross said.

"And it's bad policy."

"It tends to give residents a false sense of security and diverts their attention from the danger of those not convicted," she said. "It encourages a state of hysteria and vigilantism. And it doesn't solve the problem."

She said that under community notification plans, signs had been placed in people's front yards.

"Certain provisions of sex offender law and, in part, community notification, keep offenders from being able to reintegrate, to become productive members of society," Ross said. "Why let him out of jail?"

Smith said that quality concerns were different for doctors and patients and that

doctors should focus on patients' needs.

"You don't have to understand agriculture to choose an orange at the supermarket. Our idea of quality is how close to the lime alba is the scalpel? We need to get off our high horse and learn how to judge," he said. "We are the only system that arranges itself for the suppliers."

Smith closed his lecture by giving advice to his colleagues in the medical profession.

"We have to be willing to work in organizations; we have to learn to work with nonphysicians and value their skills and contributions. We're going to have to focus on customer service," he said.

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"Do we want health care to be a business or not? We want it to be more businesslike, but we think health care should have an egalitarian approach," he said.

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