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Testimony in Support of HB 7408

A secret "Sex Offender Registry You don't See"

Since the headlines appeared in March residents from my district have approached me in disbelief, anger, frustration, and worst of all, comments like, "How could you let that happen?"

There are now 41 other communities that don't know that there are certain sex offenders in their neighborhood, which is a chilling thought.

In the case reported in the Journal Inquirer the offender got no jail time, a suspended sentence, 5 years probation and plea bargained OFF the sex offender's list. His crime involved his 3 year old daughter.

A family member was outraged! The newspaper reporter was outraged and I was called.

Here are the questions for the wisdom of the Judiciary Committee.

Should there be a review of the 'secret' 42 cases?

I would hazard a guess that most legislators do not know that there is a list of sex offenders we cannot see. Only law enforcement and the courts can access these files.

Since the inception of Megan's law the legislature has not reviewed the cases where this one line of law has been used to plea-bargain a criminal off the sex offender's registry in CT.

Where is the safety for the community?

Will this man date a woman who has a young child in the future? Or if he has a child by another woman, how will she know who he is and what he has done? We put our communities at risk, having UNKNOWN criminals convicted of a crime that is known to have a high recidivism rate, living locally.

Should victims be able to release the cases onto the list?

I am sympathetic to the victim's rights as well, so I am here to also **support HB 7408**. Victims need to have the power to petition the court in an easy manner, to be able to remove the restriction on the dissemination of those files. It is one step towards allowing the public the right to know whether sex offenders are living in their neighborhoods.

Journal Inquirer.com

NORTH-CENTRAL CONNECTICUT'S HOMETOWN NEWSPAPER

03/22/2007

The sex offender registry you can't see

By Heather Nann Collins, Journal Inquirer

Click on the town of Bolton in the state's online sex offender registry and you won't find the name of 27-year-old James Bailey Jones, who was convicted last week of molesting a preschool girl.

It isn't that Jones isn't a registered sex offender. He is.

But Jones' name and his status as a sex offender are known only to law enforcement.

Jones -- whose court records list his addresses as 8 Colonial Road and a post office box -- admitted to a Vernon Superior Court judge that he had touched the girl inappropriately and was guilty of risk of injury.

He also pleaded to second-degree assault under the Alford Doctrine, which permitted him to maintain his innocence while acknowledging that the state's evidence made a conviction likely if the case had gone to trial.

He was convicted in the plea deal of both charges.

As part of the agreement hammered out between prosecutor Elizabeth Leaming and defense lawyer I. David Marder, Jones was given a suspended five-year prison sentence, and ordered to serve five years' probation.

Judge Patricia Swords also banned Jones from unsupervised contact with any child 16 or younger and ordered him to take part in sex offender counseling and treatment.

And for the next 10 years, Jones must register as a sex offender.

What makes Jones' registration unusual is that he joins just 41 others in the state who have successfully petitioned the court to limit access to that information.

Under the so-called "restricted" sex offender registry, Jones' status as a sex offender will be known for "law enforcement purposes only."

Swords approved Jones' lawyer's petition for inclusion on the restricted list under Section 54-255 of the criminal statutes.

The statute says in part that shielded registration is available when there is a family relationship between the offender and the victim, and if the court finds that "publication of the registration information would be likely to reveal the identity of the victim."

The court also must find that the dissemination of the registration isn't required for public safety.

The exemption is provided under a little-used -- and little-known -- law.

Rep. Pamela Z. Sawyer, R-Bolton, admitted this week she was shocked by the statute that protects the identities of some certain sex offenders.

"I was not aware of it," Sawyer said. "I think it's chilling -- almost a silent piece of state legislation."

But for Leaming, a longtime prosecutor who says she has tried many sex assault cases involving children, the restricted registry "legitimately serves to protect the privacy of victims, under special, limited circumstances."

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Leaming said she had agreed to restricted sex offender registration only once before, in the case some years ago of a man who raped his daughter.

The daughter was a teenager by the time her father was convicted and wanted "nothing" to do with his prosecution, Leaming said.

If her father's name and address were to be on the public registry, the teen said, everyone would deduce that she had been his victim, Leaming said.

"I didn't see it as my role to harm her any further," Leaming said, and so she agreed to the restricted registration.

Jones also sexually assaulted a young family member.

According to the affidavit supporting his arrest in July 2005 by state police, the little girl first told a babysitter that Jones had touched her.

Police say the girl, though young, was consistent -- and insistent -- in her description of Jones' repeated assaults.

Sex cases can be tough to prove; an allegation must be backed up with courtroom testimony, Leaming said, and her "primary concern" was to protect Jones' victim.

The allegations would have required the little girl to testify, Leaming said, and even that wouldn't have guaranteed a conviction.

"In my experience, jurors have always expressed concern about relying upon the words of preschool-age children, without additional corroboration, so the risk of going to trial here were significant," she said.

A relative of Jones' victim said the child's mother thought hard about what effect testifying in court would have.

Ultimately, the relative said, the mother decided that "to put her through this would have been way too much."

In early March, the plea deal was set -- but there was a change: Jones would apply for restricted sex offender registration and Leaming wouldn't oppose it.

The child's relative was "disappointed" at first and there was some talk with the girl's mother about having the child testify. But "cooler heads prevailed," the relative said, and the victim's family went along with the deal.

The girl's mother and other relatives were in the courtroom on March 16 when Leaming told Swords what Jones had done to the child.

Jones pleaded guilty to the section of risk of injury to a minor in which the health of a child is "likely to be injured" or "the morals of such child are likely to be impaired" or "does any act likely to impair the health or morals" of a child.

Swords asked Jones if he had anything to say. "Not at all," was his curt reply.

Reached Wednesday by phone at the Bolton restaurant where he works, Jones maintained his innocence.

"I was falsely accused of this," Jones said. "I could have gone to trial but if I would have been convicted I would have died in jail. ... They don't let people like that out. They get killed in jail. ... I am not a danger to the public in the court's eyes. That's why I'm not on the public list."

Despite Jones' continued denials, the girl's relative said the child's mother and the family feel "vindicated" by his court admission.

"He's been exposed," the relative said.

Leaming said she is "as satisfied" as she can be with the outcome: Jones has two felony convictions, he is a registered offender, he is going to get treatment and be on probation, and he had to admit in court to what he did.

"In a perfect world, I would have wanted more than this," Leaming said. "But I can only work with the evidence I had."

And while the family would have preferred that Jones be on the Internet registry, they aren't unhappy with the final outcome.

Leaming has been criticized by some for the deal but the victim's relative said that anger is misdirected.

"I think she did the best she could do here," the relative said. "She came out of this protecting" the girl, "and for that I will always be grateful."

At the end of February, there were 4,529 on the public registry. Another 41 were on the restricted list, according to the executive officer for the registry, state police Sgt. Samuel Izzarelli.

Jones and others on the shielded list must follow all the rules of regular registration, Izzarelli said, including notifying state police when they move.

In addition, the offender -- whether on the regular or restricted list -- must confirm his or her address every 90 days or risk violating probation.

Local police departments are notified when an offender registers, whether on the public list or the restricted list.

If Jones -- or any other registered offender -- is stopped by police, a computerized background check will reveal his sex offender status.

Leaming and Izzarelli both say they don't think the public is ill served by not knowing the names of every sex convicted sex offender.

The list represents "maybe 3 percent" of the actual numbers of sex offenders, Izzarelli says.

For parents seeking to check out a new babysitter or a single mom looking to see if her new beau has any sex convictions, Izzarelli says the online registry "is a great place to start."

However, he cautions, "The reality is this has to be a tool to use to make good decisions as parents and caregivers to children."

Leaming says the reality is that "the vast majority" of sex assaults are committed against those known to the offender.

The reality of the shielded list, Leaming says, is that "it's not secret. It's a built-in protector of a victim's privacy rights. ... I am a proponent of the registry, but not at the expense of the victim."

Section 54-255 was adopted by the legislature in 1999, after a number of victims and victim advocates testified before the Judiciary Committee.

Rep. Michael P. Lawlor, D-East Haven, currently co-chairs that committee and says he still remembers the testimony of some victims who said they were being identified because of their offender's registry.

The mother of a girl told lawmakers how her daughter brought home an envelope from school containing information on the town's newest sex offender: the child's father.

As it turned out, Lawlor said, the father and mother had a sexual relationship while the mother was under 15 and the father was more than two years older -- a crime in Connecticut. The man was convicted but he and the woman stayed together. She gave birth to their daughter, who they said was being unfairly stigmatized by her father's registration.

Lawlor said the law was enacted to protect the innocent, not the convicted.

"The reason the law is in place is out of respect for the victims," Lawlor says. "Under our state Constitution, victims have rights."

Under the law, victims must be notified that the offender intends to ask for the restriction. The court considering the application also must consider the victim's concerns.

Incest cases are one reason the restriction is granted.

Sometimes, Lawlor says, those fractured families reconcile. When that happens, online registration could identify the victim by identifying the offender.

"The unintended consequences can be severe," Lawlor, a former prosecutor, says. "The legislature has to make it possible for the right thing to be done on a case-by-case basis. You don't want to have some arbitrary, inflexible rule. That's why that option is in there."

As for criticism that may follow, that the restricted list protects pedophiles or other types of sex offenders, Lawlor says the public must understand that the list has a limited usefulness.

"You should just assume that anyone can victimize a child," Lawlor says. "The online registry gives a false sense of security. But having said that, that's why I believe strongly that everything should be online."

That is coming: The Judicial Department has said most criminal conviction records will soon be put online for all the world to see.

Once that happens, the public will have a truer idea of what occurred in court than what an online registration might reveal, Lawlor says.

For instance, he says, some defendants now take plea deals that spare them convictions of sex crimes even when a sex crime is initially charged. Once posted online, dispositions and narratives of the crime will give a truer description of what actually occurred, he says.

Sawyer, in whose district Jones lives, says she wants to review why the restricted registry exists and whether it is appropriate, given the public's appetite for sex offender information.

"I find it very unsettling that a whole class of people who have a very high repeat rate of their crime would be allowed to be shielded, or hidden," she says.

The state Judicial Department has come under fire from legislators for some judges' decisions to "super-seal" certain court files -- files that were recently opened.

A "hidden" sex offender registry, Sawyer said, "pales in comparison to that."

"Do we want to know if he's living near a school, or a day care? Yes, we do," she said. "It makes me very uncomfortable that we've created a second class of sex offenders, if you will, and it's being used in courts to give them more right to privacy."

Lawlor says the list "isn't really secret. The conviction information is always public, and the issue is whether or not it's going to be on the Internet."

"My view," he added, "is that whatever the victims want is what I support."