

**REPORT OF THE
VIRGINIA STATE CRIME COMMISSION**

**"MEGAN'S LAW" / COMMUNITY
NOTIFICATION OF SEX
OFFENDERS**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 40

**COMMONWEALTH OF VIRGINIA
RICHMOND
1997**



COMMONWEALTH of VIRGINIA

VIRGINIA STATE CRIME COMMISSION

General Assembly Building

December 10, 1996

John R. Isom
Executive Director

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ATTORNEY GENERAL'S OFFICE
James S. Gilmore, III

TO: The Honorable George Allen, Governor of Virginia, and
Members of the General Assembly:

House Joint Resolution 130, agreed to by the 1996 General Assembly, directed the Virginia State Crime Commission to study "Megan's Law" and to submit its findings and recommendations to the Governor and the 1997 session of the General Assembly.

In fulfilling this directive, a task force was appointed by the Virginia State Crime Commission in 1996 to assist in conducting the study. I have the honor of submitting herewith the study report.

Respectfully submitted,

Clifton A. Woodrum
Chairman

CAW:sc

MEMBERS OF THE VIRGINIA STATE CRIME COMMISSION 1996

From the Senate of Virginia:

Janet D. Howell, Vice Chair

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Robert J. Humphreys

Attorney General:

James S. Gilmore, III

**Law Enforcement Subcommittee Studying "Megan's Law" or Community
Notification of Sex Offenders**

Crime Commission Members

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Delegate James F. Almand

Mr. Robert C. Bobb

Senator Mark L. Earley

Mr. James S. Gilmore, III

Delegate William S. Moore, Jr.

Mr. Robert J. Humphreys

Staff

Judy R. Philpott, Policy Analyst

John R. Isom, Executive Director

**HJR 130/ A Study of the “Megan’s Law” or Community Notification
of Sex Offenders**

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HJR 130: "Megan's Law"/Community Notification for Sex Offenders

I. Authority for Study

The 1996 General Assembly approved House Joint Resolution 130 (HJR 130/Deeds) directing the Virginia State Crime Commission to conduct a study on Virginia's current law on notification of sex offender, the efficacy of expanding the law to include provisions of New Jersey's "*Megan's Law*" and to submit its findings and recommendations to the Governor and the 1997 General Assembly.

Section 9-125 of the Code of Virginia establishes and directs the Virginia State Crime Commission "to study, report, and make recommendations on all areas of public safety and protection." Section 9-127 of the Code of Virginia provides that "the Commission shall have the duty and power to make such studies and gather information in order to accomplish its purpose, as set forth in Section 9-125, and to formulate recommendations to the Governor and the General Assembly." Section 9-134 authorizes the Commission to "conduct private and public hearings." The Virginia State Crime Commission, in fulfilling its legislative mandate, undertook the study of the efficacy of enactment of New Jersey's "*Megan's Law*" provisions in the Code of Virginia.

Sex offenders have one of the highest rates of recidivism. Many pedophiles have as many as 140 victims, and some, many more. To enhance the safety of children many states have enacted statutes which provide for public notification when a sex offender is released from incarceration or relocates at any time after conviction. Virginia currently requires notification to local law enforcement authorities but has no provision for notice to the general public. The study resolution directs the Crime Commission to determine if Virginia's notification statute should be expanded.

Subsequent to passage of the study resolution, HJR 130, Congress passed a federal law which requires states to enact notification laws by September, 1997. The law was an amendment to the *Jacob Wetterling Crimes Against Children Act passed in 1995*. Failure to enact such legislation will jeopardize states' Byrne formula grant funding or anti-crime monies. Virginia would lose approximately a million dollars in grant funds if it is not in compliance. The U. S. Attorney General will issue guidelines for the legislation. The legislation did specify that states could seek

up to a two year extension if they can demonstrate that they are working towards compliance.

Preliminarily, it appears that Virginia will have to expand beyond its current notification. The Crime Commission redirected the focus of HJR 130 to the development of notification legislation, guidelines for implementation, and the development of a risk assessment mechanism in response to the federal legislation. In September, 1996, Congress passed the *Pam Lychner Sexual Offender Tracking and Identification Act of 1996* which provided further mandates for states on the registration of convicted sex offenders. The legislation was an amendment to the original *Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act*. also. The provisions of this bill have the same impact on states' funding from the Byrne formula grant as the "*Megan's Law*".

II. Members Appointed to Serve

At the May meeting of the Crime Commission, Chairman Clifton A. Woodrum, selected Senator Janet D. Howell to serve as Chairman of the Law Enforcement Subcommittee, which was directed to conduct the study of "*Megan's Law*". The following members of the Crime Commission were selected to serve on the subcommittee:

Senator Janet D. Howell, Sub-Chair
Delegate James F. Almand
Mr. Robert C. Bobb
Senator Mark L. Early
Mr. James S. Gilmore, III
Mr. Robert J. Humphreys
Delegate William S. Moore, Jr.

III. Executive Summary

The Task Force studying "*Megan's Law*" found that there were a number of issues to be considered. First, the law in question was an amendment to a federal statute entitled "*The Jacob Wetterling Crimes Against Children Act*". This statute required states to enact a "Sexual Predator Act" and made several provisions for the registration of convicted sex offenders. States were required to comply with the statute by October, 1997 or risk the loss of Byrne formula or anti-crime funds. The Task Force determined that Virginia was out of compliance with several provisions of the Act; most specifically, the passage of a sexual predator law. The consensus of

the Task Force was to address the compliance issues of the original legislation, "*Jacob Wetterling Act*", and delay action on the "*Megan's Law*" amendment until the first step could be enacted. The results of this decision was the development of a "Sexual Predator Act of 1997" for Virginia.

The Crime Commission will support the introduction of a "Sexual Predator Act" in the 1997 Virginia General Assembly.

The Crime Commission will support the introduction of a study resolution in the 1997 Virginia General Assembly directing the Crime Commission to continue its study of the "Megan's Law" amendment and to develop legislation on public notification of sex offenders in the community for introduction to the 1998 Virginia General Assembly.

Passage of the "Sexual Predator Act of 1997" will require additional resources for the Supreme Court to reimburse the mental health evaluations required of certain convicted sex offenders. It will also require funds for the Department of State Police to make the necessary modifications to the Virginia Sex Offender Registry.

The Crime Commission will support a budget proposal to request funds for the Supreme Court for purposes of funding mental health evaluations as required by the proposed changes to §19.2-300 in the "Sexual Predator Act".

The Crime Commission will support a budget proposal to request additional funds for purposes of modifying the Virginia Sex Offender Registry in response to the "Sexual Predator Act".

The Task Force heard testimony on the issue of supervision of sex offenders in the community. There was consensus that sex offenders need close monitoring when released back into the community. Probation & parole officers need to understand the pathology of sex offending, the methods sexual predators use to solicit potential victims, and strategies for enhancing the control of sexual impulses of supervised sex offenders. Most sex offenders in the community are on regular caseloads of 70 to 80 offenders, giving little opportunity for the close supervision needed to enhance public safety. The Task Force recommended that all sex offenders under community supervision, both adult and juvenile, be placed on a specialized caseload which allows for close

monitoring of the sex offender's movements. The Task Force also recommended funds for local probation & parole officer to utilize polygraph testing in monitoring sex offenders in the community.

The Crime Commission will support a budget proposal to request funds for additional probation & parole positions in the Department of Corrections and juvenile probation officers in the Department of Juvenile Justice to enhance supervision of sex offenders living in the community. Additionally, the Crime Commission will request funds for polygraph testing of supervised sex offenders.

The Task Force studied the efficacy of sex offender treatment. There was consensus that certain sex offenders were not appropriate for treatment; however, the Task Force recommended that treatment be provided to those offenders who are assessed and deemed to be amenable to treatment.

The Crime Commission will support a budget amendment to reinstate the two therapeutic communities for sex offender treatment in the Department of Corrections.

The Task Force worked on the development of a risk assessment instrument to determine the level of risk a sex offender poses in the community. This instrument can be used pending release by jail and prison personnel to determine the level of risk a sex offender presents and to assist in making the appropriate post incarceration plan to minimize reoffense. It can be used to determine the level of notification that should be used when a sex offender is released. Implementation of the use of the instrument this year provides an opportunity to determine its effectiveness and to make the necessary adjustments for use with the notification legislation which will be introduced in 1998.

The Crime Commission recommends that the Department of Corrections utilize the risk assessment instrument developed by the Task Force on "Megan's Law" on sex offenders due to be released in the next year. The Commission recommends that the University of Virginia Institute for Law, Psychiatry, and Public Policy conduct an evaluation of the instrument in collaboration with the Department of Corrections.

Intensive supervision, notification, and other strategies used to protect children from predatory sex offenders are not the sole solution to insuring the protection of a vulnerable population. Children must be taught to recognize dangerous signs and take self protective measures. The Department of Education has used a program, "Hugs and Kisses", to teach young children to recognize inappropriate behavior of some adults which may lead to child molestation. This program should be made widely available with the necessary follow-up discussion to enhance Virginia's children ability to protect themselves.

The Department of Education should make available to all school age children information on inappropriate behavior which could lead to child molestation. "Hugs and Kisses" is one program which has been used effectively and should be considered for expansion.

The Task Force considered the fiscal impact of the issues under consideration and the anticipated availability of revenue in the next year. These factors were a part of the decision of the Task Force to address this complex issue in a manner which would have the potential for enhancing public safety in a sound, cost effective manner and minimize the opportunity for unintended adverse consequences.

IV. Study Methodology

A task force was convened to examine the issues and to make recommendations to the Crime Commission on the passage of "*Megan's Law*" or community notification for sex offenders. The membership of the task force included representation from probation and parole, commonwealth attorneys, circuit court judges, a Parole Board member, treatment specialists from the field of sex offender treatment, a representative from the State Police, representatives from the Department of Corrections, the Department of Criminal Justice Services, the Department of Juvenile Justice, and the Department of Health Professions. (See Appendix). The Attorney General's designee to the Crime Commission Frank Ferguson, and Senator Janet Howell, chair of the Law Enforcement Subcommittee of the Crime Commission, provided assistance to the task force as well. Delegate Creigh Deeds, patron of the study resolution, met with the task force to review the recommendations.

The task force was divided into two subcommittees: Legislation and Treatment and Risk Assessment. The Legislation subcommittee was charged with developing a legislative response to the federal legislation; the Treatment and Risk Assessment subcommittee was charged with developing a risk assessment instrument for sex offenders and to develop recommendations on both institutional and community-based treatment options for sex offenders.

The Legislation subcommittee began its work by examining the original federal legislation, the *Jacob Wetterling Crimes Against Children Act*. This legislation was amended to include the "Megan's Law" provision for community notification for sex offenders. The more recent passage of the *Pam Lychner Sexual Offender Tracking and Identification Act of 1996* required that the Legislation subcommittee attempt to address a broad spectrum of issues which go well beyond strictly notification for release of convicted sex offenders. The subcommittee found a number of issues in the original legislation with which Virginia was not in compliance and attempted to address those first.

V. Background

In 1994 the New Jersey legislature enacted a law hereafter to be known as "*Megan's Law*" Public Law 1994, Chapters 128 and 133 codified as N.J.S.A. 2 C:7-1 to 7-11. The legislation was a response to a brutal murder and rape of a seven year old girl, Megan Kanka. The murderer lived across the street from the Kankas and was a twice convicted sex offender. The legislation was introduced as an emergency measure and was unanimously approved. Megan's Law enacts a registration requirement and three tiers of notification. All persons who serve sentences for certain sexual offenses are required to register with local law enforcement. In New Jersey the offender must re-register with local law enforcement every ninety days and notify the law enforcement agency if he moves, and re-register with law enforcement wherever he moves. The local law enforcement then forwards registration information to the prosecuting attorney of the jurisdiction where the offender was convicted. The prosecuting attorney then notifies the State Police who then notifies the local prosecuting attorney of the jurisdiction where the offender plans to live. At this point the prosecuting attorney of the jurisdiction where conviction occurred and the prosecuting attorney of the jurisdiction where the offender plans to live must consult to determine if the offender is low, moderate, or high risk. Guidelines for the risk assessment are promulgated by the New Jersey Attorney General.

Tier I means low risk and prosecutor must notify law enforcement agencies likely to encounter offender.

Tier 2 means moderate risk and the prosecutor must notify schools, daycare facilities, summer camps, and designated community agencies involved with care of children or battered women or rape victims.

Tier 3 means high risk and law enforcement agencies are required to notify members of the public likely to encounter the offender.

Tier 2 and 3 include registrant's name, recent photograph, physical description, offense, address, place of employment, and description and license number of his vehicle.

Under Tier 2 and 3 there is a warning that information is confidential and a warning against acts of vandalism, threats, or assaults against the offender.

VI. Court Challenges

The statute was challenged in 1994 and in 1995 the New Jersey Supreme Court upheld the constitutionality of the law in *Doe v. Poritz*, 142 N.J. 1, 662 A. 2d 367. In rendering that opinion the Court included additional procedural protections in the statute. Tier 2 notice must be confined to only those likely to encounter the offender. The prosecuting attorney must notify the offender prior to a Tier 2 or 3 notification unless it is practically impossible. Third, the court must provide for an in camera hearing in which the offender bears the burden of persuasion.

The prosecutor makes the future risk determination using the "Registrant Risk Assessment Scale" promulgated by the Attorney General. The Scale is a matrix of thirteen categories organized into four larger headings:

- 1) Seriousness of Offense
- 2) Offense History
- 3) Characteristics of the Offender
- 4) Community Support

Each category is scored by the prosecutor as low, moderate, or high risk. Two exceptions apply to the risk determination: a) if the offender has indicated he will reoffend once he is released back

into the community and the available record lends credence to this finding, then the offender is deemed high risk; and, 2) if the offender demonstrates a physical condition which minimizes the risk of reoffending, then the offender is deemed low risk.¹

VII. Current Status of Megan's Law

The federal legislation known as "*Megan's Law*" was signed into law the week of May 13, 1996. The bill is an amendment to the *Jacob Wetterling Crimes Against Children Act*.

The bill is broad and does not specify the level of notification states will have to undertake to be in compliance. It is possible that Virginia's passage of a notification bill this past session which requires notice to local law enforcement when certain sex offenders are released may satisfy the threshold of public safety interest. However, Virginia's law does not require notification to local law enforcement authorities, except upon request. A preliminary inquiry to the Department of Justice indicated that, while they intend to give the maximum flexibility to states in complying with the new legislation, states will be expected to go beyond notification to local law enforcement.

Virginia is currently out of compliance with the original *Jacob Wetterling Act* in a number of areas:

*Virginia does not have a sexually violent predator statute as required by the Act. The Act requires that the sentencing court make a determination of sexually violent predator following conviction of certain predicate crimes and an examination by a board of clinicians with expertise in the behavior and treatment of sexual offenders. Virginia has no court mechanism nor board of experts for such a determination.

*The criminal offenses included in Virginia's Sex Offender Registry do not include all of those required by the Act.

*Virginia does not have the statutory definitions for "sexually violent offense," "sexually violent predator", "predatory", "mental abnormality", "criminal offense against a victim who is a minor".

Alexander A. Artway v. Attorney General of the State of New Jersey, 1996 WL 170671
(3rd Cir. (N.J.s))

*The statute for the Virginia Sex Offender Registry does not require fingerprints or photographs as required by the Act.

*Time frame for re-registration when moving. The Virginia registration statute does not address this issue. The Jacob Wetterling Act requires re-registration within 10 days of moving.

*Length of registration for sexually violent predator is permanent unless otherwise determined. The Virginia registration statute requires expungement after fifteen years with no convictions. The Jacob Wetterling Act requires re-registration every ninety days for sexual predators.

*Virginia has no civil immunity statute for the current registration statute.

*There is no appellate mechanism for the “sexually violent predator” determination.

The *Pam Lychner Sexual Offender Tracking and Identification Act*, passed in September, 1996, has additional requirements:

*Sex offenders convicted of aggravated sexual battery and those who have two convictions of the crimes enumerated in the state sexual offender registry will also be required to register for life.

*It also enhances the penalties for failure to register. The first offense carries a fine of up to \$100,000. Offenders convicted of a criminal offense against a minor, a sexually violent offense, or are designated as a sexually violent predator can receive a fine of up to \$100,000 and up to a year in prison for failure to register. A second or subsequent failure to register can result in up to ten years in prison and a fine of up to \$100,000.

*The Act provides for the registration of sex offenders who move into Virginia from another state.

*The Act provides for notification to the Federal Bureau of Investigation of new residences of convicted sex offenders for purposes of the federal registry to be maintained by the FBI.

VIII. Issues for Consideration

The major question confronting the task force was how Virginia should most reasonably proceed

to comply with both the original tenets of the *Jacob Wetterling Act* and the requirements added by both the *Megan's Law* and the *Pam Lychner Sexual Offender Tracking and Identification Act* amendments.

It was important in making that determination to understand that expansion of any nature will require additional resources. To some extent, expansion may constitute an unfunded mandate on states as the requirement to expand sex offender registration and notification statutes does not have corollary funding but does jeopardize existing funding if not enacted. Consideration was also be given to the public's will on this issue. Finally, notification legislation in several other states has been overturned by the courts. Several cases are currently on the docket of the U. S. Supreme Court for consideration. A Supreme Court decision on the issue of *ex post facto* would assist states in determining whether making notification retroactive would meet a constitutional litmus test. The task force focused on developing recommendations which have the potential for enhancing public safety in a sound, cost effective manner and minimize the opportunity for unintended adverse consequences.

IX. Legislation

The Legislation subcommittee began by attempting to enumerate those areas of the original *Jacob Wetterling Act* legislation that needed to be addressed. The consensus of the subcommittee was that it should focus in the first year on developing legislative responses to the *Jacob Wetterling Act* prior to the amendments and propose a continuation of the study to focus on the notification process in the second year. Legislation was drafted by Crime Commission staff to initiate a judicial determination of "Sexually Violent Predator"(See Appendix). The legislation incorporates those provisions of the federal legislation needed for Virginia to come into compliance.

X. Findings and Recommendations

The federal legislation known as "*Megan's Law*" was signed into law the week of May 13, 1996. The bill is an amendment to the *Jacob Wetterling Crimes Against Children Act*. A second amendment to the *Jacob Wetterling Act*, the *Pam Lychner Identification and Tracking Act*, was passed in September, 1996 which has additional requirements for states' sex offender registries. Both amendments as well as the original legislation will impact federal anti-crime funding to states.

States are to comply with federal legislation by October, 1997 or lose ten percent of their Byrne formula grant funds. This would mean the loss of approximately one million dollars to Virginia.

Virginia is currently out of compliance with the original *Jacob Wetterling Act* in a number of areas. The issues are complicated and compliance with the federal law will be costly. The two amendments add an additional burden to the State in terms of the cost of compliance. This must be weighed against the benefits to public safety through the enactment of state legislation to comply with the federal statutes. Much public attention has been given to sex offenders in recent years. The national media has focused on particularly heinous sex crimes and public reaction has been to demand increasingly tougher laws specific to sex offenders.

Virginia has responded to the public outcry through the passage of several laws which enhance the penalties for certain sex crimes. The "two strikes and you're in" law passed in 1995 provides for a life sentence for the second conviction of certain sex crimes. Virginia passed a Sex Offender Registry law in 1994. The 1996 Virginia General Assembly passed a notification law which allows local law enforcement to access information on the Sex Offender Registry through the Virginia Criminal Information Network (§19.2-390.1 (B)).

The Task Force working with the Crime Commission staff on the "Megan's Law" study determined that the State should proceed reasonably to address both the original tenets of the *Jacob Wetterling Act* and the requirements added by both the *Megan's Law* and the *Pam Lychner Sexual Offender Tracking and Identification Act* amendments. This will be done through a two phase approach which seeks to pass legislation in 1997 to bring Virginia into compliance with the original Act and to introduce notification legislation to the 1998 General Assembly.

1. The Task Force recommends that Virginia enact a "Sexual Predator Act" in 1997 and make the necessary changes to the Sex Offender Registry which are required by the federal statute. The Department of Justice has issued guidelines on this issue. In the first year the Task Force recommends the passage of legislation which directs the sentencing court to require sex offenders convicted of certain violent felony sex offenses to undergo an evaluation to determine if they should be designated as "sexually violent predators". The legislation will include the establishment of a board of experts under the Department of Corrections to issue guidelines for the evaluation and designate evaluators locally to conduct the §19.2-300 evaluations. The evaluations will be conducted locally for the sentencing court. Upon completion of the evaluation the sentencing court

will so designate those sex offenders considered to be "sexually violent predators". The effect of this will be to require the "sexually violent predator" to register with the Virginia State Sex Offender Registry and the so designated offender will remain on the Registry for life unless the court overturns the designation. The legislation will also include a provision for an appellate process for redesignation within 60 days of the designation by the sentencing court. The designation will also require the "sexually violent predator" to re-register on the Sex Offender Registry every 90 days. This will enable law enforcement to monitor the predatory sex offender.

The proposed 1997 legislation will include lifetime registration requirements for offenders convicted of a sexually violent crime as defined in the proposed legislation. This is needed in order to be in compliance with the new federal legislation, "Pam Lychner Sexual Offender Tracking and Identification Act of 1996". This legislation was enacted on September 28 and was signed by the President in early October.

Legislation will include the offender's fingerprints and a photograph in the state sex offender registry and will provide for the registration of sex offenders who move into Virginia from another state.. The State Police will promulgate guidelines for this.

The legislation will provide for notification to the Federal Bureau of Investigation of new residences of convicted sex offenders for purposes of the federal registry to be maintained by the FBI. The penalty for failure to register for all sex offenders convicted of a sexually violent crime will increase to a Class 6 felony.

Finally, the legislation will include the additional crimes on the Sex Offender Registry required by the Jacob Wetterling Crimes Against Children Act.

Recommendation 1:

The Crime Commission will support the introduction of a "Sexual Predator Act" in the 1997 Virginia General Assembly.

2. The Task Force recommends that notification legislation be developed for introduction to the 1998 Virginia General Assembly. Since the Department of Justice has not promulgated guidelines for the "Megan's Law" amendment, deferring the notification legislation will give the necessary time needed for Virginia to ensure that its proposed legislation is in compliance with the

federal guidelines. This will also give the State an opportunity to accurately determine the additional resources which will be needed for the implementation of notification.

Recommendation 2:

The Crime Commission will support the introduction of a study resolution in the 1997 Virginia General Assembly directing the Crime Commission to continue its study of the “Megan’s Law” amendment and to develop legislation on public notification of sex offenders in the community for introduction to the 1998 Virginia General Assembly.

3. Expansion of the sex offender registry will require additional resources for the Virginia Department of State Police to make the necessary adjustments to Virginia’s Sex Offender Registry. Including fingerprints and a photograph of each offender on the registry and the notification to offender’s of their required date for registration are new requirements which must be addressed.

Recommendation 3:

The Crime Commission will support a budget proposal to request additional funds for purposes of modifying the Virginia Sex Offender Registry in response to the “Sexual Predator Act”.

The mental health evaluations for those convicted of sexually violent crimes, required by the proposed changes to §19.2-300, will also require additional funding.

Recommendation 4:

The Crime Commission will support a budget proposal to request funds for the Supreme Court for purposes of funding mental health evaluations as required by the proposed changes to §19.2-300 in the “Sexual Predator Act”.

The Task Force agreed that a major key in ensuring that sex offenders living in the community do not continue to reoffend is through frequent monitoring of the offender’s movements. Another tool which has been used by probation & parole officers with specialized sex offender caseloads is the polygraph. Random polygraph testing can provide valuable information to the officer on the offender’s movements, the offender’s ability to control his impulses, etc. Enhancing supervision of sex offenders through intensive and specialized monitoring is yet another cost factor but one

which will provide a significant return in terms of public safety.

Recommendation 5:

The Crime Commission will support a budget proposal to request funds for additional probation & parole positions in the Department of Corrections and juvenile probation officers in the Department of Juvenile Justice to enhance supervision of sex offenders living in the community. Additionally, the Crime Commission will request funds for polygraph testing of supervised sex offenders.

6. The Task Force examined the issue of treatment for incarcerated sex offenders. It was felt that intensive treatment was needed for those offenders who demonstrate an amenability to treatment. The task force also agreed that treatment history and response can be a critical factor in determining the level of risk a sex offender presents upon release. The Department of Corrections had implemented two therapeutic communities for sex offender treatment in the early 1990's which were cut in 1994 due to budget constraints. These therapeutic communities provided intensive treatment and evaluation for certain sex offenders who had been deemed suitable for the program.

Recommendation 6:

The Crime Commission will support a budget amendment to reinstate the two therapeutic communities for sex offender treatment in the Department of Corrections.

7. The Task Force worked on the development of a risk assessment instrument to determine the level of risk a sex offender poses in the community. This instrument can be used pending release by jail and prison personnel to determine the level of risk a sex offender presents and to assist in making the appropriate post incarceration plan to minimize reoffense. It can be used to determine the level of notification that should be used when a sex offender is released. Implementation of the use of the instrument this year provides an opportunity to determine its effectiveness and to make the necessary adjustments for use with the notification legislation which will be introduced in 1998.

Recommendation 7:

The Crime Commission recommends that the Department of Corrections utilize the risk assessment instrument developed by the Task Force on "Megan's Law" on

sex offenders due to be released in the next year. The Commission recommends that the University of Virginia Institute for Law, Psychiatry, and Public Policy conduct an evaluation of the instrument in collaboration with the Department of Corrections.

8. Intensive supervision, notification, and other strategies used to protect children from predatory sex offenders are not the sole solution to insuring the protection of a vulnerable population. Children must be taught to recognize dangerous signs and take self protective measures. The Department of Education has used a program, "Hugs and Kisses", to teach young children to recognize inappropriate behavior of some adults which may lead to child molestation. This program should be made widely available with the necessary follow-up discussion to enhance Virginia's children ability to protect themselves.

Recommendation 8:

The Department of Education should make available to all school age children information on inappropriate behavior which could lead to child molestation. "Hugs and Kisses" is one program which has been used effectively and should be considered for expansion.

XI. HJR 130 Task Force Studying Community Notification of Sex Offenders or “Megan’s Law”

Legislation Subcommittee

Mr. John Kloch, Chair
Commonwealth Attorney
City of Alexandria

Ms. Linda Pitman
Virginia Parole Board

Mr. William C. Petty
Commonwealth Attorney
City of Lynchburg

Richard Crossen
Virginia Parole Board

Capt. R. Lewis Vass
Virginia State Police

Ms. Evelyn B. Brown, Executive Director
Behavioral Science Boards
Department of Health Professions

Randy Collins
Office of the Lt. Governor

Dorothy Halloran
Department of Criminal Justice Services

The Honorable Thomas N. Nance
Richmond Circuit Court

The Honorable Timothy J. Hauler
Chesterfield Circuit Court

Mr. Michael Long
Assistant Fairfax County Attorney

Mr. Bruce C. Morris
Deputy Secretary of Public Safety

Mr. Dennis Waite, Ph.D.
Department of Juvenile Justice

Ms. Sarah J. Cox
Office of the Sheriff, Fairfax County

Treatment & Risk Assessment Subcommittee

Mr. Pryor Green, Chair
Probation & Parole District 19
Department of Corrections

Mary Shelton
Harrisonburg, Virginia

Mario Dennis
Harrisonburg, Virginia

Isaac Van Patten
Assoc. Professor of Criminal Justice
Radford University

Scott Richeson
Department of Corrections

Bob Smith, Ph.D.
Department of Corrections
Haynesville Correctional Center

Dennis Carpenter, Ph.D.
Department of Corrections-Central Region

Mr. James M. Martinez, Jr.
DMHMRSAS

Janet Warren, DSW
Associate Professor of Psychiatric Medicine
Institute of Law, Psychiatry and Public Policy

Ed Bowman
Probation & Parole District #32

Mary Anne Bowman
Probation & Parole District #32

Dr. Michael Skoraszewski
Virginia Beach Community Services Board

XII. Acknowledgements

**Mr. Walter Felton, Executive Director
Commonwealth Attorneys Training Council**

**Mrs. Anne A. Jones
Virginia Sentencing Commission**

**Col. Wayne Huggins, Superintendent
Virginia Department of State Police**

**Steve Pullen
Department of Juvenile Justice**

**Frank Ferguson
Deputy Attorney General**

**Senator Janet Howell, Vice Chair
State Crime Commission**

**Lisa Sorkin
U. S. Department of Justice**

**Teresa Clingensmith
National Center for Missing and Exploited Children**

A special thanks to Mary Shelton of the Shenandoah Valley Sex Offender Treatment Center for the research materials and survey data provided to the Task Force for this study.

XIII. Appendix

- A. HJR 130 Study Resolution
- B. Draft of the “Sexual Predator Act of 1997”
- C. Draft of the Continuing Resolution for the “Megan’s Law” Study

Appendix A

HJR 130 Study Resolution

1996 SESSION

961881202

HOUSE JOINT RESOLUTION NO. 130
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Rules
on February 6, 1996)

(Patron Prior to Substitute—Delegate Deeds)

Directing the Virginia State Crime Commission to study "Megan's Law."

WHEREAS, "Megan's Law" is a measure passed in New Jersey which requires public notification of the presence in a community of a sex offender and establishes a means of tracking these offenders following release from incarceration or relocation at any time after conviction; and

WHEREAS, a number of states have adopted sex offender notification laws and, although Virginia tracks these offenders through notification to local law enforcement authorities, Virginia law does not provide for notification to the general public; and

WHEREAS, there is a need to review Virginia's current law on notification of sex offenders' residency, the possible expansion of the law, and the legal and public safety implications of such an expansion of the law; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be directed to study "Megan's Law." The Commission shall examine Virginia's current sex offender notification law and the efficacy of its expansion to include provisions of New Jersey's "Megan's Law."

All agencies of the Commonwealth shall provide assistance to the Commission, upon request.

The Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 1997 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

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J130HI

Official Use By Clerks

Passed By

The House of Delegates

- without amendment
- with amendment
- substitute
- substitute w/amdt

Passed By The Senate

- without amendment
- with amendment
- substitute
- substitute w/amdt

Date: _____

Date: _____

Clerk of the House of Delegates

Clerk of the Senate

/6/96 19:38

Appendix B

The Sexual Predator Act of 1997

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HJR 130 draft legislation

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-47, 18.2-90, 19.2-298.1, 19.2-298.3, 19.2-300, 19.2-301, 19.2-390, 19.2-390.1, 53.1-116.1, and 53.1-160.1 of the Code of Virginia are amended and reenacted, that § 19.2-300.1 is added, and adding in Chapter 2 of Title 53.1 an article numbered 9 consisting of section 53.1-67.9 as follows:

§ 18.2-47

Abduction and kidnapping defined; punishment

A. Any person, who, by force, intimidation or deception, and without legal justification or excuse, seizes, takes, transports, detains or secretes the person of another, with the intent to deprive such other person of his personal liberty or to withhold or conceal him from any person, authority or institution lawfully entitled to his charge, shall be deemed guilty of "abduction"; but the provisions of this section shall not apply to any law-enforcement officer in the performance of his duty. The terms "abduction" and "kidnapping" shall be synonymous in this Code. Abduction for which no punishment is otherwise prescribed shall be punished as a Class 5 felony.

~~provided, however, that such offense, if~~ **B. If such offense is** committed by the parent of the person abducted and punishable as contempt of court in any proceeding then pending, shall be a Class 1 misdemeanor in addition to being punishable as contempt of court. Provided further, however, that such offense, if committed by the parent of the person abducted and punishable as contempt of court in any proceeding then pending and the person abducted is removed from the

1 Commonwealth by the abducting parent, shall be a Class 6 felony in
2 addition to being punishable as contempt of court.

3
4 § 18.2-90

5 Entering dwelling house, etc., with intent to commit murder, rape or
6 robbery

7 If any person in the nighttime enters without breaking or in the
8 daytime breaks and enters or enters and conceals himself in a dwelling
9 house or an adjoining, occupied outhouse or in the nighttime enters
10 without breaking or at any time breaks and enters or enters and conceals
11 himself in any office, shop, manufactured home, storehouse, warehouse,
12 banking house, or other house, or any ship, vessel or river craft or any
13 railroad car, or any automobile, truck or trailer, if such automobile, truck
14 or trailer is used as a dwelling or place of human habitation, with intent
15 to commit (i) murder, (ii) rape or (iii) robbery, he shall be deemed guilty
16 of statutory burglary, which offense shall be a Class 3 felony. However, if
17 such person was armed with a deadly weapon at the time of such entry, he
18 shall be guilty of a Class 2 felony.

19
20 § 18.2-472.1 *Providing false information or failing to*
21 *provide registration information.*

22 *Any person required to register pursuant to § 19.2-*
23 *298.1 who knowingly fails to register or reregister, or who*
24 *knowingly provides materially false information to the Registry*
25 *shall be guilty of a class 1 misdemeanor. However, any person*

1 **convicted of a sexually violent offense who knowingly fails to**
2 **register or reregister, or who knowingly provides materially**
3 **false information to the Registry shall be guilty of a class 6**
4 **felony.**

5 **The offense shall be amenable to prosecution in the**
6 **courts of the city or county where the registrant: was originally**
7 **sentenced; resides; last registered; or can be found.**

8
9
10 **§ 19.2-298.1**

11 **Registration required of persons convicted of certain offenses**

12 **A. Every person convicted on or after July 1, 1994, for a ~~felony in~~**
13 **violation of §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-**
14 **67.1; 18.2-67.3, 18.2-67.4, ~~18.2-67.5~~, subsection A and B of 18.2-**
15 **67.5, 18.2-90(ii), 18.2-370-~~et~~, § 18.2-370.1, or 18.2-387 or, where**
16 **the victim is a minor or is physically helpless or mentally incapacitated**
17 **as defined in § 18.2-67.10, subsection A of 18.2-47, 18.2-48, 18.2-**
18 **49, 18.2-355, subsection B of 18.2 -346, 18.2-348, 18.2-355,**
19 **18.2-356, 18.2-357, 18.2-358, 18.2-371(ii), subsection B (1-3)**
20 **of 18.2-374.1, 18.2-375, 18.2-379, 18.2-382, 18.2-386.1,**
21 **subsection B of § 18.2-361 or subsection B of § 18.2-366, including**
22 **juveniles tried and convicted in the circuit courts pursuant to § 16.1-269,**
23 **whether sentenced as adults or juveniles, shall be required as a part of**
24 **the sentence imposed upon conviction to register with the Department of**
25 **State Police. The order shall also impose a duty to keep the registration**

1 current in accordance with this section.

2 ***The sentencing court shall inform the person of their duty***
3 ***to register and obtain from that person all necessary***
4 ***registration information. The court shall also: inform the***
5 ***person of their duties regarding reregistration and change of***
6 ***address, obtain fingerprints and a photograph if none is***
7 ***available (of a type and kind specified by the State Police), and***
8 ***require the person to read and sign a form indicating that they***
9 ***have been informed of their duty to register under this section.***
10 ***The clerk shall forward the registration information to the***
11 ***Department of State Police within 3 days of receipt.***

12
13 B. Every person serving a sentence of confinement or under
14 community supervision on July 1, 1994, for a felony covered by this
15 section shall be required to register with the Department of State Police
16 and shall be given notice of the duty to register pursuant to § 53.1-116.1
17 or § 53.1-160.1 as appropriate.

18 C. The person shall register within ~~thirty~~**ten** days of his release
19 from confinement in a state or local correctional facility or, if a sentence
20 of confinement is not imposed, within ~~thirty~~**ten** days of suspension of
21 the sentence. In addition, all persons convicted of ~~felony~~ violations under
22 the laws of the United States or any other state substantially similar to
23 BB 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, **18.2-67.1;1**
24 **18.2-67.3, 18.2-67.4, 18.2-67.5, subsection A and B of 18.2-67.5;**
25 **18.2-90(ii), 18.2-370 ~~or,~~ § 18.2-370.1, or 18.2-387** or, where the

1 victim is a minor or is physically helpless or mentally incapacitated as
2 defined in § 18.2-67.10, **subsection A of 18.2-47, 18.2-48, 18.2-49,**
3 **18.2-355, subsection B of 18.2 -346, 18.2-348, 18.2-355,**
4 **18.2-356, 18.2-357, 18.2-358, 18.2-371(ii), subsection B (1-3)**
5 **of 18.2-374.1, 18.2-375, 18.2-379, 18.2-382, 18.2-386.1,**
6 subsection B of § 18.2-361 or subsection B of § 18.2-366 shall be
7 required to register with the Department of State Police ~~within thirty ten~~
8 days of establishing a residence within the Commonwealth. Any person
9 required to register shall also be required to re-register ~~within thirty ten~~
10 days following any change of residence. **If the person changes**
11 **residences to another state, the State Police shall notify the**
12 **designated law enforcement agency with which the person must**
13 **register.**

14 D. The registration shall be maintained in the ~~Sex Offender Registry~~
15 established pursuant to § 19.2-390.1 and shall include the person's name,
16 all aliases which he has used or under which he may have been known, the
17 date and locality of the conviction for which registration is required,
18 **fingerprints, a photograph,** his date of birth, social security number,
19 current address and a description of the offense or offenses for which he
20 was convicted and shall, if applicable, provide the same information on
21 convictions prior to July 1, 1994, for any of the specified offenses or
22 under a substantially similar law of the United States or any other state.

23 E. **Any person required to register under this section shall**
24 **reregister with the State Police on an annual basis from the**
25 **date of the initial registration. The State Police shall provide**

1 *an address verification form, to be signed by the registered*
2 *person, stating that the person still resides at the address last*
3 *reported to the State Police. The form shall also contain in bold*
4 *print a statement indicating that failure to comply with the*
5 *registration section shall be punished as a class 1 misdemeanor*
6 *or a class 6 felony, whichever is applicable. Additionally, any*
7 *person who has been found to be a sexual predator shall*
8 *reregister the address information with the State Police every*
9 *90 days from his initial date of release, probation, or parole.*

10 *F. Registration shall continue for a period of ten years*
11 *after the date of release from incarceration, or in the case no*
12 *incarceration is imposed, the date of conviction for the*
13 *registered offense. Any intervening period of incarceration*
14 *shall toll the registration period. However, any person who has*
15 *been convicted of two or more registration offenses or who has*
16 *been convicted of any sexually violent offense, as defined in*
17 *19.2-300.1, shall remain on the Registry for life.*

18 ~~*G. The knowing and intentional failure to register as provided in*~~
19 ~~*this section or knowingly providing materially false information to the*~~
20 ~~*Registry shall be punishable as a Class 1 misdemeanor.*~~

21
22
23 § 19.2-298.3

24 Expungement from Registry

1 A. ~~Any person required by § 19.2-298.1 to register~~ **Ten years**
2 **after the date of release from incarceration, or in the case no**
3 **incarceration is imposed, the date of conviction for the**
4 **registered offense, that person, if not convicted of a sexually**
5 **violent offense or convicted of two or more Registry offenses,**
6 may petition the circuit court in which he was convicted or the circuit
7 court in the jurisdiction where he then resides for removal of his name
8 and all identifying information from the ~~Sex-Offender~~ Registry. The court
9 shall hold a hearing on the petition at which the applicant and any
10 interested persons may present witnesses and other evidence. If, after
11 such hearing, the court is satisfied that such person no longer poses a risk
12 to public safety, the court shall grant the petition. In the event the
13 petition is not granted, the person shall wait at least twenty-four months
14 from the date of the denial to file a new petition for removal from the
15 registry.

16 B. The name of any person required to register under § 19.2-298.1
17 and all identifying information shall be removed from the ~~Sex-Offender~~
18 Registry by the Department of State Police upon receipt of an order
19 granting a petition pursuant to subsection A or at the end of the period for
20 which the person is required to register under § 19.2-298.2.

21
22
23 § 19.2-300

24 Deferring for mental examination sentence of person convicted of
25 offense indicating sexual abnormality.

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A. In the case of the conviction in any circuit court of any person for any criminal offense which indicates sexual abnormality, the trial judge may on his own initiative, or shall upon application of the attorney for the Commonwealth, the defendant, or counsel for defendant or other person acting for the defendant, defer sentence until the report of a mental examination conducted as provided in § 19.2-301 of the defendant can be secured to guide the judge in determining what disposition shall be made of the defendant.

B. Upon a conviction for a sexually violent offense, the trial judge shall request that a report be prepared for the convicted person by the Sex Offender Evaluation Board. Sentencing shall be deferred until the report is received by the sentencing court.

§ 19.2-300.1 Judge shall determine if a sexually violent offender is a sexually violent predator.

A. Upon a conviction for a sexually violent offense, the sentencing court shall determine whether a person is a sexually violent predator. Such determination shall be made after receiving and reviewing the report of the Sex Offender Evaluation Board and shall be determined on the basis of clear and convincing evidence.

1 **B. The person may present a petition for appeal to the**
2 **Supreme Court if he is adjudicated to be a sexually violent**
3 **predator.**

4 **C. Any person found to be a sexually violent predator**
5 **may petition the circuit court in which he was sentenced or the**
6 **circuit court in the jurisdiction where he then resides for a**
7 **change in his status as a sexually violent predator. The court**
8 **shall hold a hearing on the petition at which the applicant and**
9 **any interested persons may present witnesses and other**
10 **evidence. The trial judge shall request that a report be prepared**
11 **for the sexually violent predator by the Sex Offender Evaluation**
12 **Board. If, after such hearing, the court is satisfied that such**
13 **person no longer is a sexually violent predator, then the court**
14 **shall grant the petition to remove the predator designation. In**
15 **the event the petition is not granted, the person shall wait at**
16 **least twenty-four months from the date of the denial to file a**
17 **new petition.**

18
19 **The term “sexually violent offense” means a violation of**
20 **§§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-**
21 **67.2:1 18.2-67.3, 18.2-67.5, 18.2-90(ii), 18.2-370.1 (vi), or**
22 **where the victim is a minor or is physically helpless or**
23 **mentally incapacitated as defined in § 18.2-67.10, subsection B**
24 **of § 18.2-361 or subsection B of § 18.2-366.**

1 **The term “sexually violent predator” means a person who**
2 **has been convicted of a sexually violent offense and who suffers**
3 **from a mental abnormality or personality disorder that makes**
4 **that person likely to engage in predatory sexually violent**
5 **offenses.**

6
7 **For the purposes of this section “mental abnormality”**
8 **means a congenital or acquired condition of a person that**
9 **affects the emotional or volitional capacity of the person in a**
10 **manner that predisposes that person to the commission of**
11 **criminal sexual acts to a degree that makes that person a**
12 **menace to the health and safety of other persons.**

13
14 **For the purposes of this section “personality disorder”**
15 **means a psychological, physical, or organic abnormality that**
16 **significantly impairs ability to control sexual behavior.**

17
18 **For the purposes of this section “predatory” means an act**
19 **directed at a stranger, or a person with whom a relationship has**
20 **been established or promoted for the primary purpose of**
21 **victimization.**

22
23
24 § 19.2-301

25 Judge shall require examination under **subsection A of §**

19.2-300; by whom made; report; expenses of psychiatrist

2 ***The If an examination is required under subsection A of ¶***
3 ***19.2-300, the*** judge shall order the defendant examined by at least one
4 psychiatrist or clinical psychologist who is qualified by specialized
5 training and experience to perform such evaluations. The examination
6 shall be performed on an outpatient basis at a mental health facility or in
7 jail. However, if the court specifically finds that outpatient examination
8 services are unavailable or if the results of outpatient examination
9 indicate that hospitalization of the defendant for further examination is
10 necessary, the court may order the defendant sent to a hospital designated
11 by the Commissioner of Mental Health, Mental Retardation, and Substance
12 Abuse Services as appropriate for examination of persons convicted of
13 crimes. The defendant shall then be hospitalized for such time as the
14 director of the hospital deems necessary to perform an adequate
15 examination, but not to exceed thirty days from the date of admission to
16 the hospital. Upon completion of the examination, the examiners shall
17 prepare a written report of their findings and conclusions and shall
18 furnish copies of such report to the judge, the defendant, counsel for the
19 defendant, and the attorney for the Commonwealth.

20
21
22
23
24 **19.2-390**

25 **Reports to be made by local law-enforcement officers, conservators**

1 of the peace, clerks of court, Secretary of the Commonwealth and
2 Corrections officials to State Police; material submitted by other
3 agencies

4 A. 1. Every state official or agency having the power to arrest, the
5 sheriffs of counties, the police officials of cities and towns, and any
6 other local law-enforcement officer or conservator of the peace having
7 the power to arrest for a felony shall make a report to the Central
8 Criminal Records Exchange, on forms provided by it, of any arrest,
9 including those arrests involving the taking into custody of, or service of
10 process upon, any person on charges resulting from an indictment,
11 presentment or information, the arrest on capias or warrant for failure to
12 appear, and the service of a warrant for another jurisdiction, on any of the
13 following charges:

14 a. Treason;

15 b. Any felony;

16 c. Any offense punishable as a misdemeanor under Title 54.1; or

17 d. Any misdemeanor punishable by confinement in jail under Title
18 18.2 or 19.2, except an arrest for a violation of Article 2 (§ 18.2-266 et
19 seq.) of Chapter 7 of Title 18.2, for violation of Article 2 (§ 18.2-415 et
20 seq.) of Chapter 9 of Title 18.2, or § 18.2-119 or any similar ordinance of
21 any county, city or town.

22 The reports shall contain such information as is required by the
23 Exchange and shall be accompanied by fingerprints of the individual
24 arrested. Fingerprint cards prepared by a law-enforcement agency for
25 inclusion in a national criminal justice file shall be forwarded to the

1 Exchange for transmittal to the appropriate bureau.

2 2. For persons arrested and released on summonses in accordance
3 with § 19.2-74, such report shall not be required until (i) after a
4 conviction is entered and no appeal is noted or if an appeal is noted, the
5 conviction is upheld upon appeal or the person convicted withdraws his
6 appeal; (ii) the court dismisses the proceeding pursuant to § 18.2-251; or
7 (iii) after a verdict of acquittal by reason of insanity pursuant to §
8 19.2-182.2. Upon such conviction or acquittal, the court shall remand the
9 individual to the custody of the office of the chief law-enforcement
10 officer of the county or city. It shall be the duty of the chief
11 law-enforcement officer, or his designee who may be the arresting
12 officer, to ensure that such report is completed after a determination of
13 guilt or acquittal by reason of insanity. The court shall require the officer
14 to complete the report immediately following his conviction or acquittal,
15 and the individual shall be discharged from custody forthwith, unless the
16 court has imposed a jail sentence to be served by him or ordered him
17 committed to the custody of the Commissioner of the Department of
18 Mental Health, Mental Retardation and Substance Abuse Services.

19 B. Within seventy-two hours following the receipt of a warrant or
20 capias for the arrest of any person on a charge of a felony, the
21 law-enforcement agency which received the charge shall enter the
22 accused's name and other appropriate information required by the
23 Department of State Police into the "information system", known as the
24 Virginia Criminal Information Network (VCIN), established and maintained
25 by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. The

1 include conviction data received from the courts pursuant to § 19.2-390
2 for ~~felony~~ violations of §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1,
3 18.2-67.2, **18.2-67.1**; 18.2-67.3, **18.2-67.4**, ~~18.2-67.5~~, **subsection A**
4 **and B of 18.2-67.5, 18.2-90(ii), 18.2-370-~~or~~, § 18.2-370.1, or 18.2-**
5 **387** or, where the victim is a minor or is physically helpless or mentally
6 incapacitated as defined in § 18.2-67.10, **subsection A of 18.2-47,**
7 **18.2-48, 18.2-49, 18.2-355, subsection B of 18.2 -346, 18.2-**
8 **348, 18.2-355, 18.2-356, 18.2-357, 18.2-358, 18.2-371(ii),**
9 **subsection B (1-3) of 18.2-374.1, 18.2-375, 18.2-379, 18.2-**
10 **382, 18.2-386.1,** subsection B of § 18.2-361 or subsection B of §
11 18.2-366, including the disposition records for juveniles tried and
12 convicted in the circuit courts pursuant to § 16.1-269.1, and registrations
13 received from persons required to do so by § 19.2-298.1. **The Registry**
14 **shall also indicate that a person has been found to be a sexually**
15 **violent predator.** Promptly upon receipt of a registration or
16 reregistration pursuant to § 19.2-298.1 the State Police shall
17 **immediately** notify the chief law-enforcement officer of the county,
18 city or town of the locality listed as the person's address on the
19 registration or reregistration **and immediately transmit the**
20 **conviction data, fingerprints, and a photograph to the Federal**
21 **Bureau of Investigation.** The State Police shall promulgate regulations
22 governing the giving of notice to the chief local law-enforcement officer,
23 the operation and maintenance of the ~~Sex Offender Registry~~ and the
24 expungement of records on persons who are deceased, whose convictions
25 have been reversed or who have been pardoned, and those for whom an

1 order of expungement has been entered pursuant to § 19.2-298.2 or §
2 19.2-392.1.

3 B. Except as provided in subsection A, ~~Sex Offender~~ Registry
4 information **may or, shall upon request,** be disseminated, ~~upon request,~~
5 only to authorized officers or employees of (i) a criminal justice agency,
6 as defined by § 9-169; (ii) a public school division; (iii) a private,
7 denominational or parochial school; or (iv) a child-welfare agency or a
8 registered or unregistered small family day-care home as defined in §
9 63.1-195. The Department of State Police shall make ~~Sex Offender~~
10 Registry information available, ~~upon request,~~ to criminal justice agencies
11 including local law-enforcement agencies through the Virginia Criminal
12 Information Network (VCIN). ~~Sex Offender~~ Registry information provided
13 under this section shall be used only for the purposes of the
14 administration of criminal justice or for the screening of current or
15 prospective employees or volunteers. Further dissemination of such
16 information or use of the information for purposes not authorized by this
17 section is prohibited and a willful violation of this section shall be
18 punished as a Class 1 misdemeanor. The VCIN and any form or document
19 used by the Department of State Police to disseminate information from
20 the ~~Sex Offender~~ Registry shall provide notice that any further or
21 unauthorized dissemination of the information is a crime punishable as a
22 Class 1 misdemeanor. The Department of State Police may by regulation
23 establish a fee not to exceed fifteen dollars for responding to requests for
24 information from the Sex Offender Registry. Any fees collected shall be
25 deposited in a special account to be used to offset the costs of

1 administering the Registry.

2 ***Law enforcement agencies, employees of law enforcement***
3 ***agencies, and state officials shall be immune from liability for***
4 ***good faith conduct under this section.***

5
6 **Article 9**

7
8 **Sex Offender Evaluation Board**

9
10 **§53.1-67.9 Sex Offender Evaluation Board**

11
12 ***There is hereby created a Sex Offender Evaluation Board in the***
13 ***Department of Corrections. The Board shall consist of six***
14 ***members, three of whom shall be mental health clinicians***
15 ***specializing in the treatment of deviant sexual behavior, to be***
16 ***to be appointed by the Board of Psychology as set forth in***
17 ***§54.1-3600. These three persons appointed to the Board must***
18 ***be "certified sex offender treatment providers" as defined in***
19 ***§54.1-3600. The Governor shall appoint three members to the***
20 ***Board, including a local law enforcement representative, a***
21 ***Department of Corrections program staff and a crime victim.***
22 ***Members of the Board shall be confirmed by a majority vote of***
23 ***both houses of the General Assembly.***

24
25 ***The Board, annually shall elect one of its members to be the***

1 **chairman of the Board for the ensuing year.**

2
3 **The term of office for each member shall be four years**
4 **commencing on July 1, except that the initial terms commencing**
5 **on July 1, 1997, shall be as follows:**

6
7 **The term of one mental health clinician shall be for 4 years;**

8 **The term of one mental health clinician shall be for 3 years;**

9 **The term of one mental health clinician shall be for 2 years;**

10 **The term of the local law enforcement representative shall be**
11 **for 1 year;**

12 **The term of the staff representative of the Department of**
13 **Corrections shall be for 2 years; and**

14 **The term of the victim representative shall be for 3 years.**

15 **No member shall serve more than two consecutive terms.**

16
17 **The Board shall develop the policies, and procedures necessary**
18 **to implement the evaluation of persons convicted of sexually**
19 **violent offenses as defined in §19.2-300.1, and shall establish**
20 **local evaluation boards for the purpose of evaluating persons**
21 **convicted of sexually violent offenses.**

22
23
24 **§ 53.1-116.1**

25 **Jailer to give notice of release of certain prisoners**

1 Prior to the release or discharge of any prisoner serving a sentence
2 upon a conviction of a ~~felony~~ in violation of BB 18.2-61, 18.2-63,
3 18.2-64.1, 18.2-67.1, 18.2-67.2, **18.2-67.1;1 18.2-67.3, 18.2-67.4,**
4 ~~18.2-67.5~~, **subsection A and B of 18.2-67.5, 18.2-90(ii), 18.2-370**
5 ~~or §~~, 18.2-370.1, or 18.2-387 or, where the victim is a minor or is
6 physically helpless or mentally incapacitated as defined in § 18.2-67.10,
7 **subsection A of 18.2-47, 18.2-48, 18.2-49, 18.2-355,**
8 **subsection B of 18.2 -346, 18.2-348, 18.2-355, 18.2-356, 18.2-**
9 **357, 18.2-358, 18.2-371(ii) subsection B (1-3) of 18.2-374.1,**
10 **18.2-375, 18.2-379, 18.2-382, 18.2-386.1,** subsection B of §
11 18.2-361 and subsection B of § 18.2-366, the sheriff, jail superintendent
12 or other jail administrator shall give notice to the prisoner of his duty to
13 register with the State Police in accordance with § 19.2-298.1. **The**
14 **sheriff, jail superintendent or other jail administrator shall**
15 **also: obtain from that person all necessary registration**
16 **information, inform the person of their duties regarding**
17 **reregistration and change of address, obtain fingerprints and a**
18 **photograph if none is available (of a type and kind approved by**
19 **the State Police), and inform the person of their duty to**
20 **register under this section. The sheriff, jail superintendent or**
21 **other jail administrator shall forward the registration**
22 **information to the Department of State Police within 3 days of**
23 **receipt.**

24
25 § 53.1-160.1

1 Department to give notice of release of certain prisoners

2 Prior to the release or discharge of any prisoner serving a sentence
3 upon a conviction of a ~~felony~~ in violation of §§ 18.2-61, 18.2-63,
4 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.1;1 18.2-67.3, ~~18.2-67.4,~~
5 ~~18.2-67.5,~~ subsection A and B of 18.2-67.5, 18.2-90(ii), 18.2-370
6 ~~or,~~ § 18.2-370.1,, or 18.2-387 or, where the victim is a minor or is
7 physically helpless or mentally incapacitated as defined in § 18.2-67.10,
8 **subsection A of 18.2-47, 18.2-48, 18.2-49, 18.2-355,**
9 **subsection B of 18.2 -346, 18.2-348, 18.2-355, 18.2-356, 18.2-**
10 **357, 18.2-358, 18.2-371(ii), subsection B (1-3) of 18.2-374.1,**
11 **18.2-375, 18.2-379, 18.2-382, 18.2-386.1,** subsection B of §
12 18.2-361 or subsection B of § 18.2-366, the Department shall give notice
13 to the prisoner of his duty to register with the State Police in accordance
14 with § 19.2-298.1. ***The Department shall also: obtain from that***
15 ***person all necessary registration information, inform the***
16 ***person of their duties regarding reregistration and change of***
17 ***address, obtain fingerprints and a photograph if none is***
18 ***available (of a type and kind approved by the State Police), and***
19 ***inform the person of their duty to register under this section.***
20 ***The Department shall forward the registration information to***
21 ***the Department of State Police within 3 days of receipt.***

22
23
24 **2. That the Department of State Police shall develop, prior to July 1,**
25 **1997, policies and procedures consistent with and necessary to the**

1 **implementing the requirements of this Act and § 42 U.S.C. 14071.**

2

3 **3. That the Supreme Court of Virginia shall develop, prior to July 1,**
4 **1997, policies and procedures consistent with and necessary to the**
5 **implementing the requirements of this Act and § 42 U.S.C. 14071.**

Appendix C

Continuing Study Resolution on “Megan’s Law”

DRAFT LEGISLATION
House/Senate Joint Resolution No. -----

Continuing the Virginia State Crime Commission's study of "Megan's Law".

WHEREAS, Congress passed an amendment to the Jacob Wetterling Crimes Against Children Act, known as "Megan's Law", in April, 1996; and

WHEREAS, the Virginia State Crime Commission undertook a study to formulate Virginia's response to the federal legislation; and

WHEREAS, the Virginia State Crime Commission found that Virginia needed to address a number of issues in the Jacob Wetterling Act in order to be in compliance by October, 1997; and

WHEREAS, the Virginia State Crime Commission recommended a number of legislative measures to the 1997 Virginia General Assembly and to the Governor which would improve registration and tracking of sex offenders in the Commonwealth; and

WHEREAS, the Virginia State Crime Commission recommended legislation to establish a "sexually violent predator" designation; and

WHEREAS, the Virginia State Crime Commission recommended that the legislation for implementation of "Megan's Law", or public notification of the presence of a sex offender in a community, be addressed in the second year of the study in order to make the prerequisite changes to the sex offender registry; and

WHEREAS, there are several legal and public safety implications related to the passage of a public notification of sex offenders; and

WHEREAS, the Virginia State Crime Commission acknowledges that public notification of sex offenders is a concept which should be expanded; and

WHEREAS, the Virginia State Crime Commission is working with professionals from law enforcement, corrections, the judiciary, prosecution, and mental health to develop notification legislation which will enhance the safety of all Virginians, especially the children and withstand legal challenge; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be directed to continue its study of "Megan's Law" and to develop legislation for public notification of sex offenders for consideration by the 1998 Virginia General Assembly.

All agencies of the Commonwealth shall provide assistance to the

Commission, upon request.

The Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 1998 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

