

Change in Sex Offender Registration Laws Affect Universities

Concerns about the continuing risks and dangers posed to society by individuals convicted of certain sexual offenses have prompted federal and state legislation in recent years. In 1994, Congress passed the “Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.” 42 U.S.C. § 14071. This law required all states to establish registration programs for persons convicted of a criminal offense against a minor and/or convicted of certain “sexually violent offenses.” A more stringent registration requirement was mandated for persons determined to be a “sexually violent predator.” In 1996, Congress passed what has become known as “Megan’s Law,” which amended the Wetterling Act by authorizing the release of information on registered sex offenders by a state as necessary, under the laws of a state, to protect the public. 42 U.S.C. § 14071(d). These laws were both named after children who were victims of violent crime (Jacob Wetterling, an eleven year old boy who is still missing after being kidnaped in 1989, and Megan Kanka, a seven year old girl who was raped and murdered by a twice-convicted child molester).

In 1996, Alabama responded to these federal laws by enacting the Community Notification Act (§§ 15-20-20 *et seq.*, *Alabama Code*).

Earlier this year, activity on both the federal and state level resulted in amendments to these laws that affect higher education. The federal Campus Sex Crimes Prevention Act, 42 U.S.C. §14071j and 20 U.S.C. §1092(f)(1)(I) (CSCPA), amended the Wetterling Act by establishing special requirements for registration by and community notification for sex offenders who are at a college or university. Under the CSCPA, a sex offender who is required to register under state law must now give notice to the state of his/her enrollment or employment at any institution of higher education in that state. The state is then to enter the information into its data system and, importantly, communicate this information promptly to the university’s law enforcement department. Finally, the university is obligated to inform the campus community where information concerning registered sex offenders on campus may be obtained. That notice can be made by including it in the campus security report that must be provided annually to students and employees under the Campus Security Act of 1990.

The UAH Annual Campus Security Report for 2002, currently in preparation, will include such a statement. At UAH, information received from the state about any sex offenders who are on campus as students or employees will be available, upon request, from the Department of Public Safety. The CSCPA amended the federal Family Educational Rights and Privacy Act, which generally prohibits release of information about a student from his/her educational record, to make it clear that an institution’s disclosure of registration information regarding a student will not violate the student’s privacy rights.

On the state level, the Alabama legislature enacted certain amendments to the Community Notification Act during the December 2001 Special Session. Several new sections were added to that Act, some of them in order to implement the CSCPA. Any adult criminal sex offender who is employed or is enrolled at an institution of higher education in Alabama must now notify the

local sheriff and chief of police. §15-20.25.2, *Alabama Code*. The same requirement applies to a non-resident adult sex offender who comes into Alabama to accept university employment or become a student. §15-20-25.1, *Alabama Code*. That information is then to be forwarded to the Alabama Department of Public Safety and the Alabama Criminal Justice Information Center on the state level, and to the security office at the university where the individual is employed or is a student. *Id.* Other amendments to the Act were made, including an extension of the period of time within which a sex offender remains subject to the Act (previously the Act applied for 25 years from the date of the offender's release from incarceration, but it is now applicable for life).

One section of the Act (not modified by the recent amendments) imposes potentially significant restrictions on a sex offender's activities on campus. An adult sex offender is prohibited from establishing a residence or accepting employment "within 2,000 feet of the property on which a school or child care facility is located." §15-20-26(a). Because of the location of University Place Elementary School on the North end of the campus and the University Preschool Learning Center in the middle of the campus, this section would preclude an individual convicted of a criminal sex offense from being employed at UAH or from living in an on-campus residence facility. That individual could, however, enroll and attend classes at UAH, because there is no comparable restriction applicable to a sex offender barring him/her from participating in academic and other student activities at an institution located proximately to a school or child care facility.

While these laws implicate public and private universities, they impose minimal administrative burdens on such institutions. They do serve as a reminder that sexually predatory activity can and does occur on university campuses, and they provide at least one means (information) by which the campus community may endeavor to protect itself through an increased awareness of the presence of "high risk" individuals.