

Megan's Law & Your Community



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One afternoon, a well-dressed man walks into your mobile home community's on-site management office and asks to speak with someone about becoming a resident. The man is in his late 30's, he has short cropped hair, and is dressed in sport coat and tie. After introducing himself, he says all the right things about the reasons for his move and his credit seems to be in order. He even mentions that he likes the fact that

your community is located near an elementary school and even a community playground. After all, he says, "Doesn't everyone like kids?"

However, there is something a bit odd about him. The community manager senses this creepiness, but she cannot figure out why and she begins to wonder what to do. Thinking back to her training, she recalls something about an "800" number or even a Web site she could check to find out about someone's criminal background. She wonders if she should take a few moments to check up on the prospective tenant on the Internet. "If this guy's a child molester," she thinks to herself, "we don't want to rent to him, do we?" Well, do you?

What is Megan's Law?

Ironically, her understanding of the state law regarding disclosure and use of information about convicted child molesters may be flawed. Indeed, her decision to check a state law enforcement Web site listing convicted child molesters and to then make decisions about things such as residency or employment, could get the community owners into significant legal trouble.

In all fifty states, the legislatures have enacted a statute or group of statutes commonly known as "Megan's Law." Such laws generally require law enforcement authorities to notify the public, through various forms of media such as Web sites, "800" telephone numbers, and the like, of convicted sex offenders who reside within the state. These statutes are known as "Megan's Law". They are named after Megan Kanka, a New Jersey girl who was raped and killed at age seven by a known child molester who had moved across the street from the Kanka family without their knowledge. In the wake of the tragedy, the Kankas wanted to help other families avoid similar tragedies, so they sought to have local communities warned about sex offenders who live in their neighborhoods.

On May 17, 1996, President Clinton signed a Federal version of Megan's Law. The Federal law mandates that every state develop a procedure for notifying concerned people when a person convicted of certain crimes is released from prison near their homes. The law has been amended several times since the original bill was passed, and different states have different procedures for making the required disclosures.

What is the purpose of Megan's Law?

The purpose of the state Megan's Law statutes is to provide the general public with notice of the presence of sexual predators in their communities so that they can protect themselves and their families from possible harm. Unbeknownst to many, the purpose of most of the laws is *not* to prevent such people from residing within a community or in areas of the community. Perhaps even more importantly, these laws often contain express prohibitions about what members of the public may and may not do with the information they obtain about the sexual predators.

As an example, the California version of Megan's Law has two key components. The first component requires convicted sex offenders to register with law enforcement officials and to notify them on a regular basis and whenever they change their residence. This gives the police and sheriff's department the opportunity to satisfy the second component which requires them to update databases and to notify the community of these changes. Notification can be in the form of Web sites, telephone information systems, flyers, and even door-to-door canvassing of a neighborhood by law enforcement.

In California, only law enforcement officials are authorized to disseminate

this information, and members of the public should not do so. Believe it or not, California's version of Megan's Law prohibits anyone from using the information concerning sexual predators to make decisions about residency and employment of those sexual predators. Failure to comply with these provisions can result in significant criminal penalties against "members of the public" (e.g., a community owner or manager) who misuse the information. Of course, no two state statutes are exactly alike and it is important to know and understand the provisions of your own Megan's Law so that you and your employees can properly comply with it.

How do I comply with Megan's Law?

Due to the differences in state statutes, there are no absolutes in complying with state versions of Megan's law. However, there are general guidelines to follow:

What should community managers do if they suspect a registered sex offender resides in their community?

Check the Megan's Law Web site maintained by state law enforcement officials or contact local law enforcement to inquire about the individual. Law enforcement officers are usually glad to provide assistance and even to come to a community meeting to discuss an appropriate further response. In California, the Web site is located at www.meganslaw.ca.gov.

How should community managers respond if asked about suspected registered sex offenders?

They should be directed to the appropriate Megan's Law Web site. Most of these Web sites provide detailed questions and answers about what to do and what to avoid doing. However, managers should not disseminate information about registered sex offenders themselves even if it is available on the Web site.

Why can't community managers provide information about registered sex offenders to the residents of their own community?

Many state statutes give exclusive notification responsibility to law enforcement. Further, the dissemination of this information by community managers and others can easily be misconstrued or even misused. It would be a shame to give a registered sex offender any grounds for filing a lawsuit against a community owner or manager.

Is there a duty or obligation for a community to "warn" others about the presence of a registered sex offender?

Generally speaking, there is not such duty. The community can publish recommendations in newsletters that residents know about and use Megan's Law Web sites and resources. However, if in doubt, contact local law enforcement to handle the notification process.

Can a community deny employment or residency to a registered sex offender or have them removed from residency at a community on that basis alone?

Although states differ, in California, the simple answer is, no. If you cannot determine the answer from the information available on your state's Megan's Law Web site, call law enforcement or legal counsel. They should be able to provide you with a quick answer. Of course, there may be other grounds for denial.

Information is Power

Unfortunately, it is impossible to legislate crime out of existence, even crimes of such a despicable nature as sex crimes, and it is tragic that crimes like those against Megan Kanka will continue to occur in spite of Megan's Law. However, the proper use of the information available to community managers and owners, close cooperation with local law enforcement, and strict adherence to the provisions of those laws, can help prevent circumstances that could lead to those crimes while avoiding potential liability to mobile home communities.



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