

A sex offender is in the library, what should we do?

By Lance M. Werner

Recently, I saw some comments on michlib-l about sex offenders in public libraries. Occasionally, I will receive a question from a library about how to deal with sex offenders who are library patrons. Based on all of this, I felt it would be useful to provide some information to my colleagues in the field.

The Michigan Sex Offenders Registration Act, 1994 PA 295, MCL 28.721 to 28.736, authorizes the Michigan Department of State Police to post the names, addresses and conviction information of convicted sex offenders on the Internet. Convicted sex offenders are listed on the Public Sex Offender Registry (PSOR) at www.mipsor.state.mi.us. The State Police website FAQ page explains that persons convicted of the following offenses are required to register in Michigan:

- Accosting, Enticing or Soliciting a Child for Immoral Purposes (MCL 750.145a)
- Accosting, Enticing or Soliciting a Child for Immoral Purposes (prior conviction) (MCL 750.145b)
- Child Sexually Abusive Activity or Material (MCL 750.145c)
- Crime Against Nature or Sodomy, if the victim is less than 18 years of age (MCL 750.158)
- Indecent Exposure While Engaging in a Lewd/Lascivious Act (MCL 750.335a(2)(b)), if previously convicted of violation of MCL 750.335a.
- Three convictions of any combination of:
 - Disorderly Person (MCL 750.167(1)(f))
 - Indecent Exposure (MCL 750.335a(2)(a))
- Gross Indecency Between Male Persons, if the victim is less than 18 years of age and the offender is not adjudicated as a juvenile (MCL 750.338)
- Gross Indecency Between Female Persons, if the victim is less than 18 years of age and the offender is not adjudicated as a juvenile (MCL 750.338a)
- Gross Indecency Between Male and Female Persons, if the victim is less than 18 years of age and the offender is not adjudicated as a juvenile (MCL 750.338b)
- Kidnapping, if the victim is less than 18 years of age (MCL 750.349)
- Leading, Taking, Carrying Away, Decoying or Enticing Away Child Under 14 (MCL 750.350)
- Soliciting, Accosting or Inviting to Commit Prostitution or Immoral Act (MCL 750.448)
- Pandering (MCL 750.455)
- Criminal Sexual Conduct 1st Degree (MCL 750.520b)
- Criminal Sexual Conduct 2nd Degree (MCL 750.520c)
- Criminal Sexual Conduct 3rd Degree (MCL 750.520d)
- Criminal Sexual Conduct 4th Degree (MCL 750.520e)
- Any violation of a state law or local ordinance that by its nature constitutes a sexual offense against an individual who is less than 18 years of age
- Any offense committed by a person who was, at the time of the offense, a sexually delinquent person

- Any offense substantially similar to a listed offense under a law of the United States, a state, or any country or under tribal or military law

Librarians should take note that some of the offenses specified in the list may involve activities between two consenting individuals. Hence, it is clear that not every person that appears on the PSOR database is a sexual predator. Indeed, the people whose names appear on the PSOR list have the same rights and freedoms as everyone else for the most part, subject to any terms of their probation or parole. These freedoms include the right to go to the local public library and use its services.

While it is true that certain laws require teachers and some other types of professionals to take affirmative steps to protect kids, there are no such laws with respect to public libraries or librarians. With respect to duties owed by law in this regard, librarians are not comparable to teachers, social workers, psychiatrists and other professionals who have jobs that may require protective action in some cases.

The library environment can be contrasted with the school environment. Michigan law prohibits convicted sex offenders from carrying on certain activities within a specified distance of schools. Section 2a of the Code of Criminal Procedure, 1927 PA 175, MCL 771.2a, bars convicted sex offenders from residing, working or loitering in a school safety zone if they have been convicted of a “listed offense” as defined in section 2 of the Sex Offenders Registration Act, MCL 28.722. Section 2a defines “school property” as:

(e) ...building, facility, structure, or real property owned, leased, or otherwise controlled by a school, other than a building, facility, structure, or real property that is no longer in use on a permanent or continuous basis, to which either of the following applies:

(i) It is used to impart educational instruction.

(ii) It is for use by students not more than 19 years of age for sports or other recreational activities.

Section 2a defines “school safety zones” as an “area that lies 1,000 feet or less from school property.” It is notable that the term “library” or phrase “public library” are not stated in section 2a because the omission of these words means public libraries that are not located in public schools are not subject to the prescribed exclusion.

It is possible that a convicted sex offender has been ordered to stay away from children or places where children congregate as terms of that his or her probation or parole. However, it is not up to the library to enforce these types of orders, nor should it serve as a basis for denying someone library service. If someone on probation or parole has violated the terms of his or her probation or parole, it is up to law enforcement officers and the courts to respond.

Based on the above I would now like to answer the question posed in the title of this article. A sex offender is in the library, what should we do? The answer, treat him or her like everyone else.

As always, this discussion is furnished as an informational service of the Library of Michigan an agency of the Michigan Department of History, Arts and Libraries and is not intended in any way to constitute legal advice. Please feel free to contact Lance M. Werner, the Library Law Specialist at the Library of Michigan, and by phone at (517) 373-1299 or via e-mail at wernerl@michigan.gov for further information.