

**Pennsylvania Commission on Sentencing
Caselaw Highlights (PA Reporter through May 23, 2008)**

	Wilson	910 A.2d 10	11/21/2006	PA	Sentence	Megan's Law	Provisions of the Registration of Sexual Offenders Act (Megan's Law II) which establish criminal liability for non-sexually violent predators (non-SVPs), whether lifetime reporters or ten year reporters, for failure to comply with the Act's reporting requirements are constitutional under Apprendi. 42 Pa.C.S.A. § 9795.2(d)(1, 2) (2003)(Repealed).
	Conklin	897 A.2d 1168	5/24/2006	PA	Sentence	Megan's Law	In order to carry its burden of proving that a sex offender is a sexually violent predator (SVP), Commonwealth is not obliged to provide a clinical diagnosis by a licensed psychiatrist or psychologist that the offender suffers from a personality disorder or mental abnormality that makes the offender likely to engage in predatory sexually violent offenses; the opinion of a qualifying criminal justice expert suffices. 42 Pa.C.S.A. §§ 9792, 9795.4(b), 9799.3(a).
	Dengler	890 A.2d 372	12/30/2005	PA	Sentence	Megan's Law	Psychologist's expert testimony that defendant met the statutory criteria for classification as a sexually violent predator (SVP) was not novel scientific evidence and, therefore, was not subject to the evidentiary screening function served by the Frye test; the science and consequences of SVP designation were a direct by-product of a specific legislatively-adopted scheme stating the relevance and contours of the challenged evidence under Megan's Law II, the question of SVP status was a statutory question, not a question of pure science, and the statute did not require proof of a standard of diagnosis commonly found and/or accepted in a mental health diagnostic paradigm. 42 Pa.C.S.A. §§ 9792, 9795.4; Rules of Evid., Rule 702, 42 Pa.C.S.A.
	Killinger	888 A.2d 592	12/27/2005	PA	Sentence	Megan's Law	Sanction of third-degree felony conviction and possible seven-year term of incarceration imposed on defendant, a non-sexually violent predator (SVP) offender who failed to comply with registration provisions of Registration of Sexual Offenders Act (Megan's Law II), did not violate offender's due process rights under Apprendi decision; sanctions attached to defendant pursuant to his indecent assault conviction, a predicate offense under Act, and no judicial fact-finding, nor any fact-finding by a diminished standard of proof, triggered a status relevant to severity of sanctions. U.S.C.A. Const.Amend. 14; 18 Pa.C.S.A. § 1103(3); 42 Pa.C.S.A. § 9795.2(d)(1)(Repealed).

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	Maldonado	838 A.2d 710	12/18/2003	PA	Sentence	Megan's Law	Due process did not require proof beyond reasonable doubt that defendant was sexually violent predator in order to subject defendant to registration and notification under Registration of Sexual Offenders Act (Megan's Law), but rather clear and convincing evidence standard was constitutionally sufficient; restrictions imposed by statute fell short of criminal punishment and did not involve affirmative disability or restraint, psychiatric matters relevant to sexually violent predator determination were rarely susceptible to proof beyond reasonable doubt, and state's paramount interest in protecting public from recidivist sex offenders justified imposition on defendant's liberty interests. 42 Pa.C.S.A. § 9791 et seq.
	Williams	832 A.2d 962	9/25/2003	PA	Sentence	Megan's Law	Registration, notification, and counseling requirements of Registration of Sexual Offenders Act (Megan's Law II) were non-punitive, for purposes of due process clause.
	Williams	832 A.2d 962	9/25/2003	PA	Sentence	Megan's Law	The provision of Registration of Sexual Offenders Act (Megan's Law II) allowing for dissemination of requested information by "electronic means" only authorized electronic transmission, for example, by e-mail or fax machine, to an individual who lodges a specific request for the data, and not electronic display of the data to the general public.
	Williams	832 A.2d 962	9/25/2003	PA	Sentence	Megan's Law	Penalties under Registration of Sexual Offenders Act (Megan's Law II) for failure of individuals deemed sexually violent predators to register and verify their residences were unconstitutionally punitive, under due process clause; whatever intentions of Legislature may have been, purpose and effect of provisions were punitive, as failure to comply with registration and verification procedures could subject a sexually violent predator to life in prison. U.S.C.A. Const. Amend. 14; 1 Pa.C.S.A. § 1925; 42 Pa.C.S.A. §§ 9795.2(d)(2), 9796(e)(2).
	Bishop	936 A.2d 1136	11/16/2007	PA Super	Sentence	Megan's Law	Evidence established that defendant met sexually violent predator (SVP) criteria; member of Sexual Offender Assessment Board determined that defendant had narcissistic personality disorder, and concluded that defendant had grandiose sense of self importance, fantasies about becoming minister and having power, and exhibited his arrogance and sense of self in way where he thought that he could rape a woman in public bathroom without being caught. 42 Pa.C.S.A. § 9795.4.

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	Bishop	936 A.2d 1136	11/16/2007	PA Super	Sentence	Megan's Law	Questions of evidentiary sufficiency present questions of law; thus, the standard of review is de novo and the scope of review is plenary. The clear and convincing standard of proof governing the determination of sexually violent predator (SVP) status requires evidence that is so clear, direct, weighty, and convincing as to enable the trier of fact to come to a clear conviction, without hesitancy, of the truth of the precise facts in issue.
	W.H.M., Jr.	932 A.2d 155	8/22/2007	PA Super	Sentence	Megan's Law	Evidence was sufficient to support finding that defendant was sexually violent predator (SVP); member of Sexual Offenders Assessment Board testified that defendant suffered from pedophilia, demonstrated predatory behavior in sexual relationship with victim, and exhibited ongoing predatory behavior toward victim, so as to be menace to health and safety of other persons, and fact that defendant sexually abused only one child, his daughter, during four year period did not undermine trial court's determination that defendant was SVP, particularly in light of predatory nature of defendant's behavior and numerous acts, over period of years, perpetrated upon victim against her will. 42 Pa.C.S.A. § 9795.4(b)(4).
	Geiter	929 A.2d 648	7/9/2007	PA Super	Sentence	Megan's Law	Record did not support finding, in hearing seeking to classify defendant convicted of multiple sexual offenses involving minor as a sexually violent predator (SVP), that state's expert's ultimate opinion regarding defendant's SVP status was based solely on diagnosis of pedophilia; review of the record showed that expert discussed each factor used in determining SVP status, its application to case, and whether it worked in favor of or against a designation of SVP. 42 Pa.C.S.A. § 9792, 9795.4(b).
	Geiter	929 A.2d 648	7/9/2007	PA Super	Sentence	Megan's Law	Expert's testimony established, by clear and convincing evidence, that defendant convicted of multiple sexual offenses involving minor met statutory criteria for personality disorder pedophilia which made him likely to engage in predatory sexually violent offenses in the future, as required to support classification of defendant as a sexually violent predator (SVP); expert discussed the multiple episodes of sexual abuse committed by defendant, the lengthy period of time over which the encounters took place, the use of pornography as a grooming behavior, and the escalating nature of the sexual abuse beginning with exposure and ending with an attempted rape, and expert specifically noted the fact that defendant himself had been sexually abused as a child and had been unable stop abusing his son until there was legal intervention. 42 Pa.C.S.A. § 9792.

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	Martz	926 A.2d 514	6/6/2007	PA Super	Sentence	Megan's Law	Evidence was sufficient to prove defendant, convicted of corruption of minors and indecent assault, was a sexually violent predator (SVP); psychologist appointed to conduct clinical evaluation and assessment of defendant concluded that defendant possessed personality and anti-social personality disorder, and psychologist noted that defendant exhibited primary behaviors representative of predatory status, since defendant came to household when mother of victim, an 11-year-old girl, was away working, waited until babysitter left household before entering victim's bedroom, and fondled victim's vaginal area outside her clothing. 42 Pa.C.S.A. § 9795.4.
	Hitner	910 A.2d 721	10/27/2006	PA Super	Sentence	Megan's Law	Evidence was sufficient to establish that defendant was sexually violent predator; psychologist testified that defendant had antisocial personality disorder, failed to conform conduct to norms of society, had callous disregard for other's feelings, had no remorse for crimes, treated his victims cruelly, suffered from sexual sadism, and had intense and recurring sexual compulsivity or sexual fantasy around issue of degradation, humiliation, or pain of victim causing him sexual gratification, and force he used with victims was far in excess of what was needed to commit rapes, as he burned victims, pulled out or shaved hair on their heads, threatened to kill them, and left them outside naked on freezing nights. 42 Pa.C.S.A. § 9792.
	Hitner	910 A.2d 721	10/27/2006	PA Super	Sentence	Megan's Law	Defendant was not entitled to evidentiary hearing of sexually violent predator finding; defendant did not discuss how changes made to new Megan's Law III altered Supreme Court's reasoning, he raised no specific constitutional challenge thereto, and assuming, arguendo, that judicial review would be necessary only if defendant could demonstrate there was cure for his particular mental abnormality/personality disorder, defendant did not remotely meet burden, as although he indicated trial court should have remanded for hearing, he indicated no evidence or witnesses he would offer on his behalf to support his claim, and his bald allegation that remand was necessary was insufficient without some offer of proof, since he did not present any expert evidence during Megan's Law III hearing. 42 Pa.C.S.A. § 9792.

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	Merolla	909 A.2d 337	9/28/2006	PA Super	Sentence	Megan's Law	Commonwealth did not provide clear and convincing evidence demonstrating that defendant, who pled nolo contendere to two counts of indecent assault and one count of statutory sexual assault, was likely to re-offend because he suffered from a mental defect or personality disorder, as grounds for sexually violent predator (SVP) classification; member of Sexual Offenders Assessment Board testified that defendant was above 53 years of age, which indicated a low risk of recidivism, that he did not exceed the means necessary to commit the offense, and that he did not display unusual cruelty during the commission of the crime, and further, member did not indicate that defendant had exhibited any prior mental health problems or deviant sexual behavior, nor was he under the influence of drugs or alcohol during the commission of these offenses. 42 Pa.C.S.A. §§ 9792, 9795.1, 9795.4.
	Merolla	909 A.2d 337	9/28/2006	PA Super	Sentence	Megan's Law	As a matter of first impression, defendant's guilty pleas to two separate counts of indecent assault, entered at the same time, constituted two separate convictions, warranting lifetime registration with the State Police under the Registration of Sexual Offenders statute, commonly known as "Megan's Law II"; it was irrelevant that defendant had not been sentenced for his first offense before the commission of his second crime, and the intent of the legislature was better served by subjecting defendant to heightened registration requirements because the public would continue to be notified of his whereabouts after the initial ten-year registration period. 42 Pa.C.S.A. § 9795.1(b)(1).
	Merolla	909 A.2d 337	9/28/2006	PA Super	Sentence	Megan's Law	Imposition of consecutive terms of probation for defendant's two indecent assault charges, each five to ten years, for an aggregate probationary period of not less than ten nor more than twenty years, constituted an illegal sentence; term of probation should have been finite or "flat," and length of probation could not exceed the maximum term for which defendant could be confined. 42 Pa.C.S.A. §§ 9721(a), 9754(a), 9755(b), 9756(b).

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	Leddington	908 A.2d 328	9/12/2006	PA Super	Sentence	Megan's Law	Evidence failed to establish that Megan's Law II assessment factors were non-predictive so as to be void for vagueness, and thus, unconstitutional; pedophilia could not be cured, sexual offender assessment board's (SOAB) function was to determine if incurable and real risk existed, not to determine when risk may have lessened, "risk assessment" was clinical term used to determine what percentage of people in certain demographic was inclined to specific type of behavior being studied, method did not determine whether offender himself was likely to engage in behavior, defendant's suggestions for improving assessments had little import on issue of whether assessment factors had any predictive value, and actuary tables would only lead to small improvement over currently used methods. U.S.C.A. Const.Amend. 14; 42 Pa.C.S.A. §§ 9791-9799.9.
	Leddington	908 A.2d 328	9/12/2006	PA Super	Sentence	Megan's Law	Evidence was sufficient to establish that defendant was sexually violent predator (SVP); defendant carefully cultivated relationship with victim's father to gain entry into family home and become close to her, expert stated that defendant developed age preference for young girls, as evinced by assaults on eight and 10-year-old, defendant had been convicted of assaulting two young girls in three year span and was on probation and undergoing counseling when he committed underlying offense, and defendant had been diagnosed with incurable pedophilia and he had carefully planned assault on victim. 42 Pa.C.S.A. §§ 9795.1, 9795.4, 9792.
	Askew	907 A.2d 624	8/30/2006	PA Super	Sentence	Megan's Law	Clear and convincing evidence supported finding that defendant was a sexually violent predator as defined in Megan's Law II; expert in field of sex offender treatment and evaluation testified that he had diagnosed defendant as having a personality disorder not otherwise specified, with antisocial and pedophilic features, and that defendant's behavior was predatory, given that his victim was three years old and a stranger to him, and defendant had prior convictions for sexually molesting another three-year-old victim and aggravated assault against an eight-year-old victim. 42 Pa.C.S.A. §§ 9792, 9795.4(b).

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	Dixon	907 A.2d 533	8/16/2006	PA Super	Sentence	Megan's Law	Expert's testimony sufficiently demonstrated that defendant, who was convicted of indecent assault, suffered from a mental abnormality or personality disorder that made him likely to engage in predatory sexually violent offenses, as required to support classification of defendant as a sexually violent predator (SVP); expert testified that defendant suffered from paraphilia in which he had sexual urges involving children or other non-consenting person, expert's opinion was based in part on defendant's criminal history, which included prior convictions for sexual assault and rape, and expert testified that his consideration of statutory factors used in assessing likelihood of reoffending, coupled with defendant's paraphilia and the nature of his conduct, led expert to conclude that defendant was predisposed to the commission of sexual offenses. 42 Pa.C.S.A. § 9792.
	Mullins	905 A.2d 1009	8/10/2006	PA Super	Sentence	Megan's Law	Sufficient evidence supported finding that defendant, who was convicted of involuntary deviate sexual intercourse (IDS), aggravated indecent assault, indecent assault, endangering the welfare of a child, and corruption of minors, was a sexually violent predator (SVP); doctor who performed defendant's assessment opined that defendant, who was victim's stepfather and who initiated sexual relationship when victim was only 7 years old, had mental abnormality of pedophilia, and doctor opined that defendant was likely to commit future offenses and demonstrated no remorse for his actions. 42 Pa.C.S.A. § 9795.4(e)(1).
	Mullins	905 A.2d 1009	8/10/2006	PA Super	Sentence	Megan's Law	Sufficient evidence supported finding that defendant, who was convicted of involuntary deviate sexual intercourse (IDS), aggravated indecent assault, indecent assault, endangering the welfare of a child, and corruption of minors, was a sexually violent predator (SVP); doctor who performed defendant's assessment opined that defendant, who was victim's stepfather and who initiated sexual relationship when victim was only 7 years old, had mental abnormality of pedophilia, and doctor opined that defendant was likely to commit future offenses and demonstrated no remorse for his actions. 42 Pa.C.S.A. § 9795.4(e)(1).

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	Charlton	902 A.2d 554	6/23/2006	PA Super	Sentence	Megan's Law	Evidence supported finding that defendant convicted of rape, involuntary deviate sexual intercourse, incest, and indecent assault was a sexually violent predator (SVP); licensed psychologist who was appointed to conduct a clinical evaluation and assessment of defendant testified that defendant exhibited the mental abnormality of pedophilia and promoted a relationship with the victim for the purposes of victimization, psychologist testified that defendant was likely to engage in predatory sexually offenses as a result of his abnormality, and in formulating her opinion, psychologist thoroughly addressed factors that included defendant's age, level of comfort in his ability to control and manage the victim, absence of anxiety, and the highly scripted nature of the sexual abuse. 42 Pa.C.S.A. §§ 9792, 9795.4.
	Evans	901 A.2d 528	6/5/2006	PA Super	Sentence	Megan's Law	Evidence was sufficient to establish that defendant was sexually violent predator (SVP); defendant had extensive record starting at age 15, including assaults, robberies, and rape, had narcissistic traits and disregard of rights, had very little empathy for his victims, was convicted of sexually violent offense, sought relationship with 11 year old girl solely for purpose of victimization, lured girl with intent of being sexual with her, had history of substance abuse and lack of stability in his personal life, employment, and education history, and defendant had propensity for chronic lying, conning, manipulative behavior, and poor behavioral controls. 42 Pa.C.S.A. §§ 9792, 9795.1, 9795.4.
	Evans	901 A.2d 528	6/5/2006	PA Super	Sentence	Megan's Law	At a hearing prior to sentencing the court shall determine whether the Commonwealth has proved by clear and convincing evidence that the individual is a sexually violent predator (SVP); in reviewing the sufficiency of the evidence regarding the determination of SVP status, appellate court will reverse the trial court only if the Commonwealth has not presented clear and convincing evidence sufficient to establish each element required by the statute. 42 Pa.C.S.A. § 9792. The "clear and convincing" standard requires evidence that is so clear, direct, weighty, and convincing as to enable the trier of fact to come to a clear conviction, without hesitancy, of the truth of the precise facts in issue.
	Shugars	895 A.2d 1270	3/24/2006	PA Super	Sentence	Megan's Law	Sentencing court could consider status of defendant, convicted of aggravated indecent assault, as sexually violent predator as a factor in sentencing defendant in aggravated range of guidelines; behaviors, actions, and personal characteristics of convicted sexual offender were legal factors which court could consider when imposing sentence in aggravated range. 42 Pa.C.S.A. § 9795.4(b).

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	P.L.S.	894 A.2d 120	2/2/2006	PA Super	Sentence	Megan's Law	Aggravated sentences imposed on defendant, convicted of rape, statutory sexual assault, indecent assault, corruption of a minor, and endangering the welfare of a child, and determined to be sexually violent predator (SVP), were reasonable; sentence was authorized by jury's verdict, and valid reasons were articulated of record by sentencing court for its departure from guidelines, since society was placed at greater risk due to defendant's abuse of three children rather than one child, and defendant's propensities and justification that he offered for his behavior made him a poor candidate for rehabilitation. 42 Pa.C.S.A. § 9781(c)(3).
	McWilliams	887 A.2d 784	11/18/2005	PA Super	Sentence	Megan's Law	Indigent defendant subject to sexually violent predator (SVP) hearing under provisions of Megan's Law II was entitled to court-appointed psychological expert; under statute, defendant was entitled to call witnesses at SVP hearing and to have expert assessment other than that conducted by Sexual Offenders Assessment Board, and it would be fundamentally unfair to afford defendant such rights, but then preclude him from exercising those rights simply because he was indigent. 42 Pa.C.S.A. § 9791 et seq.
	Curnutte	871 A.2d 839	3/22/2005	PA Super	Sentence	Megan's Law	Indigent defendant subject to sexually violent predator (SVP) hearing under provisions of Megan's Law II had procedural due process right to court-appointed psychological expert; under statute, defendant was entitled to opportunity to be heard, to call witnesses, including expert witnesses, to cross-examine witnesses, and to have expert assessment other than that conducted by Sexual Offenders Assessment Board, and it would be fundamentally unfair to afford defendant such rights, but then preclude him from exercising those rights simply because of his indigency. U.S.C.A. Const.Amend. 14; 42 Pa.C.S.A. §§ 9791-9799.7.
	Curnutte	871 A.2d 839	3/22/2005	PA Super	Sentence	Megan's Law	Fact that sexually violent predator (SVP) proceedings under Megan's Law have been determined to be non-punitive in nature does not mean that same constitutional safeguards do not apply as would apply at criminal trial. U.S.C.A. Const.Amend. 14; 42 Pa.C.S.A. §§ 9791-9799.7.
	Snyder	870 A.2d 336	3/3/2005	PA Super	Sentence	Megan's Law	Sufficient evidence supported finding that defendant was a sexually violent predator; defendant played a parental role in the victim's household, defendant had the mental abnormality of pedophilia, and defendant exhibited unusual cruelty in forcing the child to have sexual relations with her own mother. 42 Pa.C.S.A. § 9795.4(e)(3).

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	Plucinski	868 A.2d 20	1/28/2005	PA Super	Sentence	Megan's Law	Evidence was insufficient to support the classification of defendant as a sexually violent predator (SVP); defendant and psychologist both testified that defendant's relationship with his step-daughter turned sexual only after defendant's marriage deteriorated, defendant's offenses did not involve multiple victims, unnecessary means, threats, or unusual cruelty, defendant had no prior sexual convictions, and defendant had no history of failed treatment. 42 Pa.C.S.A. §§ 9792, 9795.4.
	Plucinski	868 A.2d 20	1/28/2005	PA Super	Sentence	Megan's Law	The salient inquiry in determining sexually violent predator (SVP) status is identification of the impetus behind the commission of the offense; that is, whether it proceeds from a mental defect/personality disorder or another motivating factor. 42 Pa.C.S.A. §§ 9792, 9795.4.
	Salter	858 A.2d 610	10/21/2004	PA Super	Sentence	Megan's Law	Evidence was not sufficient to support conviction for violating verification of residence provisions of Megan's Law; Commonwealth failed to introduce proof that defendant actually received no-forwardable verification of address form. 42 Pa.C.S.A. § 9796(b).
	Baird	856 A.2d 114	7/27/2004	PA Super	Sentence	Megan's Law	Trial court was required to wait and sentence defendant for possession of child pornography after the State Sexual Offenders Assessment Board (SOAB) assessed defendant and determined whether he met the criteria for a sexual violent predator (SVP); the Megan's Law requirements varied depending upon whether an offender was determined to be a sexual offender or an SVP, and the sentencing court was required to inform the offender of his reporting obligations under Megan's Law at the time of sentencing. 18 Pa.C.S.A. § 6312(d), 42 Pa.C.S.A. §§ 9795.1, 9795.2, 9795.3, 9795.4.
	Benner	853 A.2d 1068	6/25/2004	PA Super	Sentence	Megan's Law	Trial court's failure to inform defendant of registration requirement under Megan's Law I prior to accepting his guilty plea to aggravated indecent assault did not invalidate either the plea or the application of the registration requirement, although defendant claimed he entered plea in reliance on district attorney's representation that he would not be required to register; registration requirement was collateral consequence of plea, not criminal punishment, and record provided no substantiation that district attorney ever made such representation. 42 Pa.C.S.A. § 9795.1.

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	Benner	853 A.2d 1068	6/25/2004	PA Super	Sentence	Megan's Law	who pleaded guilty to aggravated indecent assault was not subject to ex post facto law by being required to register for lifetime as a sex offender under Megan's Law II, although defendant entered guilty plea and was sentenced when Megan's Law I was in effect, which required only 10-year registration; registration requirement was collateral consequence of plea, and defendant was still incarcerated when he was required to register under Megan's Law II as condition of release on parole. U.S.C.A. Const. Art. 1, § 10, cl. 1; 42 Pa.C.S.A. § 9795.1.
	Leidig	850 A.2d 743	5/14/2004	PA Super	Sentence	Megan's Law	Lifetime sex offender registration requirement under Megan's Law II was a "collateral consequence" of defendant's nolo contendere plea to aggravated indecent assault, which requirement could not be deemed criminal punishment nor related to the length or nature of the sentence imposed on the basis of the plea, and thus, defendant could not withdraw plea on basis of mutual mistaken impression among parties that he was subject to ten-year registration requirement under Megan's Law I. A defendant's lack of knowledge of collateral consequences to the entry of a guilty plea does not render a plea unknowing or involuntary.
	Malseed	847 A.2d 112	4/5/2004	PA Super	Sentence	Megan's Law	Trial court did not abuse its discretion in qualifying witness as an expert in field of sexual offender assessment and treatment at hearing to determine whether defendant was a sexually violent predator; witness, who had a master's degree in counseling, testified that she had been involved in the treatment and assessment of sexual criminal offenders for eight years and had assessed and treated over 300 individuals in her professional career, including 60 to 65 in the context of a sexually violent predator status evaluation, and witness had recently become a member of State Sexual Offenders Assessment Board (SOAB), which required her to perform at least 2,000 hours of treatment to offenders prior to joining. 42 Pa.C.S.A. §§ 9791-9799.
	Pond	846 A.2d 699	3/25/2004	PA Super	Sentence	Megan's Law	Nature of offense of violating verification of residence provisions of Registration of Sexual Offenders statute, or Megan's Law II, and potential severe penalties for such violation, are evidence that legislature did not intend to do away with mens rea element and make failure to properly verify residence information under Megan's Law II strict liability crime. 42 Pa.C.S.A. § 9796(e)(1).

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	Pond	846 A.2d 699	3/25/2004	PA Super	Sentence	Megan's Law	Trial court's instruction to jury, in prosecution for violation of residence verification provisions of Registration of Sexual Offenders statute, or Megan's Law II, that Commonwealth "need not prove specific intent," and, if defendant "were to have indicated that he mistakenly gave wrong address, that is not defense to case" was erroneous, where offense was not strict liability offense, but required proof of mens rea. 42 Pa.C.S.A. § 9796(e)(1).
	Moody	843 A.2d 402	2/13/2004	PA Super	Sentence	Megan's Law	Privilege of confidential communications between a psychotherapist and a patient did not apply to evaluation of defendant completed by member of Sexual Offenders Assessment Board, as this evaluation was not for purpose of treatment, but for purpose of recommending to court whether defendant was a sexually violent predator (SVP). 42 Pa.C.S.A. § 5944.
	Moody	843 A.2d 402	2/13/2004	PA Super	Sentence	Megan's Law	Clear and convincing evidence supported sentencing court's conclusion that defendant was a sexually violent predator (SVP); member of Sexual Offenders Assessment Board who evaluated defendant concluded that defendant was an SVP because he was not only a pedophile, but was compulsive and had an addiction to sex, as well as because he groomed his victims. 42 Pa.C.S.A. §§ 9792, 9795.4(b). "Clear and convincing evidence" means that witnesses must be found to be credible, that the facts to which they testify are distinctly remembered and the details thereof narrated exactly and in due order, and that their testimony is so clear, direct, weighty, and convincing as to enable the jury to come to a clear conviction, without hesitancy, of the truth of the precise facts in issue.
	Meals	842 A.2d 448	1/26/2004	PA Super	Sentence	Megan's Law	Insufficient evidence supported trial court's determination that defendant, who pled guilty to multiple sexually-related offenses, was a sexually violent predator (SVP); defendant had no history of committing sexual offenses, defendant was not unusually cruel and did not exceed the means necessary to commit the offenses to which he pled guilty, defendant was not under the influence of drugs or alcohol at the time of the offenses, and Commonwealth's sole witness, who diagnosed defendant with pedophilia, based such diagnosis entirely on the age of the victims. 42 Pa.C.S.A. §§ 9792, 9795.4.
	Meals	842 A.2d 448	1/26/2004	PA Super	Sentence	Megan's Law	In a proceeding to determine whether a defendant should be classified as sexually violent predator (SVP), Commonwealth bears the burden of proving through clear and convincing evidence that a defendant meets the statutory definition of a sexually violent predator. 42 Pa.C.S.A. § 9792.

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	Howe	842 A.2d 436	1/26/2004	PA Super	Sentence	Megan's Law	Megan's Law II, imposing registration, notification, and counseling requirements on convicted sex offenders found to be sexually violent predators, did not subject an individual to a harsher sentence because of his mental condition and thus did not, on that basis, violate substantive due process or constitutional prohibition against cruel and unusual punishment. U.S.C.A. Const.Amend. 8, 14; 42 Pa.C.S.A. § 9791 et seq.
	Bey	841 A.2d 562	1/15/2004	PA Super	Sentence	Megan's Law	The State failed to establish through clear and convincing evidence that defendant was a sexually violent predator; Sexual Offenders Assessment Board assessor diagnosed defendant with an adjustment disorder that "alone does not increase the probability to demonstrate sexually violent predatory behaviors," the Board did not consider defendant to be a sexually violent predator, and the Commonwealth presented no evidence to counter the Board's diagnosis or opinion or to establish that defendant had a diagnosable mental disease or defect. 42 Pa.C.S.A. §§ 9792, 9795.4.
	Lipphardt	841 A.2d 551	1/12/2004	PA Super	Sentence	Megan's Law	Evidence supported determination that defendant convicted of aggravated indecent assault was not sexually violent predator under Megan's Law II; although defendant had been diagnosed with anti-social personality disorder, such disorder did not necessarily make it likely that he would engage in sexually violent offenses, especially in view of evidence that defendant had no prior history of sexually violent offenses, offense involved single victim, and defendant did not use force beyond means necessary to commit offense. 42 Pa.C.S.A. §§ 9792, 9795.4.
	Kopicz	840 A.2d 342	12/19/2003	PA Super	Sentence	Megan's Law	Registration, notification, and counseling requirements under the Registration of Sexual Offender's Act (Megan's Law II) governing persons classified as sexually violent predators were not punitive in nature, and thus, did not violate Apprendi requirement that any fact that enhanced punishment had to be submitted to jury and proven beyond reasonable doubt. 42 Pa.C.S.A. §§ 9791(b), 9795.1, 9796(b), 9799.4.

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	Kopicz	840 A.2d 342	12/19/2003	PA Super	Sentence	Megan's Law	Definition of "sexually violent predator" in the Registration of Sexual Offender's Act (Megan's Law II) was not unconstitutionally vague because "mental abnormality" and "personality disorder" allegedly failed to provide objective standards and therefore allowed for potentially erroneous classification as sexually violent predator; offender could only be classified as sexually violent predator if he had been convicted of enumerated predicate offense, and then only after having undergone thorough assessment hearing, which required court to consider numerous factors in determining whether he had mental abnormality or personality disorder, as defined by act and Diagnostic and Statistical Manual of Mental Disorders IV. 42 Pa.C.S.A. § 9792.
	Kopicz	840 A.2d 342	12/19/2003	PA Super	Sentence	Megan's Law	Provision in the Registration of Sexual Offender's Act (Megan's Law II) allowing Commonwealth to requisition statements made by sex offender when institutionalized and subjecting offender to court-ordered evaluation in absence of Miranda warnings or presence of counsel to be considered in assessment hearing to determine sexually violent predator status did not violate offender's right against self-incrimination; offender had already been convicted and thus, he was no longer subject to prosecution. U.S.C.A. Const.Amend. 5; 42 Pa.C.S.A. § 9791 et seq.
	Kopicz	840 A.2d 342	12/19/2003	PA Super	Sentence	Megan's Law	The Registration of Sexual Offender's Act (Megan's Law II) did not violate separation of powers doctrine by allegedly usurping role of judiciary by establishing Board to conduct assessment of sex offender to determine whether he should be classified as sexually violent predator; Board's recommendation was not dispositive, and trial court was still required to conduct evidentiary hearing on Commonwealth's motion to have offender classified as sexually violent predator, from which trial court would make ultimate determination. U.S.C.A. Const. Art. 3, § 1 et seq.; Const. Art. 5, § 1; 42 Pa.C.S.A. §§ 9795.4, 9799.3.
	Kopicz	840 A.2d 342	12/19/2003	PA Super	Sentence	Megan's Law	Sexual Offender Assessment Board's use of county Children and Youth Records in considering whether convicted sex offender should be classified as sexually violent predator under the Registration of Sexual Offender's Act did not violate statute protecting psychologist/patient confidentiality, absent any showing that documents included statements made by offender to psychologist in course of treatment, and in any case, juvenile records fell within Megan's Law exception to statute protecting confidentiality of juvenile records. 42 Pa.C.S.A. §§ 6307, 9795.4(c).

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	Kopicz	840 A.2d 342	12/19/2003	PA Super	Sentence	Megan's Law	Sexual Offender Assessment Board's use of psychological evaluations of convicted sex offender's sexuality in considering whether offender should be classified as sexually violent predator under the Registration of Sexual Offender's Act did not violate statute protecting confidentiality of statements made by offender to psychologist in course of treatment; evaluation records were not treatment records, and there was no showing that evaluations were conducted in course of treatment or what statements he made to psychologist that were used by Board in violation of privilege. 42 Pa.C.S.A. § 9795.4(c).
	Haughwout	837 A.2d 480	11/13/2003	PA Super	Sentence	Megan's Law	Sufficient evidence supported the trial court's findings that defendant was a sexually violent predator (SVP); defendant admitted to having at least a thirteen-year history of abnormal sexual contact with minors, and expert testified that defendant's substance abuse lowered his inhibitions and provided an opportunity for him to act out abnormal sexual urges, that defendant promoted a relationship with his daughter to molest her a series of times, and that defendant's sexual abuse of a family member increased his risk of recidivism.
	Fleming	801 A.2d 1234	6/17/2002	PA Super	Sentence	Megan's Law	Defendant was subject to lifetime sex offender registration requirements under Megan's Law II, the amended sex offender registration law, rather than the ten-year requirement under the original law. Even though the acts underlying the convictions occurred prior to the effective date of the new law, defendant pled guilty to crimes after the effective date of Megan's Law II.
	Fleming	801 A.2d 1234	6/17/2002	PA Super	Sentence	Megan's Law	Registration provisions of Megan's Law II, the amended sex offender registration law, did not constitute 'punishment' for purposes of federal ex post facto clause; purpose was not to punish, but rather to protect safety and welfare of general public.
	Krouse	799 A.2d 835	5/20/2002	PA Super	Sentence	Megan's Law	En banc. Insufficient evidence supported trial court's determination that defendant, who was convicted of indecent assault, was a sexually violent predator (SVP); court had sole authority to determine defendant to be an SVP, fact that court found testimony of assessment board member credible did not necessarily lead to conclusion that state proved by clear and convincing evidence all elements of an SVP classification as required by Megan's Law II, board member's testimony did not clearly prove defendant was likely to reoffend, had mental abnormality, or had personality disorder, and statutory factors weighed against SVP classification. 42/9791-9799; 18/3126.

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	Miller	787 A.2d 1036	12/5/2001	PA Super	Sentence	Megan's Law	Defendant was subject to sex offender registration requirement, even though the act underlying his conviction occurred prior to the effective date of the sex offender registration law; registration law did not violate ex post facto laws, and the purpose of the registration law was not to punish, but rather to promote public safety.
	Miller	787 A.2d 1036	12/5/2001	PA Super	Sentence	Megan's Law	Defendant convicted in Hawaii federal court of sexual exploitation of minors was required to register as a sex offender in PA; crime defendant pled guilty to was the 'equivalent offense' of state sexual abuse of children through dissemination of computer depictions statute.
	Richardson	784 A.2d 126	8/31/2001	PA Super	Sentence	Megan's Law	Provision in former version of Megan's Law, requiring probationers and parolees to report their current addresses did not apply to defendant, where defendant's sentences for IDSI and rape expired before enactment of Law. 42/9793.
	Coco	747 A.2d 1237	3/3/2000	PA Super	Sentence	Megan's Law	Defendant who was convicted of aggravated indecent assault of a child was subject to the registration provisions of sex offenders under Megan's Law (42/9793). The decision in <i>Com. v. Hayle</i> that the sexually violent predator provisions of Megan's Law violated procedural due process did not affect the registration provisions.
	Lee	935 A.2d 865	11/21/2007	PA	Constitutionality	Megan's Law	Lifetime registration, notification, and counseling obligations of sexually violent predators (SVP) under Megan's Law were not punitive and, therefore, did not violate due process, double jeopardy clause, or prohibition against ex post facto laws, even though no robust judicial avenue existed for reassessment at or after release from prison; testimony and documentary evidence casting doubt upon the accuracy, reliability, and predictive value of the SVP assessment given its occurrence prior to sentencing and incarceration and given empirical evidence of diminished risk of recidivism as offenders aged merely provided a counter-narrative to the evidence relied upon by the General Assembly, and the remedial regime was not so unreliable, prone to error over time, or deficient given the lack of a comprehensive judicial reassessment mechanism that the provisions were punitive. U.S.C.A. Const. Art. 1, § 10, cl. 1; U.S.C.A. Const. Amends. 5, 14; 42 Pa.C.S.A. §§ 9791(a), 9795.1, 9795.2, 9795.3(4), 9795.5(b), 9797, 9798, 9798.1, 9799.4.

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	Lee	935 A.2d 865	11/21/2007	PA	Constitutionality	Megan's Law	The clearest proof required to demonstrate that Megan's Law sanctions had a punitive character by imposing lifetime registration, notification, and counseling obligations on sexually violent predators (SVP) could not be satisfied merely by providing evidence militating in favor of a more generous account of the likelihood of rehabilitation than that found by the General Assembly in originally fashioning its legislation requiring registration of sex offenders; the sanctions thus did not violate due process, double jeopardy clause, or prohibition against ex post facto laws. U.S.C.A. Const. Art. 1, § 10, cl. 1; U.S.C.A. Const.Amends. 5, 14; 42 Pa.C.S.A. §§ 9791(a), 9795.1, 9795.2, 9795.3(4), 9795.5(b), 9797, 9798, 9798.1, 9799.4.
	Williams	832 A.2d 962	9/25/2003	PA	Constitutionality	Megan's Law	Penalties under Registration of Sexual Offenders Act (Megan's Law II) for failure of individuals deemed sexually violent predators to register and verify their residences were unconstitutionally punitive, under due process clause; whatever intentions of Legislature may have been, purpose and effect of provisions were punitive, as failure to comply with registration and verification procedures could subject a sexually violent predator to life in prison.
	Williams	832 A.2d 962	9/25/2003	PA	Constitutionality	Megan's Law	Penalties under Registration of Sexual Offenders Act (Megan's Law II) for failure of individuals deemed sexually violent predators to register and verify their residences, which were unconstitutionally punitive, under due process clause, were severable from remainder of Act; even absent penalty provisions, enforcement of registration, notification, and counseling requirements was possible.
	Gaffney	733 A.2d 616	6/30/1999	PA	Constitutionality	Megan's Law	Registration provisions of Registration of Sexual Offenders Act do not constitute "punishment" for purposes of Pennsylvania ex post facto clause; legislature's purpose in enacting clause was not punishment.
	Williams	733 A.2d 593	6/30/1999	PA	Constitutionality	Megan's Law	Procedure for determining whether an offender is a sexually violent predator under Registration of Sexual Offenders Act violated procedural due process guarantees by requiring that offender rebut presumption that he or she is a sexually violent predator.
Dodgson	DOC	922 A.2d 1023	5/3/2007	PA Cmwlth	Constitutionality	Megan's Law	Imposition of sex offender assessment parole provisions of Megan's Law did not violate ex post facto clause; the statute did not affect an inmate's eligibility or opportunity to be paroled, it did not impose any additional requirements or restrictions upon an inmate before he could be considered for parole, and before statute was enacted the Board of Probation and Parole had authority to request an assessment of an inmate under the Parole Act. U.S.C.A. Const. Art. 1, § 10, cl. 1; 42 Pa.C.S.A. § 9795.4(g); 61 P.S. § 331.19.

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Dodgson	DOC	922 A.2d 1023	5/3/2007	PA Cmwlth	Constitutionality	Megan's Law	Statute that required sex offenders whose victims were minors to complete sex offender counseling or therapy as condition for parole eligibility did not violate prohibition against ex post facto laws; the statute as applied to inmate did not create a substantial risk of increasing the severity of his sentence, and statute did not infringe upon the Parole Board's scope of discretion in granting parole to sex offenders, so inmate could not establish a clear legal right to the parole relief he requested. U.S.C.A. Const. Art. 1, § 10, cl. 1; 42 Pa.C.S.A. § 9718.1.
Doe	Miller	886 A.2d 310	10/27/2005	PA Cmwlth	Constitutionality	Megan's Law	For purposes of equal protection analysis, state sex offender classification statute bore reasonable relationship to legitimate state interest in enhancing public safety and welfare; class identified by statute was deserving of attention because of character of predicate offenses, difficulties in rehabilitating offenders, and consequent concern for reoffense, and information on class members was gathered in order to protect against future offenses and to facilitate future investigations, thereby enhancing public safety and welfare. U.S.C.A. Const.Amend. 14; Const. Art. 1, §§ 1, 26; 42 Pa.C.S.A. §§ 9791-9799.7.
VanDoren	Mazurkiewicz	695 A.2d 967	6/12/1997	PA Cmwlth	Constitutionality	Megan's Law	Statute requiring convicted sex offenders to register their address with state police upon release from incarceration did not impose 'punishment' in violation of double jeopardy and ex post facto clauses; legislative purpose of statute was not to punish.
	Haughwout	837 A.2d 480	11/13/2003	PA Super	Constitutionality	Megan's Law	Registration, notice, and counseling requirements of sexually violent predator (SVP) law did not constitute punishment beyond the statutory maximum which had to be submitted to a jury and proven beyond a reasonable doubt; SVP law was civil and remedial rather than punitive, and the law did not have a punitive purpose and effect.
	Halye	719 A.2d 763	10/6/1998	PA Super	Constitutionality	Megan's Law	Sexually violent predator law violated procedural due process, to the extent that it required offender to rebut a presumption of 'sexually violent predator' status and did not impose upon prosecution the burden of persuasion by clear and convincing evidence
	Mountain	711 A.2d 473	4/3/1998	PA Super	Constitutionality	Megan's Law	Since Megan's Law, which requires sex offenders to register with local law enforcement authorities, does not adjudicate guilt or inflict punishment, it is not a bill of attainder.
	Davis	708 A.2d 116	2/2/1998	PA Super	Constitutionality	Megan's Law	Hearing, pursuant to Megan's Law, giving court opportunity to determine whether defendant is sexually violent predator does not subject person to double jeopardy and does not charge him with another offense.