



NEW JERSEY LAW REVISION COMMISSION

Draft Tentative Report Addressing Constitutionality of Juvenile Lifetime Registration and Notification Requirements in N.J.S. 2C:7-2

May 6, 2024

The New Jersey Law Revision Commission is required to “[c]onduct a continuous examination of the general and permanent statutory law of this State and the judicial decisions construing it” and to propose to the Legislature revisions to the statutes to “remedy defects, reconcile conflicting provisions, clarify confusing language and eliminate redundant provisions.” *N.J.S. 1:12A-8*.

This Report is distributed to advise interested persons of the Commission's tentative recommendations and to notify them of the opportunity to submit comments. Comments should be received by the Commission no later than **July 16, 2024**.

The Commission will consider these comments before making its final recommendations to the Legislature. The Commission often substantially revises tentative recommendations as a result of the comments it receives. If you approve of the Report, please inform the Commission so that your approval can be considered along with other comments. Please send comments concerning this Report or direct any related inquiries, to:

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Project Summary¹

In New Jersey, qualifying sex offenders must comply with the registration and notification obligations of Megan’s Law.² Individuals who are convicted, adjudicated delinquent, or found not guilty by reason of insanity of a qualifying sex offense are required to register their identity and are subject to notification requirements pursuant to N.J.S. 2C:7-2.³

The statute permits an application to terminate registration and notification obligations “upon proof that the person has not committed an offense within 15 years following conviction or release from a correctional facility . . . , and is not likely to pose a threat to the safety of others.”⁴ Pursuant to subsection (g), however, a sex offender is not eligible for termination if he or she has been adjudicated delinquent of “more than one sex offense” or certain offenses specified in the statute.⁵

In *State in Interest of C.K.*, the New Jersey Supreme Court held that lifetime registration and notification obligations are unconstitutional as applied to juvenile offenders adjudicated delinquent of qualifying sex offenses.⁶ The proposed modifications set forth in the Appendix eliminate language in N.J.S. 2C:7-2(g) that subjects juvenile offenders to permanent lifetime Megan’s Law registration and notification obligations, as held by the New Jersey Supreme Court in *C.K.*

Statute Considered

N.J.S. 2C:7-2 states, in relevant part:

a. (1) A person who has been convicted, adjudicated delinquent or found not guilty by reason of insanity for commission of a sex offense as defined in subsection b. of this section shall register as provided in subsections c. and d. of this section.

f. Except as provided in subsection g. of this section, a person required to register under this act may make application to the Superior Court of this State to terminate the obligation upon proof that the person has not committed an offense within 15 years following conviction or release from a correctional facility for any

¹ The issue discussed in this Memorandum was brought to Staff’s attention by Fletcher Duddy, Deputy Public Defender, Special Litigation Unit, New Jersey Office the Public Defender, while he was providing assistance with another NJLRC project.

² N.J. STAT. ANN. §§ 2C:7-1 to -23 (West 2024).

³ N.J. STAT. ANN. § 2C:7-2(b) (West 2024) (defining “sex offense”).

⁴ N.J. STAT. ANN. § 2C:7-2(f).

⁵ N.J. STAT. ANN. § 2C:7-2(g).

⁶ *State in Interest of C.K.*, 233 N.J. 44, 77 (2018).

term of imprisonment imposed, whichever is later, and is not likely to pose a threat to the safety of others.

g. A person required to register under this section who has been convicted of, adjudicated delinquent, or acquitted by reason of insanity for more than one sex offense as defined in subsection b. of this section or who has been convicted of, adjudicated delinquent, or acquitted by reason of insanity for aggravated sexual assault pursuant to subsection a. of N.J.S.2C:14-2 or sexual assault pursuant to paragraph (1) of subsection c. of N.J.S.2C:14-2 is not eligible under subsection f. of this section to make application to the Superior Court of this State to terminate the registration obligation.⁷

Background

In *State in Interest of C.K.*, the defendant (C.K.) was charged with sex offenses occurring when he was a juvenile.⁸ Although over eighteen when he was charged, C.K. was not prosecuted as an adult and he pled guilty to aggravated sexual assault in juvenile court.⁹ In 2003, he was sentenced to three years of probation and ordered to comply with Megan’s Law requirements.¹⁰

As an adult, C.K. graduated college and obtained a Master’s degree.¹¹ At the time the Court heard the case, it had been “more than twenty years since C.K. engaged in any unlawful conduct and more than fourteen years since his juvenile adjudication.”¹² Five years after his adjudication, C.K. filed a petition for post-conviction relief (PCR) “seeking . . . a judicial declaration that the Megan’s Law lifetime registration and notification requirements violated his constitutional rights.”¹³

In 2012, he filed a second PCR alleging ineffective assistance with respect to the constitutional challenge of Megan’s Law requirements.¹⁴ The PCR court held an evidentiary hearing, during which multiple experts testified regarding “the treatment and rehabilitation of both juvenile and adult sex offenders.”¹⁵ The PCR court concluded that “the evidence presented by [the experts was] credible and persuasive,” but held that “any loosening of the strictures of Megan’s

⁷ N.J. STAT. ANN. § 2C:7-2 (emphasis added).

⁸ *C.K.*, 233 N.J. at 49 (“The State charged C.K. with committing, while he was a juvenile, the offense of aggravated sexual assault against his adopted brother.”).

⁹ *Id.* (“Defendant was adjudicated delinquent”).

¹⁰ *Id.* (“As a Tier One offender, C.K. is required to register annually with the law enforcement agency in the municipality where he resides.”).

¹¹ *Id.* at 50.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 51.

Law must come from [the Supreme Court] in assessing the constitutionality of the registration scheme as applied to juveniles, or from the Legislature.”¹⁶

The Appellate Division affirmed the PCR court’s denial, finding that although the “constitutional arguments [we]re compelling,’ . . . [the] Court’s decisions in *Doe v. Poritz*, . . . and *In re Registrant J.G.* . . . foreclosed any basis for relief.”¹⁷ The Supreme Court granted the defendant’s petition for certification.¹⁸

Analysis

The Supreme Court’s review was limited to the issue of “the constitutionality of imposing the Megan’s Law lifetime registration and notification requirements on juveniles adjudicated delinquent of certain sex offenses.”¹⁹

C.K. argued that the requirement “violate[d] his federal and state constitutional rights to substantive due process and to be free from cruel and unusual punishment.”²⁰ He further contended that the “irrebuttable presumption” of lifetime registration for juveniles “makes no allowance for a juvenile’s rehabilitation and low risk of re-offense,” meaning the registration scheme is “penal, not remedial, in nature and advances no legitimate governmental objective.”²¹

The State asserted that lifetime registration “‘passes constitutional muster’ under *Doe* and *J.G.*” and that the defendant’s “concerns about imposing lifetime registration on adolescents ‘are appropriately directed at the Legislature.’”²² In addition, the State criticized the studies relied upon

¹⁶ *Id.* at 55 (noting “that it was constrained by the precedents of this Court and, on that basis, ‘the adverse consequences of Megan’s Law registration’ do not give rise to a constitutional issue”).

¹⁷ *Id.* (citing *Doe v. Poritz*, 142 N.J. 1 (1995) (“The question before us is whether . . . the Registration and Community Notification Laws, are constitutional. . . . We hold that they are, but that the prosecutor’s decision to provide community notification, including the manner of notification, is subject to judicial review before such notification is given, and that such review is constitutionally required.”) and *In re Registrant J.G.*, 169 N.J. 304 (2001) (rejecting a ten-year-old defendant’s argument that “the lifetime registration requirement of Megan’s Law constitutes cruel and unusual punishment in violation of the federal and state constitutions . . . in view of [the *J.G.* Court’s] determination to terminate registration and notification requirements at age eighteen for adjudicated delinquents whose sex offenses were committed prior to age fourteen and who prove by clear and convincing evidence that they are not likely to pose a threat to the safety of others”) (emphasis added)).

¹⁸ *Id.* at 56 (“Our grant of certification is limited to addressing the constitutionality of N.J.S.A. 2C:7–2(g) as applied to juveniles, which, unlike subsection (f), imposes categorical lifetime registration requirements for certain sex offenses.”).

¹⁹ *Id.* at 58 (explaining that “[t]ypically, [the Supreme Court] would not consider a constitutional challenge on a second PCR,” but “when a constitutional problem presented is of sufficient import to call for relaxation of the rules [related to post-conviction relief,] . . . we may consider the question on its merits” (alteration in original)).

²⁰ *Id.* at 56.

²¹ *Id.* (adding that Megan’s Law requirements “erect[] barriers to a juvenile’s acceptance into society, career advancement, and personal happiness”).

²² *Id.* at 57.

by the defendant’s experts “because they do not distinguish between the general class of juvenile sex offenders and the subclass of offenders affected by subsection (g).”²³

The *C.K.* Court explained that, following a conviction or adjudication for a sex offense, an offender “must register with the police department in the municipality where he lives,” which involves the collection of fingerprints and other identifying information.²⁴ Additionally, a registered offender is required to inform police regarding his internet access and any change in relevant information.²⁵

The Court explained that eligibility for the lifetime registration requirement in subsection (g) is “categorical,” meaning that “[a] juvenile, fourteen years or older, who has committed an enumerated sex offense, or multiple sex offenses, . . . cannot seek relief ever from those requirements.”²⁶

Legislative History

Subsection (g) of N.J.S. 2C:7-2 was enacted in 2002, “with the intended purpose of conforming [New Jersey’s] registration and notification scheme to Congress’s 1996 amendments to the . . . Jacob Wetterling Act.”²⁷ The provision of the Jacob Wetterling Act cited by New Jersey’s Legislature when enacting “the permanent, offense based bar” in subsection (g), required “offenders who committed certain enumerated sex crimes [to be] subject to lifetime registration requirements.”²⁸

The *C.K.* Court explained that “[t]he rationale behind the passage of subsection (g) evidently was to comply with federal law and ensure continued specified federal crime funding.”²⁹ However, the Jacob Wetterling Act was repealed in 2006 and replaced with the Adam Walsh Child Protection and Safety Act, also known as the Sex Offender Registration and Notification Act (SORNA).³⁰ Title 1 of SORNA “requires that states receiving federal crime funds substantially comply with the guidelines it outlines.”³¹ The *C.K.* Court observed that SORNA does not contain a “permanent lifetime registration provision for juveniles.”³²

²³ *Id.*

²⁴ *Id.* at 59.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* at 61 (citing 42 U.S.C. §§ 14071–73 (repealed 2006)).

²⁸ *Id.* (quoting 42 U.S.C. § 14071(b)(6) (repealed 2006)).

²⁹ *Id.*

³⁰ 34 U.S.C. §§ 20901-20991 (2024).

³¹ *C.K.*, 233 N.J. at 61.

³² *Id.* at 61-62 (“[a] juvenile Tier III offender, [which is the SORNA classification C.K. would fall into,] although subject to presumptive lifetime registration, is eligible” to terminate registration requirements if the individual has a “clean record” after twenty-five years).

With respect to juvenile sex offenders, SORNA allows states the discretion to decide whether to include juveniles on public registries.³³ In 2016, the United States Attorney General issued guidelines providing that “states that do not register juveniles who have committed serious sex offenses may still be compliant with SORNA if the federal government finds that those states have nonetheless ‘substantially implemented SORNA’s juvenile registration requirements’ through other means.”³⁴

Furthermore, if implementation of a SORNA provision “would place the jurisdiction in violation of its constitution, as determined by a ruling of the jurisdiction’s highest court,” the United States Attorney General may provide an exemption.³⁵

Lifetime Sentences Imposed on Juvenile Offenders

The *C.K.* Court discussed the historical approach to life sentences on juveniles in both New Jersey and the rest of the United States.³⁶ The Court “recognize[d] that juveniles are different from adults – that juveniles are not fully formed, that they are still developing and maturing, that their mistakes and wrongdoing are often the result of factors related to their youth, and therefore they are more amenable to rehabilitation and more worthy of redemption.”³⁷

Explaining that the “juvenile justice system is a testament to society’s judgment that children bear a special status,” the Court emphasized that “rehabilitation and reformation of the juvenile [are] a hallmark of the juvenile system.”³⁸ The Court also pointed to the “series of landmark cases”³⁹ in which the United States Supreme Court excluded juveniles from capital punishment,⁴⁰ mandatory life without parole for homicide offenses,⁴¹ and life without parole for non-homicide offenses.⁴² In addition, pursuant to the decision in *State v. Zuber*, the New Jersey

³³ *Id.* at 62.

³⁴ *Id.* at 62-63.

³⁵ *Id.* at 63.

³⁶ *Id.* at 66-72.

³⁷ *Id.* at 66. In coming to this conclusion, courts have relied “on scientific and sociological studies” finding that:

- (1) “[a] lack of maturity and an underdeveloped sense of responsibility are found in youth more often than in adults,” . . . ;
- (2) “juveniles are more vulnerable or susceptible to negative influences” and “have less control . . . over their own environment,” . . . ; and
- (3) the personality and character traits of juveniles “are more transitory, less fixed,” and “not as well formed as that of an adult[.]”

Id. at 69 (quoting *Roper*, 543 U.S. at 569-70).

³⁸ *Id.* at 67-68 (explaining that a purpose of New Jersey’s Juvenile Code is “to remove from children committing delinquent acts certain statutory consequences of criminal behavior, and to substitute therefor an adequate program of supervision, care and rehabilitation, and a range of sanctions designed to promote accountability and protect the public”) (citing N.J. STAT. ANN. § 2A:4A:21-(b) (West 2023)).

³⁹ *Id.* at 68.

⁴⁰ *Roper v. Simmons*, 543 U.S. 551 (2005).

⁴¹ *Miller v. Alabama*, 567 U.S. 460 (2012).

⁴² *Graham v. Florida*, 560 U.S. 48 (2010).

Supreme Court expanded the reasoning to “sentences that are the practical equivalent of life without parole.”⁴³

With respect to the constitutionality of juvenile life sentences, the U.S. Supreme Court found that such a sentence “denies a juvenile ‘some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.’”⁴⁴ Furthermore, life without parole “precludes any ‘consideration of [a juvenile’s] chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences.’”⁴⁵

Lifetime Registration and Notification Requirements Imposed on Juvenile Sex Offenders

The *C.K.* Court analyzed whether application of N.J.S. 2C:7-2(g) to “juveniles between the ages of fourteen and seventeen adjudicated delinquent in family court”⁴⁶ “passes muster under the substantive due process guarantee of [New Jersey’s] Constitution.”⁴⁷ To be constitutional, the statute must “reasonably relate to a legitimate legislative purpose and not impose arbitrary or discriminatory burdens on a class of individuals.”⁴⁸

The Court reiterated the “commonsense and historical” tradition of treating children differently from adults, demonstrated by the goals and purposes of the separate juvenile justice system.⁴⁹ The Court also acknowledged the large body of scientific and sociological material indicating that “generally, juvenile sex offenders are less likely to reoffend than adult sex offenders and . . . recidivism is particularly low for those who have not reoffended for a long period”⁵⁰

⁴³ *State v. Zuber*, 277 N.J. 422, 429 (2017) (explaining that the “proper focus belongs on the amount of real time a juvenile will spend in jail and on the formal label attached to his sentence”).

⁴⁴ *C.K.*, 233 N.J. at 70 (quoting *Graham*, 560 U.S. at 75).

⁴⁵ *Id.* (quoting *Miller*, 567 U.S. at 477).

⁴⁶ *Id.* at 66 (focusing on juveniles between ages fourteen and eighteen given the holding in *J.G.* addressing juvenile offenders under fourteen); *see supra* note ----.

⁴⁷ *Id.* at 72-73.

⁴⁸ *Id.* at 73. The *C.K.* Court also considered other states’ approaches to long-term registration and notification requirements imposed on juvenile sex offenders. *Id.* at 70-72. For instance, the Ohio Supreme Court held a statute that imposed “automatic and mandatory lifetime” registration and notification obligations on certain juvenile sex offenders to be “violative of the cruel-and-unusual-punishment and due-process clauses of the Federal and Ohio Constitutions,” although the statute permitted “potential . . . reclassification after twenty-five years.” *Id.* at 70 (citing *In re C.P.*, 131 Ohio St.3d 513 (2012)). In Pennsylvania, the state’s Supreme Court held that the statutory requirement of “lifetime registration and notification requirements on sexually violent juvenile offenders violated the state constitution’s due process guarantee.” *Id.* at 71-72 (citing *In re J.B.*, 630 Pa. 408 (2014)). The Pennsylvania Court found that lifetime registration of juvenile offenders violated due process “by utilizing the irrebuttable presumption that all juvenile offenders ‘pose a high risk of committing additional sexual offenses.’” *Id.* at 72 (quoting *J.B.*, 630 Pa. at 429). The Pennsylvania Court concluded that presumption “is not universally true and a reasonable alternative means currently exists for determining” a juvenile’s risk of re-offense. *J.B.*, 630 Pa. at 429.

⁴⁹ *C.K.*, 233 N.J. at 74.

⁵⁰ *Id.* (noting also that “the permanent status of sex-offender registrant will impair a juvenile, as he grows into adulthood, from gaining employment opportunities, finding acceptance in his community, developing a healthy sense of self-worth, and forming personal relationships”).

N.J.S. 2C:7-2(g) “is grounded on the irrebuttable presumption that juveniles adjudicated delinquent for committing certain sex offenses will forever pose a danger to society.”⁵¹ The Court characterized this presumption as “disregard[ing] any individual assessment of whether a particular registrant is likely to reoffend,” and essentially “brand[ing juvenile offenders] as irredeemable [at a time] before their personalities are fully formed.”⁵² This “irrebuttable lifetime presumption is not supported by scientific and sociological studies or [New Jersey’s] jurisprudence and is not needed given the fifteen-year look back required by subsection (f).”⁵³

The “perverse effect” of the irrebuttable presumption is that juveniles subject to subsection (g), “who have completed their rehabilitation, not reoffended, and who can prove after a fifteen-year look-back period that they are not likely to pose a societal threat,” must remain on the registry permanently.⁵⁴ Once “the remedial purpose of Megan’s Law – rehabilitation of the offender and protection of the public – is satisfied,” lifetime registration “takes on a punitive aspect that cannot be justified by [the New Jersey] Constitution.”⁵⁵

The Court concluded that, “at that point . . . subsection (g), as applied to juveniles, no longer bears a rational relationship to a legitimate state purpose and arbitrarily denies those individuals their right to liberty and enjoyment of happiness guaranteed by Article I, Paragraph 1 of the New Jersey Constitution.”⁵⁶ Therefore, the *C.K.* Court held “that N.J.S.A. 2C:7-2(g) is unconstitutional as applied to juveniles adjudicated delinquent as sex offenders.”⁵⁷

Pending Bills

There are no bills currently pending that address the constitutionality of N.J.S. 2C:7-2(g) as applied to juvenile sex offenders.

Conclusion

The proposed modifications are set forth in the Appendix, and are intended to clarify that subsection (g) “is unconstitutional as applied to juveniles adjudicated delinquent as sex offenders,” as held by the New Jersey Supreme Court in *State in Interest of C.K.*⁵⁸

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.* at 74-75.

⁵⁴ *Id.* at 75.

⁵⁵ *Id.* at 75-76.

⁵⁶ *Id.* at 76 (noting that “[e]ven a lifetime presumption with a twenty-five year lookback period has been found violative of some states’ constitutions”).

⁵⁷ *Id.* at 77.

⁵⁸ *Id.*

APPENDIX

The proposed modifications to **N.J.S. 2C:7-2** are shown with ~~strikethrough~~ on the following pages.

N.J.S. 2C:7-2. Registration of sex offenders; definitions.

a. (1) A person who has been convicted, adjudicated delinquent or found not guilty by reason of insanity for commission of a sex offense as defined in subsection b. of this section shall register as provided in subsections c. and d. of this section.

* * *

b. For the purposes of this act a sex offense shall include the following:

* * *

c. A person required to register under the provisions of this act shall do so on forms to be provided by the designated registering agency as follows:

* * *

d. (1) Upon a change of address, a person shall notify the law enforcement agency with which the person is registered and shall re-register with the appropriate law enforcement agency no less than 10 days before he intends to first reside at his new address

* * *

e. A person required to register under paragraph (1) of subsection b. of this section or under paragraph (3) of subsection b. due to a sentence imposed on the basis of criteria similar to the criteria set forth in paragraph (1) of subsection b. shall verify his address with the appropriate law enforcement agency every 90 days in a manner prescribed by the Attorney General. A person required to register under paragraph (2) of subsection b. of this section or under paragraph (3) of subsection b. on the basis of a conviction for an offense similar to an offense enumerated in paragraph (2) of subsection b. shall verify his address annually in a manner prescribed by the Attorney General. . . .

* * *

f. Except as provided in subsection g. of this section, a person required to register under this act may make application to the Superior Court of this State to terminate the obligation upon proof that the person has not committed an offense within 15 years following conviction or release from a correctional facility for any term of imprisonment imposed, whichever is later, and is not likely to pose a threat to the safety of others.

g. A person required to register under this section who has been convicted of, ~~adjudicated delinquent~~, or acquitted by reason of insanity for more than one sex offense as defined in subsection b. of this section or who has been convicted of, ~~adjudicated delinquent~~, or acquitted by reason of insanity for aggravated sexual assault pursuant to subsection a. of N.J.S.2C:14-2 or sexual assault pursuant to paragraph (1) of subsection c. of N.J.S.2C:14-2 is not eligible under subsection f. of this section to make application to the Superior Court of this State to terminate the registration obligation.

COMMENT

The proposed modifications to N.J.S. 2C:7-2 are confined to subsection (g), which imposes lifetime registration obligations on registrants convicted of “more than one sex offense” or aggravated sexual assault pursuant to N.J.S. 2C:14-2(a) and N.J.S. 2C:14-2(c)(1).⁵⁹ In *C.K.*, the New Jersey Supreme Court held that subsection (g) “is unconstitutional as applied to juveniles adjudicated delinquent as sex offenders.”⁶⁰ The proposed modifications, therefore, eliminate the language that includes persons “adjudicated delinquent” from the list of registrants subject to lifetime registration pursuant to subsection (g).

During the January 2024 Commission meeting, the Commission flagged the question of whether the *C.K.* Court holding is applicable to registrants whose offenses occurred as juveniles but who are tried as adults.⁶¹ In *C.K.*, the registrant’s offenses occurred when he was a juvenile, and although he was prosecuted when he was over eighteen, he was adjudicated delinquent, not tried as an adult.⁶² Staff did not find any case law addressing this issue and preliminary outreach to practitioners confirmed the same.⁶³

In coming to its holding that a presumption of lifetime registration is unconstitutional with respect to juvenile offenders, the *C.K.* Court relied on the reasoning of three United States Supreme Court decisions: *Roper v. Simmons*, *Miller v. Alabama*, and *Graham v. Florida*, and a New Jersey Supreme Court decision: *State v. Zuber*.⁶⁴ In all four of these cases, the defendants were juveniles at the time of the offense conduct but were prosecuted and sentenced as

⁵⁹ N.J. STAT. ANN. § 2C:7-2(g).

⁶⁰ *C.K.*, 233 N.J. at 77.

⁶¹ N.J. Law Revision Comm’n, *Minutes of NJLRC Meeting*, at 8, Jan. 25, 2024, www.njlrc.org (last visited May 1, 2024) (“Commissioner Hartnett indicated that he wanted to flag an issue at the outset, explaining that Staff should be mindful of whether the courts are focusing on juvenile status when the offense was committed, or when the matter was adjudicated. He said that he was concerned that when the defendant commits an act as a juvenile but is tried as an adult, the rationale of the United States Supreme Court cases in this area should apply, but he is not sure if the *C.K.* opinion does that.”).

⁶² *C.K.*, 233 N.J. at 49.

⁶³ See Phone Call with James Maynard, Esq., Maynard Law Office, LLC, and Whitney G. Schlimbach, Counsel, NJLRC (Apr. 25, 2024). Mr. Maynard indicated that he agreed with the interpretation that the holding in *C.K.* should extend to all registrants whose conduct occurred as a juvenile, given that the reasoning in *C.K.* focused on the characteristics of juvenile offenders and did not distinguish juvenile offenders waived into adult court. *Id.* He also advised that a waiver to adult court is sometimes based on the need for the fuller protections available in adult criminal trials, rather than solely a reflection of the nature of the offense or individual characteristics of the offender. *Id.* Finally, he directed Staff to N.J.S. 2A:4A-26.1, which governs waivers of jurisdiction to adult court and requires “probable cause to believe that the juvenile committed a delinquent act which if committed by an adult would constitute” one of the offenses listed in the statute. N.J. STAT. ANN. § 2A:4A-26.1(c)(2) (West 2024). Mr. Maynard noted that the statute instructs that, when a juvenile is waived into adult court, a conviction for an offense not listed in the statute is deemed a juvenile adjudication and remanded to Family Court for disposition. N.J. STAT. ANN. § 2A:4A-26.1(f)(2).

⁶⁴ See *supra* at p. 6-7.

adults.⁶⁵ As in *C.K.*,⁶⁶ the courts in those cases emphasized the fundamental differences between juvenile and adult offenders, developmentally, psychologically and sociologically.⁶⁷

Although the *C.K.* Court's reliance on the reasoning in *Roper*, *Miller*, *Graham*, and *Zuber* indicates that the significant consideration is whether the conduct occurred when the registrant was a juvenile, not whether the registrant was adjudicated delinquent or convicted as an adult, it is also important to note that the specific holding of *C.K.* is "that N.J.S.A. 2C:7-2(g) is unconstitutional as applied to juveniles adjudicated delinquent as sex offenders."⁶⁸

⁶⁵ *Roper*, 543 U.S. at 557 ("As Simmons was 17 at the time of the crime, he was outside the criminal jurisdiction of Missouri's juvenile court system."); *Graham*, 560 U.S. at 53 ("Graham's prosecutor elected to charge Graham as an adult."); *Miller*, 567 U.S. at 466 & 469 ("Arkansas law gives prosecutors discretion to charge 14-year-olds as adults when they are alleged to have committed certain serious offenses" and "[t]he prosecutor here exercised that authority by charging Jackson with capital felony murder and aggravated robbery" and charging "Miller as an adult with murder in the course of arson"); *Zuber*, 277 N.J. at 430 & 433 (stating that "Zuber was charged as an adult in two separate indictments" and "Comer was prosecuted as an adult" as well).

⁶⁶ *C.K.*, 233 N.J. at 74 ("Our commonsense and historical understanding that children are different from adults is enshrined in our juvenile justice system and fortified by recent United States Supreme Court decisions and *Zuber*, which embraced those studies that found that juveniles do not possess immutable psychological or behavioral characteristics. That body of jurisprudence and the evidentiary record in this case tell us that adolescents are works in progress and that age tempers the impetuosity, immaturity, and shortsightedness of youth. They tell us that, generally, juvenile sex offenders are less likely to reoffend than adult sex offenders and that the likelihood of recidivism is particularly low for those who have not reoffended for a long period of time.").

⁶⁷ *Roper*, 543 U.S. at 569-70 (finding it unconstitutional to impose the death penalty on a juvenile offender because "[t]hree general differences between juveniles under 18 and adults demonstrate that juvenile offenders cannot with reliability be classified among the worst offenders": (1) the "comparative immaturity and irresponsibility of juveniles"; (2) "that juveniles are more vulnerable or susceptible to negative influences and outside pressures"; and (3) "the character of a juvenile is not as well formed as that of an adult"); *Graham*, 560 U.S. at 68 ("No recent data provide reason to reconsider the Court's observations in *Roper* about the nature of juveniles"); *Miller*, 567 U.S. at 473 (observing that "none of what [the *Graham* Court] said about children—about their distinctive (and transitory) mental traits and environmental vulnerabilities—is crime-specific" explaining that "[t]hose features are evident in the same way, and to the same degree, when (as in both cases here) a botched robbery turns into a killing"); *Zuber*, 277 N.J. at 448 ("Indeed, the principles in *Graham* are at the heart of *Roper*, *Miller*, and *Montgomery* as well. They teach us, in essence, that youth matters under the Constitution. We believe that youth matters in each case that calls for a lengthy sentence that is the practical equivalent of life without parole.").

⁶⁸ *C.K.*, 233 N.J. at 77.