

Branded for Life: SEX OFFENDER

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Editor's note: This is the first segment of a three-part series dealing with consensual teen sex and the consequences. Parts two and three will deal with the law as it is now written, legislation presented to affect change and testimony from additional cases including one family's story where the sexual offender is married to his victim. The husband and wife are the parents of three young daughters and have found their place in society, yet he is listed as a sexual offender, and will be for the rest of his life, barring changes in the Texas law.

Teen night at a local club, a church youth group outing, surfing the Internet or hanging out in the neighborhood shopping mall sets the stage for a seductive-looking young lady and the young man who is attracted to her.

Because she is there, makes herself available and often does not tell the truth about her age, wanting to appear older, young males are faced with a serious challenge. How old does she appear to be? How old does she say she is? How old is she in reality?

The choice made to engage in consensual sex can foster a lifetime of agony and heartache if the incident is reported to authorities. Texas has very tough laws on the books concerning the sexual assault of a child and judges have little discretion in meting out sentences.

A 36-month difference in age and charges being filed by the "victim," or someone on her behalf, is putting Texas teens in places they've never even imagined.

And many parents do not know that consensual sex, even when the female is the initiator, is currently being punished by the State of Texas based solely on the difference in ages. The boy can be 17 and the girl 14, but if the difference is 36 months or more, sexual assault of a child charges can be filed.

Tana Fillingame, a Vidor resident, knows this all too well from personal experience. Her son, Tony, died in

a motorcycle accident and carried to his grave the title of registered sex offender. Tony's name and personal information were listed on the Department of Public Safety's Web site and he was branded in his community. Fillingame said, "My son was a registered sex offender because of an encounter he had with a 13-year-old girl who lied about her age. She held no responsibility at all for lying, for pursuing my son, for sneaking out of her house to be with him or for being a willing participant in what they did together. There was never any doubt on anyone's part, including her parents, that she was not forced or coerced to do anything. The 'victim' made it very clear that she willingly participated, but her version of the incident was not admissible in court."

In spite of the girl's admission of willful participation in the relationship, her parents were the ones who filed charges against the young man.

Fillingame added that the two of them did not actually have intercourse, but participated in petting, touching and exploring.

She said that the family caught another curve ball when the attorney they chose to help them explained that the only course of action was to accept a plea bargain. Tony was already judged guilty and the law would be enforced. "The way the law is written is the problem," said Fillingame. "It now says that the girl has no authority to consent to any contact, so if a boy touches her, even if she is willing, acts as the aggressor, or initiates the contact, it doesn't matter. The 'perpetrator' is a criminal and will be punished."

Tony accepted a plea bargain of eight years probation for his actions. He registered as a sex offender, which he would have done for the rest of his life, had he lived. Postcards are mailed to the community to alert

"Under current Texas law, what was formerly called 'statutory rape' is now called 'sexual assault of a child,' and is punishable by two to 20 years in prison, attendance in a mandatory sex offender therapy program and a lifetime as a registered sex offender," said the spokesperson for Save Our TexSONS. Texas Penal Codes 21.11, Indecency with a Child, and 22.011, Sexual Assault of a Child, are the laws governing these charges. Megan's Law and Ashley's Law are also instrumental in these cases.

residents that a sex offender lives among them. Tony could not live at home with his family because of a younger sister. He could not be around anyone younger than 18. He could no longer attend Christmas, Easter or birthday celebrations for family members. He couldn't go on family vacations because of his sister. Any prospective employer had to be notified of his sexual offender status.

Fillingame said, "With all the ways lives are affected after charges are filed, and the judicial process unfolds, the worst thing is often seeing a normal, outgoing, healthy son, in the prime of his life, begin to change. The depression, the loss of self-worth and the confusion they face daily tears at a parent's heart."

Fillingame has since united with other family members whose sons have faced similar charges to form Save Our TexSONS, an organization whose primary goal is to educate Texas parents and young men and women about the law.

"Under current Texas law, what was formerly called 'statutory rape' is now called 'sexual assault of a child,' and is punishable by two to 20 years in prison and a lifetime as a registered sex offender," said a founding member of Save Our TexSONS. "It even sounds

worse," she said. "It lumps these teenage boys into the same category as pedophiles and child molesters who use force, intimidation and coercion to harm their victims."

She added, "Even when deferred adjudication is offered and accepted, the lifetime registration requirement remains in effect after the probationary period has been successfully completed. This is, effectively, an automatic life sentence that can have devastating effects, not only on the life of the young man who must register, but on his friends and family as well."

The goals of Save Our TexSONS are threefold. The organizers would like to see any young man accused of a sex crime be allowed to offer a defense. "Right now," said the spokesperson, "There is none. The way the laws are written today, if the 'child' is more than 36 months younger than the 'perpetrator,' there is no defense and conviction is automatic. The law leaves no room for mitigating circumstances such as the alleged victim's past sexual history, her willingness to participate or, as in many cases we see, the misrepresentation of her age. A 14- or 15-year-old girl can look a lot older today than they did when I was that age. Some have fake IDs that are quite good."

The second goal is to see lifetime registration for a sex offender involved in a consensual teenage relationship eliminated. Save Our TexSONS would also like to see these changes in the law grandfathered to include all those young men who have been required to register as sex offenders because of teenage consensual teenage encounters. "We want the law to undo the injustice it has done."

Fillingame said that Save Our TexSONS is not about leniency or reducing the accountability for date rape, sexual assault, molestation, violence or force. "It is about consensual sexual relationships where the girl is often the aggressor, but the young man is given all the responsibility for their actions. We want to be very clear here," said Fillingame with a great deal of passion. "We are not advocating for all sexual offenders. We are only speaking of the consensual sexual acts and we are certainly not encouraging teens to go out and be sexually active."

"It is just so very important that these teens and their parents understand the legal consequences of their actions."

Another concerned mom, who spoke only if her real name was not used because of ongoing legal matters, said, "You really can't imagine what it does to a family unless you have experienced it. One day your world is normal. Every member of the family is going about doing normal things and with one phone call or a knock on the door, everything that you know as normal changes."

She went on to say that her children were reared in a good household, did things right, lived comfortably in a two-parent home, and were not allowed to go out without supervision and time limits. One month after her son, whom we will identify as Ray, turned 18, a friend,

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