IN THE SUPERIOR COURT OF NEW JERSEY

PASSAIC COUNTY

LAW DIVISION – CIVIL PART

K.C., *Plaintiff*, v. Matthew J. Platkin, Acting Attorney General for the State of New Jersey, and Christine Norbut Beyer, Commissioner of the New Jersey Department of Children and Families, in their Official Capacities, *Defendants*.	Docket No: _____ **VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** **JURY TRIAL: No**

INTRODUCTION

Plaintiff, K.C., by his undersigned counsel, brings this civil action for declaratory judgment and injunctive relief against defendants:

- Matthew J. Platkin, in his official capacity as Acting Attorney General for the State of New Jersey.
- Christine Norbut Beyer, in her official capacity as Commissioner of the New Jersey Department of Children and Families (hereinafter "DCF"), and in which capacity she holds supervisory responsibility and authority for the Division of Child Protection and Permanency (hereinafter "DCPP").

K.C. challenges the constitutionality of the following statutes and regulations, hereinafter "*Unconstitutional Provisions*:"

- N.J.S.A. §9:6-8.11 [establishing the "Central Registry" or "child abuse registry": hereinafter "*Registry*"];
- N.J.A.C. §3A:5 [limiting the right of individuals placed on the *Registry* (hereinafter

"*Registrants"*) to challenge their initial and continued placement on the *Registry*], Recodified from N.J.A.C. 10:120A-2.5 (amended by R. 2009 d.17, eff. Jan. 5, 2009).

- N.J.A.C. §3A:10-7.7(a) [determining the circumstances under which an individual will be placed on the *Registry*];
- N.J.A.C. §3A:10-1.3 [Defining the term "Child Abuse Record Information" as information contained in the *Registry* disclosable to persons or agencies outside of the DCPP].

The first registry law was enacted in 1971 (see L.1971, c.437, §5) and was identified as the "Central Registry of the Bureau of Children's Services" and codified at N.J.S.A. 9:6-8.11. In 2004, it was renamed the "child abuse registry." [L.2004, c.130, §23].

K.C. is currently on the *Registry* for conduct in which he engaged as an adolescent, more than twenty-five years ago. As a result of K.C.'s placement on the *Registry*, whenever a "Child Abuse Record Information" check [hereinafter *"CARI Check*": N.J.A.C. §3A:10-1.3] is conducted pursuant to statute or regulation, K.C. experiences a denial, restriction, or infringement on his rights, liberties, privileges, and interests, as protected by Art. I, para. 1 of the New Jersey Constitution.

Specifically, the *Unconstitutional Provisions* [N.J.S.A. §9:6-8.11, N.J.A.C. §§3A:5, 3A:10-7.7(a), 3A:10-1.3, and the statutes or regulations requiring a *CARI Check*], restrict or impinge upon K.C.'s constitutional and civil rights, as well as his protected liberty interests, as follows:

1. Individuals for whom a "substantiated" finding of child abuse or neglect has been made by the DCPP are subject to lifetime publication on the *Registry*, with no right or ability to seek removal from the *Registry*, irrespective of the lack of any future risk to the safety of children;

2. Individuals who do not contest placement on the *Registry* within twenty (20) days of receiving notice from the DCPP of its intent to place the individual on the *Registry*, are thereafter forever:
    a. denied access to any of the underlying discovery, evidence, or other documentation upon which the DCPP relied in rendering a "substantiated" finding of child abuse or neglect;
    b. denied the right to obtain confirmation from the DCPP as to whether the individual's name continues to be included on the *Registry;* and
    c. denied the right to seek removal from the *Registry* and are thus subject to continued placement on the *Registry* for the remainder of their lives (hereinafter the "*Lifetime Placement*").
3. Placement on the *Registry* subjects *Registrants* like K.C. to *CARI Checks* that negatively affect *Registrants'* protected liberty interests and substantive due process rights including, but not limited to, the ability to hold certain jobs, operate certain businesses, exercise their full rights to family planning and family relations, and make certain decisions and engage in certain activities in their constitutionally protected role as a parent and/or legal or other guardian.

The *Lifetime Placement* on the *Registry* operates as an irrebuttable presumption of dangerousness that is applied to K.C., and those similarly situated, irrespective of how much time has elapsed since their abusive or neglectful conduct, and regardless of their ability to demonstrate that they have lived law-abiding lives, remained offense-free, and do not pose any appreciable risk of re-offending. K.C. alleges that the lifetime irrebuttable presumption of dangerousness is especially inappropriate when applied to individuals whose conduct triggering placement on the *Registry* occurred when they were juveniles.

Because the presumption of lifetime dangerousness is not universally true, and because an alternative means exists to achieve the State's legitimate interest in protecting children

(individualized psychological evaluation and risk assessment), the presumption violates the substantive due process protections of the New Jersey Constitution.

Plaintiff further alleges that the above-cited deprivations of his rights imposed by the *Unconstitutional Provisions* as a result of a lifetime irrebuttable presumption of dangerousness, infringe upon, or otherwise deny to him, substantive due process rights, privileges, immunities, and liberties guaranteed under the New Jersey Constitution, without due process of law (procedural due process claim). Plaintiff seeks declaratory and injunctive relief under the New Jersey Constitution and pursuant to the New Jersey Civil Rights Act, N.J.S.A. §10:6-2(c).

Finally, the *Unconstitutional Provisions* create two discrete groups of juveniles with adjudications for a sex offense: Those for whom the offense conduct triggers placement on the *Registry,* versus those whose offense conduct does not trigger *Registry* placement. The disparate treatment of these two groups violates the Equal Protection guarantees encompassed in the rights afforded by Art. 1, para. 1 of the New Jersey Constitution.

K.C. seeks declaratory relief, declaring that the *Unconstitutional Provisions* violate the substantive and procedural due process rights of K.C., and others similarly situated, under the New Jersey Constitution, as well as violate the guarantee of equal protection under the State Constitution. K.C. further seeks an order by this Court enjoining the Defendants from enforcing the *Unconstitutional Provisions* pending adoption, through the Administrative Procedures Act, N.J.S.A. 52:14B-1, et seq., of regulations affording *Registrants* appropriate due process protections including, but not limited to, the right to obtain discovery regarding their placement on the *Registry,* and a procedure by which *Registrants* may seek removal from the *Registry*, in accordance with procedural due process required under the State Constitution.

II. JURISDICTION

1. This is a civil action authorized by N.J.S.A. §10:6-2 for declaratory and injunctive relief against Defendants in their official capacities, to address the deprivation, under color of state

law, of rights, privileges and immunities secured by the Constitution and Laws of the State of New Jersey.

2. This Court has jurisdiction pursuant to N.J.S.A. §10:6-2 and directly under the Constitution of the State of New Jersey.

3. Declaratory relief is authorized pursuant to N.J.S.A. §2A:16-52 and 16-53. Injunctive relief may be granted pursuant to New Jersey Court Rule 4:53 and N.J.S.A. §10:6-2, and this Court's inherent and plenary powers to enforce the Constitution of the State of New Jersey. Venue is proper in this county pursuant to R. 4:3-2 because the Plaintiff resides in this county, the events giving rise to this action occurred within this county, and defendants hold statewide office.

III. PARTIES

A. PLAINTIFF

4. Plaintiff K.C. is forty-two years old and resides in Passaic County, New Jersey. He is subject to lifetime placement on the child abuse registry (the *Registry*), as a result of a "Substantiated" finding of child abuse made by DCPP, which finding stemmed from the offense conduct in which K.C. engaged when he was a juvenile.

B. DEFENDANTS

5. Defendant Matthew J. Platkin is the Acting Attorney General for the State of New Jersey, in which capacity, he is responsible for implementing and upholding the laws of the State of New Jersey, including the *Unconstitutional Provisions* detailed herein, against K.C., and other similarly situated *Registrants* placed on the *Registry*.

6. The Defendant, as Acting Attorney General for the State of New Jersey is sued herein in his official capacity as chief law enforcement officer of the State of New Jersey, for the purposes of declaratory and injunctive relief.

7. Defendant Christine Norbut Beyer is the Commissioner of the New Jersey Department of Children and Families (DCF). The Division of Child Protection and Permanency (DCPP) is a division of the DCF. Acting in her official capacity, Ms. Beyer promulgates, implements, imposes, and enforces the *Unconstitutional Provisions,* and the restrictions and infringements they impose on the rights, liberty interests, privileges, and immunities of K.C. and other similarly situated *Registrants* who were placed on the *Registry* based on a "Substantiated" finding of child abuse being made against them. She is also responsible for the rules, regulations, policies, and procedures governing placement of individuals on the *Registry*, the appeal rights of such individuals, and unavailability of any mechanism for removal of an individual from the *Registry*.

8. The Defendant, as Commissioner of the DCP, and the State official with the ultimate responsibility for the policies, practices, and regulations of the DCPP, is sued herein in her official capacity as Commissioner of the DCF, for the purposes of declaratory and injunctive relief.

IV. GENERAL FACTS

A. THE OPERATION OF THE CHILD ABUSE REGISTRY

1. Creation of the "Central Registry" (later renamed the "Child Abuse Registry")

9. In 1971, the New Jersey Legislature enacted L.1971, c.437, eff. Feb. 10, 1972, codified at N.J.S.A. §9:6-8.11, which act instituted mandatory reporting of child abuse and neglect (§3 of the Act). The act also established, inter alia, a "Central Registry" to track reports of suspected child abuse and neglect (§4 of the Act) (pursuant to L.2004, c.130, §23, the "Central Registry" was renamed the "child abuse registry." N.J.S.A. § 9:6-8.11).

10. At the time of its enactment, L.1971, c.437 did not provide for any disclosure of the identity of any alleged perpetrator of child abuse or neglect, nor did it require that institutions,

organizations, and agencies serving children verify if prospective employees or volunteers were listed on the "Central Registry."

11. Over the years, N.J.S.A. §9:6-8.10(a) has been repeatedly amended, which has resulted in the expansion of the list of individuals, groups, and entities to whom the identity of a *Registrant* on the *Registry* may be disclosed.

12. In 1991, the Legislature enacted legislation requiring family day care providers to conduct criminal background checks of their staff, to determine if prospective or current employees had a "criminal history record information … which would disqualify the applicant, assistant provider, substitute provider or any member of the applicant's household who is 18 years or older, from operating a registered family day care home." L.1991, c.278, §5, codified at N.J.S.A. §30:5B-23.

13. In 1993, the Legislature determined that as a result of the enactment of L.1991, c.278, registration and renewals of family day care providers "dropped significantly" due to the "cost of criminal history record background checks." L.1993, c.350, §1, codified at N.J.S.A. §30:5B-25.1. Consequently, the amendment removed the requirement for criminal background checks, L.1993, c.350, §6, and replaced them with a requirement for the family day care providers to submit the names of such individuals for a "central registry search." See L.1993, c.350, §5, codified at N.J.S.A. §9:6-8.10a(b)(10). Pursuant to N.J.A.C. §3A:10-1.3, such checks of the central registry have come to be known as a "Child Abuse Record Information" check or *CARI Check.*

14. The "Central Registry" law was amended in 1993 by L.1993, c.350, §1, codified at N.J.S.A. §30:5B-25.1 which amendment restricted individuals against whom the Division of Youth and Family Services (DYFS) has substantiated an incident of child abuse or neglect (irrespective of the existence of any criminal conviction for same) from employment in family day care programs.

15. The employment restriction was imposed irrespective of how long ago the "alleged abuse" occurred or the substantiated finding was made, irrespective of whether the individual was a juvenile at the time of the alleged abuse, and without regard to the individual's subsequent reformation and rehabilitation and current risk of committing future acts of child abuse. At the time, DYFS was a division of the Department of Human Services.

16. In 2006, DYFS was transferred to a new cabinet level department, the Department of Children and Families. L.2006, c.47. In 2012, DYFS was reorganized and renamed the Division of Child Protection and Permanency (DCPP). L.2012, c.16.

17. Subsequently, various enactments of the Legislature have expanded the number of situations involving employment, family planning activities, guardianship cases, etc., that trigger a *CARI Check* as a prelude to the imposition of a restriction or an infringement on a right, privilege, or protected liberty interest of an individual whose name appears on the *Registry*.

18. The DCPP is required to give individuals prior notice of its intent to place the individual on the *Registry*. N.J.A.C. §3A:5-2.5(a). Individuals have only 20 days from the date of the notice within which to challenge their placement on the *Registry*. Ibid. Once that 20-day period expires, there is no statutory or regulatory mechanism by which *Registrants* may:

    a. obtain access to the information used by DYFS/DCPP in support of its substantiated finding that triggered placement on the *Registry*,

    b. challenge their continued placement on the *Registry*.

19. DCPP regulations do not authorize the tolling of that twenty-day period during a pending criminal investigation or prosecution, in which the individual is a suspect or defendant.

20. Pursuant to N.J.A.C. §3A:5-2.5(f), "[t] he Division shall deem the appellant to have waived his or her right to a dispositional review or administrative hearing, if an appellant fails to request a dispositional review or an administrative hearing within the time limits established for appealing a Division action in accordance with (a) and (b) above…"

21. None of the statutory or regulatory enactments with regard to the *Registry* include any

mechanism or procedure by which an individual included on the *Registry* may seek to be removed, upon a showing that the individual no longer poses a risk of committing a future act of child abuse or neglect.

22. To date, there is no statute or administrative regulation that permits individuals to seek removal from the *Registry*.

2. Employment Impact of Placement on the Registry

23. When a substantiated finding has been made, DCPP provides a notice to the individual against whom the finding has been made, advising the individual that their placement on the *Registry* may be disclosed to the following entities/organizations/agencies:

- Child Care Centers – N.J.S.A. §30:5B-6.2
- Youth Residential Facilities – N.J.S.A. §30:4C-86
- Division of Developmental Disabilities' Residential Centers – N.J.S.A. §30:4C-27.22
- Adolescent Addiction Services Residential Treatment Facilities – N.J.S.A. §30:4C-27.22
- Registered Family Child Care providers – N.J.S.A. §30:5B-25.3
- Division of Family Development (DFD) Approved Homes – N.J.S.A. §30:5B-32
- Adoption Agency employees – N.J.S.A. §9:6-8.10c
- Department of Human Services employees and employees of agencies licensed, contracted, regulated, or funded by DHS – N.J.S.A. §9:6-8.10f.

[See "Notice Provided to Perpetrators of Substantiated Findings of Child Abuse or Neglect," attached hereto as **Exhibit B**].

24. In addition N.J.S.A. §9:6-8.10e requires anyone applying to become a professional guardian for **adults** to undergo a *CARI Check* while N.J.S.A. §9:6-8.10C requires a *CARI Check* for persons assuming care for children of incarcerated parents. Ibid.

25. In 2017, L.2017, c.213 was enacted and codified at N.J.S.A. §9:6-8.10(f), which stated as follows:

> a. The **Department of Children and Families shall conduct a check of its child abuse registry for each person** who is seeking employment at the Department of

> Children and Families, or in any facility or program that is licensed, contracted, regulated, or funded by the Department of Children and Families, or **who is seeking employment in any facility or program that is licensed, contracted, or regulated by the Department of Human Services to provide community-based services to individuals with developmental disabilities**, in order to determine if the person is included on the child abuse registry as a substantiated perpetrator of child abuse or neglect.
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> b. The Commissioner of Children and Families shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), to prohibit a person who is included on the child abuse registry from being employed at the Department of Children and Families, or in any facility or program that **is licensed, contracted, regulated, or funded by the Department of Children and Families.**
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> c. **The Commissioner of Human Services shall adopt rules and regulations**, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), **to prohibit a person who is included on the child abuse registry from**: **(1) being employed in any facility or program that is licensed, contracted, regulated, or funded by the Department of Human Services to serve individuals with developmental disabilities; and (2) providing community-based services with indirect State funding to individuals with developmental disabilities.**
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> Ibid. (Emphasis added).

26. This statute is not limited to employment at organizations/entities that work with children; rather it includes any "facility or program… that provides community-based services to individuals with developmental disabilities…" Ibid.

27. Moreover, the statute includes "any facility or program that is: **licensed, contracted, or regulated by the Department of Human Services to provide community-based services to individuals with developmental disabilities,"** irrespective of the service recipient's age. Ibid. (Emphasis added).

28. Moreover, the statute prohibits anyone on the *Registry* from being employed at any facility or program that is licensed, contracted, regulated or funded by the DCF, irrespective of whether the program or facility services children.

29. The list of mental health agencies that are "licensed" by the Department of Human Services (not including those that are "contracted" or "regulated" by the Department of Human Services) is extensive. As of 2010, there were hundreds of organizations/non-profit

agencies/facilities that require a prospective employee to undergo a *CARI Check* even though the prospective employee is seeking to work at an office location or branch at which no children are present. See Department of Human Services: Division of Mental Health and Addiction Services, Directory of Mental Health Services (DMHAS Contracted Providers Only), a 117 page directory attached as Exhibit C, listing forty-four such agencies, organizations, service providers just in the county, Passaic, in which this complaint has been filed.

30. Among the agencies, organizations and programs prohibited from employing an individual on the *Registry* are those with no discernable role in serving minor children, or which involve no direct contact with, or service delivery to, children:

- Supported Employment Services/HR Advantage Programs
- County Mental Health Boards
- Jail Diversion Programs
- Partial Care – Geriatric Care programs
- Legal Services
- Systems Advocacy program
- Justice Involved Services
- Substance Abuse programs

31. Critically, the agencies/entities/non-profit organizations/facilities identified in ¶29 do not necessarily have to be devoted solely (or even primarily) to caring / treating minors or those with developmental disabilities to be included on the list. However, if any component program or aspect of these agencies, service providers, or facilities provides care to children, those on the *Registry* are prohibited from obtaining employment by that agency/entity/non-profit organization/facility irrespective of whether their job involves any contact which children.

B. K.C. IS NOT LIKELY TO COMMIT ACTS OF CHILD SEXUAL ABUSE, AND HE SHOULD BE PERMITTED THE OPPORTUNITY TO PRESENT EVIDENCE IN SUPPORT OF HIS REMOVAL FROM *LIFETIME PLACEMENT* ON THE *REGISTRY*

1. *K.C.'s Juvenile Adjudication*

32. K.C. committed a sex offense when he was a juvenile; however, his offense conduct was disclosed years later when K.C. was an adult. See Certification of K.C., attached as Exhibit D, at ¶ 3.

33. On November 14, 2003, K.C.'s juvenile criminal matter was resolved in Family Court, after which K.C. was adjudicated delinquent for a sex offense. Id. at ¶ 4.

34. As part of his juvenile disposition, K.C. was placed on probation for three years, required to complete sex offense specific treatment, and register pursuant to N.J.S.A. 2C:7-1 to 7-11, (hereinafter *Megan's Law*"). Id. at ¶¶ 4, 7.

35. Three years later, K.C. successfully completed sex offense-specific treatment and was successfully discharged from probation. Id. at ¶ 4.

36. K.C. was classified as a Tier 1 (low risk) registrant under New Jersey's *Megan's Law*, and was required to verify his registration information with his local law enforcement agency once per year, as well as advise his local law enforcement agency of any change of address, employment, or school status. Id. at ¶ 7.

37. K.C. was the petitioner in the matter State in the Interest of C.K., 233 N.J. 44 (2018) (hereinafter "C.K."), decided by the New Jersey Supreme Court on April 24, 2018. Id. at ¶ 8.

38. In C.K., the New Jersey Supreme Court held: "N.J.S.A. §2C:7–2(g) is unconstitutional as applied to juveniles adjudicated delinquent as sex offenders. Under subsection (f) of N.J.S.A. §2C:7–2, fifteen years from the date of his juvenile adjudication, C.K. will be eligible to seek the lifting of his sex-offender registration requirements. At that time, he must be given the opportunity to demonstrate by clear and convincing evidence that he has not reoffended and

no longer poses a threat to others and therefore has a right to be relieved of his Megan's Law obligations and his status as a sex-offender registrant." Id. at 77.

39. Subsection (g) of N.J.S.A. §2C:7-2 — the provision of Megan's Law found unconstitutional as imposed on juveniles adjudicated delinquent for a sex offense — bars individuals with certain sex offense convictions or adjudications from ever petitioning to be removed from Megan's Law, irrespective of their ability to prove their lack of risk to the community. The decision in C.K. removed the lifetime bar to termination from Megan's Law for individuals like K.C., enabling them to seek termination from Megan's Law after living in the community for fifteen years without reoffending.

40. The Supreme Court found that Subsection (g) was unconstitutional because it created an irrebuttable presumption of dangerousness that was not universally true, and for which alternative means for the State to achieve its goals were available.

41. Fifteen years following the date of his juvenile adjudication, K.C. petitioned the New Jersey Superior Court in Bergen County for removal from New Jersey's *Megan's Law* pursuant to the provisions of N.J.S.A. §2C:7-2(f). Exhibit D, at ¶ 10.

42. On December 13, 2018, K.C. was terminated from Megan's Law, having satisfied the Court by clear and convincing evidence that he was **not likely to pose a threat to the safety of others**. N.J.S.A. 2C:7-2(f). The State did not contest K.C.'s application to be terminated from the requirements of Megan's Law; nor did the State dispute that he was not likely to pose a threat to the safety of others. See Order of the Bergen County Superior Court Dated 12/13/2018, Terminating C.K. from *Megan's Law* attached as Exhibit E; see also, Exhibit D at ¶ 11.

43. K.C. is not subject to registration requirements in any jurisdiction. Nor is he subject to any form of state supervision. Exhibit D at ¶ 11.

2. K.C.'s Placement on the CARI Registry

44. After K.C.'s offense was disclosed, the DCPP conducted an investigation pursuant to N.J.A.C. §3A:10-2.1 (Re-codified from N.J.A.C. §10:129–2.1), and juvenile charges were brought by the Bergen County Prosecutor's Office, on behalf of the State of New Jersey.

45. Available records show that on April 9, 2003, DCPP initiated an investigation to determine whether K.C. had committed an act of child abuse or neglect. A little over one month later, on May 17, 2003, the Division finalized its investigation, and concluded that the allegations of child sexual abuse against K.C. were "Substantiated." See correspondence from Eric M. Loose, Esq., Privacy Officer, DCF Office of Grants Management, Auditing and Records, dated October 25, 2018, attached as Exhibit F.

46. That finding placed K.C. on New Jersey's Child Abuse Registry, pursuant to N.J.S.A. §9:8-8.11.

47. In a letter to K.C.'s counsel, dated October 25, 2018, Mr. Eric M. Loose, Esq., Privacy Officer of the New Jersey Department of Children and Families noted: "the Department of Children and Families (NJDCF) can only perform a CARI check pursuant to particular statutory bases and upon receipt of the requisite fee." Exhibit F. However, he noted that as a courtesy, he provided K.C.'s "case disposition summary," which "provides the disposition of any prior cases in NJSpirit." Ibid. Nevertheless, Mr. Loose cautioned in the letter that "[t]his summary letter is provided as a courtesy… [t]his letter is not to be used by any person or entity in the place of any NJDCF's Child Abuse Record." Ibid.

48. The letter from Mr. Loose did, however, note that according to the information on NJSpirit, the "Disposition" for K.C.'s matter before the New Jersey Department of Children and Families was listed as "Substantiated." Ibid.

49. In the letter, Mr. Loose also noted that "if [counsel] seek[s] and require[s] access to actual DCP&P investigative files…such a request can be fulfilled by a signed, protective judicial order seeking an in-camera review by a judicial or administrative body pursuant to N.J.S.A.

§9:6-8a., and only if such release and review of DCP&P investigative records is necessary for the determination of an issue already before the court." Ibid.

3. *K.C.'s Post-Adjudication Rehabilitation and Impact of CARI*

50. K.C. graduated from college with a Bachelor of Arts Degree in Psychology in 2001. He subsequently obtained a Master of Arts degree in Counseling in 2012. Exhibit D at ¶ 12.

51. K.C. has always maintained gainful and stable employment. By age thirty-three, K.C. had worked for over thirteen years at a non-profit organization that provides adults suffering from mental illness with a range of services, including psychiatric and psychological treatment and other community support. Id. at ¶ 13.

52. Ultimately, despite his advanced degrees in counseling and psychology, and more than a decades' experience working with adults suffering from mental illnesses, K.C. left the mental health field and changed careers. Id. at ¶ 14.

53. K.C. decided to abandon his social services career because of his concern that his placement on the Registry would be revealed if he sought advancement to higher positions within the organization at which he worked, or with other mental health facilities or organizations, resulting in the termination or denial of employment. Id. at ¶ 15.

54. Prior to changing careers, K.C. had applied for several positions in the mental health and counseling fields and had advanced past initial interviews. However, K.C. ultimately declined to be considered for these positions after he was informed that a *CARI Check* would be conducted as part of a standard background check required of prospective employees.

55. Because his prior offense was committed as a juvenile, a standard criminal background check would not have revealed the prior adjudication. However, the *CARI Check* makes no distinction between "substantiated" findings against juveniles versus adults. Id. at ¶ 17.

56. Significantly, had K.C.'s victim not been a family member, no DCPP investigation would have occurred, no substantiated finding would have been made, and K.C. would not have been placed on the Registry. Id. at ¶ 19.

57. K.C. feared that disclosure of his placement on the *Registry* in New Jersey would foreclose him from these job opportunities and blemish his "good reputation" within the mental health field, as well as cause him significant shame and embarrassment. Id. at ¶¶ 14, 15, 20.

58. K.C. desires to obtain employment in the mental health field, and specifically provide mental health services to adults. Id. at ¶ 21. However, K.C.'s employment prospects in this field are foreclosed as a result of numerous statutes that explicitly prohibit institutions, agencies, and organizations licensed or funded in any way by the DCF from hiring him. See infra at ¶¶ 23-31.

59. It has now been more than twenty-four years since K.C. engaged in the offense conduct as a juvenile that ultimately resulted in his inclusion on the Registry, and more than seventeen years since his juvenile adjudication.

4. Comprehensive Risk Assessments of K.C. Reveals He Is "Very Low Risk" to Re-offend

60. K.C. has participated in several comprehensive psychological assessments to assess his risk of sexually re-offending. See Exhibits G, H, I, and K.

61. Dr. Phillip Witt evaluated K.C. in 2003, shortly after he was charged, when he was 23 years old, years after the underlying offense occurred, and then again in 2009, when K.C. was 29 years old. See Exhibits G and H.

62. Dr. Sean Hiscox conducted an evaluation of K.C. in 2013 when he was 33 years old, and most recently, when K.C. was 41 years old. See Exhibits I and K.

63. Regarding re-offense risk, in 2003, Dr. Witt stated as follows:

> [K.C.] presents as a low risk individual. His scores on both risk assessment scales administered were in the low risk range. Moreover, he is essentially a sibling incest case who has not performed any illegal sexual activity in the past seven to eight years.
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> Psychological Evaluation by Dr. Philip Witt, dated: April 28, 2003; attached as Exhibit G at p. 4.

64. Dr. Witt conducted a follow-up report in 2009, after K.C. participated in sex offense specific therapy, and noted that:

> Recidivism rates for individuals with his combination of Static-99 and Stable-2007 levels results in two-year and four-year sexual offense recidivism rates of 1.1% and 2.0% respectively…Combining [K.C.'s] Static-99/Stable-2007 and Acute-2007 scores places him in the low current risk priority for sexual and violent recidivism and similarly in the low risk priority for general recidivism.
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> Psychological Evaluation by Dr. Philip Witt, dated: June 24, 2009; attached as Exhibit H at 6.

65. Dr. Witt concluded that:

> [K.C.] presents as a low risk individual… In [K.C.'s] case, he is a sibling incest offender whose offense in his early to mid-teens has little bearing on his risk today. For many years, he has been (and continues to be) an adult with a productive, appropriate lifestyle and healthy sexual adjustment.
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> Ibid.

66. Dr. Sean Hiscox conducted an evaluation of K.C. in 2013 when he was 33 years old. See Psychological Evaluation by Dr. Sean Hiscox, dated September 18, 2013, attached as Exhibit I.

67. Dr. Sean Hiscox is a licensed psychologist and expert in the assessment and treatment of individuals with sex offense histories. See Curriculum Vitae of Dr. Sean Hiscox, attached as Exhibit J. He is a Fellow of the Association for the Treatment of Sexual Abusers. Ibid. He has been in private practice specializing in the assessment and treatment of sex offending individuals, both adults and juveniles. Ibid. He was appointed to the New Jersey Attorney General's Juvenile Sex Offender Risk Assessment Task Force between 2003 and 2006 and helped to develop the JRAS (Juvenile Risk Assessment Scale) for use in assessing the recidivism risk of juveniles adjudicated delinquent for a sex offense. Ibid. He has published numerous scientific articles in peer-reviewed journals regarding the assessment and treatment of sex offending individuals and has conducted hundreds of risk assessments of such individuals. Ibid. He has also conducted trainings for forensic psychologists, law

enforcement, probation, and attorneys in the field of sex offense assessment and treatment. Ibid. He is a Past-President of the New Jersey Association for the Treatment of Sexual Abusers and served nine years as a member of the organization's Board of Directors. Ibid.

68. Dr. Hiscox's evaluation of K.C. included a clinical interview of K.C., a review of K.C.'s juvenile criminal record and adjudication, prior psychological and psychosexual evaluations of K.C., and an individualized psychological assessment of K.C. — using reliable and scientifically validated tests and instruments — that covered K.C.'s general mental health stability, the presence or absence of any psychopathy, and a sex re-offense risk assessment. Exhibit I at 2.

69. Dr. Hiscox stated that K.C. had successfully completed specialized sex offense treatment with Barbara Costlow, LPC, in 2010, noting that:

> Ms. Costlow described [K.C.]'s treatment positively and sees him as having done very well. In her report, Ms. Costlow reported that she treated [K.C.] from 2003 to 2010, and she followed the treatment plan outlined by Dr. Witt in his 2003 report. Her treatment over the years covered both sexual and non-sexual issues. She noted that [K.C.] remained in therapy long after he was required.
>
> Exhibit I at 6.

70. With regard to his risk of committing a new sex offense, Dr. Hiscox administered two generally accepted, reliable and valid risk assessment instruments: The Sexual Violence Risk – 20 v2 (SVR-20 v2), and the STABLE 2007. K.C. scored low risk on these instruments. Id. at 13.

71. Based on his evaluation using generally accepted and scientifically valid assessment instruments and methods, Dr. Hiscox concluded that K.C. was at a very low risk to commit future sex offenses.

> The results of the risk assessment indicate that [K.C.] continues to pose a very low risk to the community sexually, as detailed in the risk assessment section. My results are completely consistent with Dr. Witt's two risk assessments of [K.C.] in 2003 and 2009, and show that even when assessing him from all possible angles, all indications are that he is a very low risk individual…

> Further supporting his low risk is that he has now gone 16 to 20 years in the community without a new sexual or non-sexual offense. Research is clear in this area[]: all else equal, the longer an individual goes without committing a new sex offense while at liberty in the community, the lower his risk of reoffending.
>
> Further supporting [K.C.'s] low risk now is that studies[] report lower rates of sexual reoffending for juvenile sex offenders compared to adult sex offenders.
>
> Id. at 13-14.

72. Dr. Hiscox commented on the use of K.C.'s offense history to assess his dangerousness.

> T]he present case clearly shows that basing [K.C.'s] risk solely on the charge to which he pled guilty, aggravated sexual assault, grossly overestimates his risk to the community."
>
> Id. at 15.

73. Dr. Hiscox concluded that "[K.C.] continues to pose a very low risk to the community sexually…" Ibid.

74. More recently, in 2021, Dr. Hiscox evaluated K.C.

> At the time [K.C.]'s sexually abusive behavior toward his brother was reported in 2003 and when I evaluated him in 2013, there was no doubt that he presented an extremely low risk for engaging in future sex offending. If I had evaluated him right after the sexually abusive behavior occurred when he was a teenager, I also would have found him to present a low risk sexually. Presently, which is 24 to 28 years since his sexually abusive behavior occurred, there continues to be no doubt that he presents an extremely low risk to the community for engaging in future sex offending.
>
> See Psychological Evaluation by Dr. Sean Hiscox, dated October 20, 2021, attached as Exhibit K at 8.

75. Dr. Hiscox noted that:

> Since his sexually abusive behavior, which again occurred as a teenager and 24 to 28 years-ago, [K.C.] has shown no signs of sexual or non-sexual problems. Since then, he has been in age appropriate romantic relationships with no problems, which indicates that he has a normal sexual interest pattern. Since his sexually abusive behavior, he has shown a sustained positive adjustment and has been on a positive trajectory.
>
> As detailed in the risk assessment section, which took into account [K.C.]'s history and his recent and present adjustment, he scored in the low risk range on all the risk assessment scales. Consistent with my prior conclusions and the conclusions that Dr. Witt made many years ago about him being a low risk individual, [K.C.]'s scores

> on the risk assessment instruments indicate that his sexually abusive behavior was not part of a burgeoning deviant sexual interest pattern or antisocial personality. Rather, his sexually abusive behavior as an adolescent resulted from immaturity, sexual naivete, and inappropriate sexual curiosity and exploration (albeit illegal).
>
> Id. at 8-9.

76. Referring to research regarding sex offense recidivism rates among juveniles adjudicated for a sex offense, especially the research of Dr. Michael Caldwell, see infra ¶¶ 112 — 118, Dr. Hiscox noted:

> Research has also supported this explanation (developmental immaturity) for sexually abusive youth by consistently showing very low rates of recidivism.[ ] In a metanalysis,[ ] or pooling of multiple studies, Caldwell examined 33,783 adjudicated juvenile sex offenders dating to 1938 and found a weighted mean recidivism rate of 4.92%. When he examined studies between 2000 to 2015, he found an average sexual recidivism rate of less than 3%. As a result of Caldwell's research and others, **it is now accepted in the forensic community that the current best estimate for the 5-year rate of detected sexual recidivism among juveniles adjudicated for contact sex offenses is approximately 3%.** To put this rate in context, this means that out of 100 sexually abusive youth with mixed risk ratings (low, moderate, high), roughly 3 will be charged or convicted of a new sexual offense after 5-years in the community post adjudication. On the other hand, roughly 97 of these youth will not be charged or convicted of a new sex offense during that time period. It is also important to note that this research included mixed risk ratings, and [K.C.]'s risk was low at that time of his adjudication.
>
> Id. at 9-10 (emphasis added).

77. With regard to the question of whether K.C.'s risk is so low as to be indistinguishable from that of individuals with no sex offense history, Dr. Hiscox first described the concept of "Desistance" as recognized in the field of sex offense risk assessment and described in the research of Dr. R. K. Hanson. See infra ¶¶ 90-106.

> The desistance level means that a sex offender is no more likely to commit a new sex offense than any other adult male in the community who has never committed a sex offense.
>
> Exhibit K at 10.

78. Dr. Hiscox then opined as to whether K.C.'s sex re-offense risk had reached the "desistance" level.

> In [K.C.]'s case, it has now been 24 to 28 years since his sexually abusive behavior. As a result, it is my opinion that his risk of reoffending sexually has been **well below the desistance level for many years** . . . right now [K.C.] is **no different than anyone else in the community** in terms of committing a future sex offense.
>
> Ibid. (Emphasis added).

79. Indeed, according to Dr. Hiscox, K.C. "was at the desistence level before he was even adjudicated for his sex offense as a young adult." Ibid.

80. Dr. Hiscox, who has been providing sex offense assessment and treatment services for over fifteen years, concurred in the findings and conclusions of Drs. Caldwell and Hanson as detailed in their respective declarations. Id. at 9-10.

81. Based on his personal assessment of K.C. using state-of-the-art, scientifically reliable and valid assessment instruments and based on the past 25 years of research into sex offense risk assessment, Dr. Hiscox ultimately concluded, to a reasonable degree of professional certainty, that: "[T]he sexual risk he poses to the community now is so low that it is no different than any other adult males in the community who have never committed a sex offense, which will be explained more later." Id. at 10.

82. Dr. Hiscox further concluded:

> As for [K.C.]'s risk for engaging in acts of non-sexual child abuse, such as physical abuse, I also see him as posing an extremely low risk in this area. The risk he poses in this area is also no different than anyone else in the community who has no history of such offenses and/or behavior.
>
> Ibid.

83. Dr. Hiscox's final conclusion was as follows:

> In conclusion, it is my opinion to a reasonable degree of psychological certainty that [K.C.] poses an extremely low risk sexually to the community. As noted above, the sexual risk he poses is no different than anyone else in the community. This is also my opinion about the risk he poses to children non-sexually, such as physical abuse. I said essentially the same thing in my 2013 report, which is why he was eventually removed from the requirement New Jersey's community notification and registration law. As a result, I see no logical basis for having him remain on DCP&P's child abuse registry.
>
> Id. at 10-11.

C. RESEARCH HAS DEMONSTRATED THAT INDIVIDUALS WITH SEX OFFENSE HISTORIES HAVE LOW RATES OF RECIDIVISM, RATES THAT CONTINUE TO DECLINE OVER TIME UNTIL INDISTINGUISHABLE FROM THE RISK POSED BY NON-SEX OFFENDING INDIVIDUALS

1. Qualifications of R. Karl Hanson Ph.D.

84. Plaintiff has retained Dr. R. Karl Hanson as an expert in sex offense risk assessment and recidivism. Dr. Hanson is a psychologist registered in Ontario, Canada, where he serves as Adjunct Research Professor in the Psychology Department of Carleton University, Ottawa, Ontario, and as an Adjunct Faculty member of the Yeates School of Graduate Studies, Ryerson University, Toronto, Ontario, Canada. See Curriculum Vitae of Dr. R. Karl Hanson, attached at Exhibit L. For approximately twenty-six years (from 1991 until his retirement in 2017), he worked in various capacities for Public Safety Canada, most recently as Manager and Senior Research Scientist. See Declaration of R. Karl Hanson, Ph.D., dated November 16, 2021, attached as Exhibit M.

85. According to Dr. Hanson, Public Safety Canada is a government agency responsible for "emergency management, policy development, and advice to the Minister of Public Safety on matters of national security, implementing Canada's National Crime Prevention Strategy, developing national policies for new and evolving crime and border issues, and developing legislation and policies governing corrections." Ibid.

86. Dr. Hanson is a world-renowned expert on sex offense recidivism of individuals with sex offense histories, having published over 100 articles in peer-refereed periodicals and chapters in edited books on sex offense recidivism and risk assessment. Ibid. He is the co-author of the STABLE-2007 and ACUTE-2007, two of the most widely used risk assessment instruments, measuring dynamic risk factors among those with sex offense histories. He has presented at over one hundred conferences on the same topics. Ibid.

87. Dr. Hanson has authored nearly 50 government documents, most during the period when he served as a research psychologist with Public Safety Canada, the Canadian government agency most similar to the Dept. of Justice's Bureau of Justice Statistics. Ibid.

88. Dr. Hanson has been qualified as an expert witness in the area of sex offense risk assessment and recidivism in the Supreme Court of the United States (as amici curiae), the Court of the Queen's Bench, Province of Alberta, Federal Courts of Ontario and British Columbia, U.S. District Courts in Alabama, New Hampshire, and California, as well as state courts in Washington, Massachusetts, Arizona, California, New Jersey, and Pennsylvania, among others. Ibid. He has also testified in these areas before Senate and House of Commons committees of the Canadian Government. Ibid.

89. He serves or has served on the Editorial Board of several journals, including: Criminal Justice and Behavior, Journal of Sexual Offender Civil Commitment: Science and the Law, and Sexual Abuse: A Journal of Research and Treatment. Ibid. He is a member of the Association for the Treatment of Sexual Abusers (ATSA), having served on the ATSA Board of Directors and as Chair of the ATSA Research Committee. He serves on numerous other boards and commissions. Ibid.

2. Research Conducted or Reviewed by Dr. Hanson Contradicts Myth of High Rates of Sex Offense Recidivism

90. Dr. Hanson reported on his thirty-years of research and experience, and offered as his expert opinion, to a reasonable degree of professional certainty, the following conclusions about sex offense recidivism.

a. Sexual recidivism rates are not uniform but vary considerably across individuals with a history of sexual crime. Risk of re-offending varies based on well-known factors. See ¶¶ 26-28.

b. The average sexual recidivism rate of individuals with a history of sexual crime is low. Once convicted, most are never re-convicted of another sexual offence. See ¶ 15.

c. For adults, the risk for sexual recidivism declines with age, with a particular strong decline for individuals of advanced age. There are very few individuals over the age of 60 who present any significant risk for sexual recidivism. See ¶¶ 29-30.

d. The nature of the sexual offence conviction (the name of the offence or criminal code section) is unrelated to the risk of recidivism. Consequently, conviction-based registries, such as New Jersey's, impose enhanced

restrictive requirements on individuals who pose no more risk for recidivism than individuals to whom the restrictions are not applied. See ¶¶ 31-32.

e. The risk for sexual recidivism can be reliably assessed by widely-used risk assessment tools, such as the Static-99R, which are used to classify individuals into various risk levels. See ¶¶ 33-36.

f. Contrary to the popular notion that all individuals who have ever committed a sexual offence remain at risk of re-offending through their lifespan, the longer individuals remain offence-free in the community, the less likely they are to re- offend sexually. Eventually, they are less likely to reoffend than the risk of a spontaneous, out-of-the-blue sexual offence among males in the general population. See ¶¶ 59-76.

i. How quickly someone with a sexual offending history reaches the baseline rate depends on their risk level at the time of sentencing/release. The lowest risk individuals are below the baseline from the outset. See ¶¶ 70-72.

ii. After 10 years in the community without committing a sex offence, most individuals with a history of sexual offending pose no more risk of sexual offending than do males in the general population. *See* ¶ 78.

iii. After 20 years without a new arrest for a sexually motivated offence, all individuals with a history of sexual crime no longer pose any more risk of committing a sex offence than do males in the general population. See ¶¶ 73, 78.

iv. Given that the risk of new sexual offending drops below baseline levels for most individuals after 10, and for all individuals after 20 years, lengthy and lifetime registration terms serve no public protection function. See ¶ 87.

g. There is no scientific or professional justification for treating individuals who have committed a sexual crime during their adolescence as if they were adults. See ¶ 18.

Exhibit M at ¶ 3.

91. Dr. Hanson goes on to explain that for some registrants, the risk of sex offense recidivism is already at or below the desistance threshold at time of sentencing.

> [T]here is an identifiable subgroup (Level I) whose risk at time of release is already so low that interventions have no public protection benefits. Out of 100 individuals at this risk level, 96 to 98 will never be convicted of another sexual offence, even with follow-up periods extended to 20 years. This level of risk is the same as that presented by adult males who have never committed a sexual offence but have been convicted of a non-sexual offence, and is very close to the risk presented by males in the general population. At the time of sentencing, only a small proportion (around 5%) of individuals convicted of a sexual offence would be classified as Level I. However, over time the proportion classified as Level I predictably increases as individuals remain sexual offence free in the community. Recent research (described below) has demonstrated that after 10 to 15 years, the vast majority of individuals with a history of sexual crime will transition to Level I, indicating that their risk for future sexual crime is so low that any further interventions have no public protection benefits.
>
> Id. at ¶ 49.

92. Dr. Hanson went on to conclude that the research does not support an irrebuttable presumption of dangerousness for any specific period of time.

> h. An irrebuttable presumption of dangerousness cannot be supported by what we now know about the recidivism risk of individuals with a history of sexual crime. Some individuals convicted of a sexual offence will present no significant risk at the time of sentencing, and most will eventually present no significant risk should they remain offence free in the community for 10 to 15 years. See ¶ 81-89.
>
> i. Based on the research, I conclude that individuals who have committed a sexual offence are not continuous, lifelong threats. The recidivism risk of many registrants was already very low, or has declined to, baseline levels; consequently, policies and resources directed towards these very low risk individuals serve no public protection function. I can think of no logical reason for imposing restrictions on this very low risk group when similar restrictions are not imposed on individuals convicted of nonsexual crimes, or, for that matter, all males in New Jersey. See ¶ 90.
>
> Id. at ¶ 3.

93. Dr. Hanson specifically addresses the limited knowledge base under which he, his professional colleagues in the field, and public policy makers, labored in the 1990s when Megan's Law, and Megan's Law-like legislation, were enacted.

> 9. . . . During the period in which sexual victimization was being first recognized as a serious social problem (the 1980s and 1990s), there also developed a public perception that individuals convicted of sexual crimes were very likely to reoffend sexually. As well, there was a common belief among the public, policy makers, and researchers that this risk endured for decades, if not for the individual's whole life. Such beliefs were not based on strong research evidence. Instead, they were based on highly publicized cases of serious new offences (sexual murders) by individuals known to the justice system, and follow-up studies of small groups of individuals who, based on how they were selected, were unusually high risk to reoffend.
>
> 10. **It turns out we were wrong**. As the research evidence accumulated, the empirical findings painted a different picture of individuals with a history of sexual crime: the recidivism risk of most of these individuals is actually quite low, and they are even less likely to commit another offence the longer they remain offence-free in the community. Eventually, if they remain sexual offence free, all individuals convicted of a sexual offence will be no more likely to commit another sexual offence than the rate of spontaneous "out-of-the-blue" sexual offences in the general population[].
>
> Id. at ¶¶ 9-10 (emphasis added; footnotes omitted].

94. Dr. Hanson reported on research summarizing the data from over 100 studies involving older samples from the 1980s through the 1990s, tracking tens of thousands of individuals with sex offense histories and found the 4-5 year sex offense recidivism rate to be only 13.4%. Id. at ¶¶ 12. Based on that research, the Government of Canada abandoned plans to initiate a public sex offender registry, limiting such registry solely to law enforcement and border security officers. Id. at ¶ 9.

95. Dr. Hanson reported that sex offense recidivism rates are even lower in contemporary samples. He notes that older studies tended to draw their samples from higher-risk, forensic populations. Id. at ¶ 13-14. For example, a review of sexual recidivism rates based on samples totaling over 10,000 individuals found five-year recidivism rates of 5-10%. Ibid.

96. Dr. Hanson specifically referenced studies examining sex offense recidivism rates in New Jersey, finding that in a large sample of New Jersey offenders released between 1996 and 2007, only 3.7% were convicted of a new sexual offense within 6-7 years of release. Ibid.

3. Sex Offense Recidivism Declines Rapidly with Time Offense-Free in the Community, Ultimately Reaching "Desistance" Level

97. Dr. Hanson has conducted research examining the rate at which sex offense recidivism declines over a period of time offense-free in the community. He also conducted research on the likelihood of an individual with a criminal conviction but no prior history of a sexual crime (a "non-sex offending" person), committing a "spontaneous sexual offense." Thus, Dr. Hanson compared the rate at which individuals with and without a prior sex offense conviction committed new sex offenses.

98. Over time, the rates of sex offense recidivism between the two groups converge. Indeed, over time, individuals with a prior sex offense conviction become less likely than those without such a conviction to commit a new sex offense. Id. at ¶¶ 64.

99. Dr. Hanson discusses the concept of "desistance" in his 2018 study.

> For sexual offenders, a plausible threshold for desistance is when their risk for a new sexual offense is no different than the risk of a spontaneous sexual offense among individuals who have no prior sexual offense history but who have a history of nonsexual crime.
>
> R. Karl Hanson, et al., Reductions in Risk Based on Time Offense-free in the Community: Once a Sexual Offender, Not Always a Sexual Offender, 24 Psych. Pub. Pol'y & Law 48 (2018), at 49.

100. Based on the research he has reviewed, Dr. Hanson also determined that the lifetime prevalence for a conviction for a sexual offense among the general male population is 1-2%. Id. at ¶ 22.

101. Thus, when the risk of sex offense recidivism for a group of individuals with sex offense convictions reaches or drops below this "desistance" threshold, Dr. Hanson proposes that there is no public protection benefit from treating such individuals differently from those without a prior sex offense conviction. Ibid.

> [W]e used a 5-year sexual recidivism rate of less than 2% to define a desistance threshold. Desistance meant that the individuals' risk of future sexual offending has dropped below a level where there is no longer any public protection benefit to sexual offender specific interventions.

Id. at ¶ 68.

102. Dr. Hanson reported that individuals who are assessed low risk at time of sentencing, are already at the desistance threshold at the time of their release into the community. The risk of re-offense for those at a higher risk at the time of their sentencing/release into community will also, after 10-15 years offense-free in the community, drop to, or below, the desistance threshold "indicating that their risk for future sexual crime is so low that any further interventions have no public protection benefits." Id. at ¶ 49.

103. For example, Dr. Hanson reported that average-risk offenders (who make up 60% of all offenders), reach the desistance threshold for re-offense risk after living ten years offense free in the community. Id. at ¶¶ 66.

4. Placement of Those for whom a Substantiated Finding of Child Abuse or Neglect Is Made on New Jersey's Child Abuse Registry for the Duration of Their Life Is Not Necessary to Protect Public Safety Given Empirical Research

104. Dr. Hanson's declaration, and nearly three decades of research, have debunked many common myths about sexual abuse and sex offense recidivism, which undeniably refute any rationale for the lifetime inclusion of those who have committed sex offenses, and especially, juvenile sex offenders. Such myths include the following:

a. MYTH: Individuals with sex offense convictions are highly likely to re-offend.

FACT: Average sex offense recidivism rates for individuals convicted of a sex offense range between 5% and 15% after five years. Recidivism rates for more recent contemporary samples reflect percentages in the single digits. "There is a scientific consensus that most individuals with a sexual offense history never return to the courts because of another sexual offence." Id. at ¶ 15.

b. MYTH: Individuals with sex offense convictions remain highly likely to re-offend during their entire lifespan.

FACT: "The highest rates of general (non-sexual) offending are observed during the late teens and early 20s, followed by progressive declines

thereafter… For older individuals with only one sentencing occasion for a sexual offense, their recidivism rate is less than 1% after 5 years." Id. at ¶ 29.

c. MYTH: All individuals with sex offense convictions have similar high rates of re-offending.

FACT: "[N]ot all individuals with a history of sexual crime, are equally likely to reoffend." Id. at ¶ 26.

d. MYTH: The more severe the sex offense, the younger the victim or the more harm to the victim, the greater the likelihood of sex offense recidivism. FACT: "[T] the seriousness of the offense is largely unrelated to the likelihood of recidivism… There are no reliable differences in recidivism rates based on whether the victim was a child (12 or under), youth (13 to 17), or adult (18+)." Id. at ¶ 31.

e. MYTH: We can't reliably assess risk, so all offenders should be treated the same.

FACT: Although no risk assessment method can predict sex offense recidivism with 100% accuracy, actuarially based risk assessment tools, like the Static 99R, STABLE-2007 and ACUTE-2007, provide reliable risk estimates that substantially exceed chance. Id. at ¶¶ 33-36. Research has demonstrated that the highest risk individuals, those whose probability of re-offending sexually ranges from 20% to 50%, comprise only 8% of the total population of individuals with sex offense convictions. Id. at ¶ 75.

105. Dr. Hanson concluded:

> Although it is universally recognized that most juvenile offenders will "grow out of it", some jurisdictions make an exception for young people who have committed sexual offences, treating them as though they presented an enduring risk for sexual crime. This is a mistake. Sexual behavior during teenage years is not a reliable indicator of sexual behavior during adulthood19. . . . [S]tudies conducted between 2000 and 2015 reported an average sexual recidivism rate [for juveniles adjudicated

> delinquent for a sex offense] of less than 3%. This updated analysis was based on 33,783 juveniles from 98 distinct samples.
>
> Id. at ¶¶ 16-17.

D. JUVENILES ADJUDICATED DELINQUENT FOR A SEX OFFENSE ARE VERY LOW RISK TO REOFFEND SEXUALLY

1. Qualifications of Michael Caldwell, Psy.D.

106. Plaintiff has retained Dr. Michael Caldwell as an expert in the sex offense risk assessment and recidivism of juveniles adjudicated delinquent for a sex offense. Dr. Caldwell is a psychologist licensed in Wisconsin, where he is employed as the staff psychologist for the Mendota Juvenile Treatment Center, and where he chairs the Sexually Violent Person's Review committee. See Curriculum Vitae of Dr. Caldwell, attached Exhibit O.

107. Dr. Caldwell is a lecturer at the University of Wisconsin – Madison in Madison, Wisconsin. Id. at 1.

108. Dr. Caldwell has practiced as a psychologist providing assessment and treatment to adults and juveniles with sex offense histories for over 35 years. Id. at ¶ 2. He has qualified as an expert witness in this area in seven state Circuit Courts in Wisconsin, and in the U.S. District Court in Baltimore, Maryland. Ibid.

109. He is a fellow of the Association for the Treatment of Sexual Abusers (ATSA), and Past President of the Wisconsin Chapter of ATSA. Ibid.

110. Dr. Caldwell has served as a consultant to the MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice, the Wisconsin Governor's Commission on Juvenile Justice, the Mind Institute at the University of New Mexico, and the Office of Juvenile Justice and Delinquency Prevention Federal Advisory Committee on Juvenile Justice, and the Georgetown University Juvenile Justice Reform Network. Ibid.

111. Dr. Caldwell is the "author of over 40 articles, publications, book chapters, and presentations in the area of adolescent sex offender risk and treatment of violent juvenile delinquents." Ibid.

2. *Dr. Caldwell's Research Establishes that the Sex Offense Recidivism Rate of Juveniles Is Less than 3%.*

112. Dr. Caldwell has conducted original research, published in peer-reviewed journals, on the sex offense recidivism risk posed by juveniles. In 2016, he published a study that reviewed 106 studies tracking over 33,000 youths and found "an average sexual recidivism rate of 4.92% over an average 5-year follow-up." Declaration of Dr. Michael F. Caldwell, dated: August 2, 2018, attached as Exhibit N, at pp. 13-26 at ¶ 4.

113. A more recent meta-analysis, using more current samples (examining recidivism rates of juveniles adjudicated in 2000 or later), found a sex offense recidivism rate of less than 3%. Ibid.

114. Dr. Caldwell concluded that assumptions regarding juvenile sex offending upon which public policy was based in the 1990s drew from a population skewed toward juveniles who posed a higher risk to re-offend. Id. at ¶ 5.A.

115. Sex offense recidivism risk among juveniles declines rapidly as they age into adulthood. "By far, the most robust factor that predicts desistance from sexual misconduct is maturation into young adulthood (typically defined in the research as age 18)." Id. at ¶ 6 (See also, "the risk of repeated sexual misconduct in adolescents drops rapidly from the immediate months following initial detection as an adolescent, into early adulthood.") Id. at ¶ 9(A).

116. Dr. Caldwell further reported on newly published research showing that decades into adulthood, the rate of sex offense recidivism among juveniles with a prior sex offense adjudication was equal to, or lower, than the risk of a juvenile adjudicated for a non-sexual offense committing a sex offense as an adult. Ibid.

> In a more extensive recent study, Caldwell and Caldwell (2022) compiled recidivism data of 2060 adolescents, 349 of whom had been adjudicated for a sexual offense, over a 27 ½ year follow-up. The odds that a juvenile who had been previously adjudicated for a sexual offense would be arrested for a future sexual offense were indistinguishable from the odds that a juvenile who had not been adjudicated for a sexual offense by the age of 18. The juveniles who

> had no history of sexual offending were actually slightly higher risk for a future sexual offense arrest than the group previously adjudicated for a sexual offense by the age of 22. The results document that a juvenile sexual offense adjudication is not a risk factor for adult sexual recidivism by age 18.
>
> Ibid.

117. In addition to the low rate of sex offense recidivism among juveniles with sex offense adjudications, this population responds particularly well to treatment, further reducing their recidivism risk. "Recent meta-analytic studies have documented that treatment programs for juveniles who have engaged in harmful sexual behavior can be remarkably effective." Id. at ¶ 11(A).

118. Dr. Caldwell concluded, to a reasonable degree of professional certainty:

> [T]here is no scientific basis to bar juveniles from terminating their being listed on a sex offender registry for 15 years or longer. In addition, given the odds that a randomly chosen juvenile who has been adjudicated for a sexual offense will sexually re-offend are approximately 20 to 1 against recidivism, and considering the rapid decline in risk with maturity, it is clear that juvenile sexual offenders as a group are highly unlikely to sexually reoffend.
>
> Id. at ¶ 10(B).

119. The findings summarized above at ¶¶112 — 118 invalidate the "irrebuttable presumption of dangerousness" underlying the regulatory scheme that includes juveniles on the *Registry* at all, let alone without providing any mechanism to seek relief after demonstrating lack of risk to re-offend.

E. ADOLESCENTS ADJUDICATED DELINQUENT FOR A SEX OFFENSE MOST OFTEN DO NOT MANIFEST SEXUALLY DEVIANT AROUSAL OR BEHAVIOR PATTERNS THAT CANNOT BE REMEDIATED BY TREATMENT OR MATURATION

120. Research regarding juvenile brain development over the last two decades has received judicial notice in a series of United States Supreme Court cases. See Roper v. Simmons, 543 U.S. 551 (2005); Graham v. Florida, 560 U.S. 48 (2010); J.D.B. v. North Carolina, 564 U.S.

261 (2011); Miller v. Alabama, 567 U.S. 460 (2012). The New Jersey Supreme Court made similar findings in a pair of seminal Court decisions regarding juvenile adjudicants. See State v. Zuber, 227 N.J. 422 (2017); State in the Interest of C.K., 233 N.J. 44 (2018).

121. In State in the Interest of C.K., the New Jersey Supreme Court summarized much of the research reported in both the New Jersey and U.S. Supreme Court cases regarding juveniles, noting:

> Our laws and jurisprudence recognize 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. Our juvenile justice system is a testament to society's judgment that children bear a special status, and therefore a unique approach must be taken in dealing with juvenile offenders, both in measuring culpability and setting an appropriate disposition. Indeed, the United States Supreme Court has explained that juvenile courts were created "to provide measures of guidance and rehabilitation for the child and protection for society, not to fix criminal responsibility, guilt and punishment." Kent v. United States, 383 U.S. 541, 554, 86 S.Ct. 1045, 16 L.Ed.2d 84 (1966).
>
> C.K., 233 N.J. at 67 [Emphasis added].

122. Having reviewed the research on juvenile brain development, the C.K. Court also considered research regarding sex offense recidivism for juveniles, and how that research has evolved over the last two decades.

> We first acknowledge that since the passage of N.J.S.A. §2C:7–2(g) in 2002, scientific and sociological studies have shined new light on adolescent brain development and on the recidivism rates of juvenile sex offenders compared to adult offenders. 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. They tell us 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. In essence, the juvenile registrant will forever remain a social pariah.

Id. at 74 [Emphasis added].

123. As K.C. was the Plaintiff in the above landmark case, C.K. ., 233 N.J., and counsel for K.C. submitted expert reports, and elicited testimony from several experts, including that of Dr. Witt and Dr. Hiscox, the New Jersey Supreme Court made the following factual findings about K.C.'s recidivism risk, noting that:

> "multiple psychological evaluations attest that [K.C. is] an extremely low risk to reoffend."
>
> Id. at 76.

124. Researchers, as well, have observed that these general observations about juveniles are applicable to juveniles with sex offense histories as well:

> There is consensus among the scientific and professional communities that the etiology, modus operandi, and prognosis for young people with a history of sexual crime are sufficiently different that youth benefit from different rehabilitation programs from those provided to adults, and that public protection policies designed for adults are poorly aligned with the risk and needs of juveniles with a history of sexual offending.
>
> Exhibit M at ¶ 15.

F. HARMS AND UNINTENDED CONSEQUENCES OF *LIFETIME PLACEMENT* ON THE *REGISTRY*

125. Placement on the *Registry* inflicts life-long harms and negative consequences on *Registrants* and their families.

1. Employment Barriers

126. K.C. has a Bachelor of Arts ("B.A.") Degree in Psychology and a Master of Arts ("M.A.") Degree in Counseling. Even if K.C. does not directly work with minors in the mental health field, given the wide breadth of agencies that are "licensed, contracted, regulated, or funded" by the Department of Human Services (or the DCF under the current statute), K.C. is required to undergo a *CARI Check* if he seeks employment in any of those organizations/agencies. See supra at ¶¶ 23-31.

127. Such a lifetime bar to obtaining employment for any of the hundreds of organizations/agencies – even if K.C. provides mental health services solely to adult clients – severely limits his ability to obtain employment in the field in which he has prior extensive experience and educational degrees.

2. *Family – Hindering Ability to Adopt, Foster a Child, Become Kinship Legal Guardian,*

128. According to the "Notice Provided to Perpetrators of Substantiated Findings of Child Abuse or Neglect," a substantiated finding *may* be considered in the following circumstances:

- Resource Parent applications – N.J.S.A. §30:4C-27.7
- Kinship Legal Guardians – N.J.S.A. §30:4C-86
- Juvenile Justice Commission Employment – Prison Rape Eliminate Act (PREA) 42 U.S.C. 1560; 28 CFR 115.317; N.J.S.A. §9:6-8.10a (b) (20).
- Prospective Court-Appointed Special Advocate (CASA) volunteers – N.J.S.A. §2A:4A-92 (d) (2)
- Adoptive Parent applicants – N.J.S.A. §9:3-54.2

See Exhibit B.

129. While substantiated findings of child abuse or neglect *may* be considered in the above circumstances, an individual's status as a "Child Abuse" *Registrant* is akin to a "Scarlet Letter." While the statutes do not explicitly prohibit individuals from adopting a child, serving as a kinship legal guardian, professional guardian, etc., a *Registrant's* inclusion on the *Registry* – even if that individual can establish that he or she does not currently pose a threat to committing subsequent acts of child abuse or neglect – communicates their status as a "child abuse registrant," a status that implies the individual is "dangerous" or "poses a threat to minors" irrespective of that individual's rehabilitation or demonstrated low risk.

130. The presumption of dangerousness described in ¶ 129 above, applies even after an individual like K.C. establishes that he does not pose a threat to the safety of others as determined by a Court ordering his termination from Megan's Law. See supra at ¶ 42.

131. Indeed, a New Jersey Superior Court judge terminated K.C. from New Jersey's Megan's Law because he established by clear and convincing evidence that he was "not likely to pose a threat to the safety of others" and had not committed a subsequent offense (including a sex offense or non-sex offense) since the predicate juvenile offense. Exhibit E.

132. In 1993 (eff. April 27, 1994), pursuant to the enactment of N.J.S.A. §9:3-54.2, adoptive parent applicants (including private adoption agencies and those facilitated through the Department of Children and Families) must undergo a *CARI Check* as part of the home study completed by an approved adoption agency.

133. K.C. is currently forty-one years old and has led an utterly law-abiding life in the twenty-five years since the conduct that resulted in his placement on the *Registry*. K.C. is not currently married and has never fathered a child. Given K.C.'s age and the age of the women who are in his "dating pool," if he and his future romantic partner are unable to produce biological children, then his ability to adopt a child will be severely hampered, if not likely denied, after a private/public adoption agency conducts a *CARI Check* and learns that he is on the *Registry*.

134. If K.C. marries a spouse who has a child, he would be unable to become the designated legal guardian for his stepchildren, if his spouse became incapacitated.

135. Further, irrespective of whether K.C. and his current romantic partner are medically able to produce biological children, K.C. has expressed a strong desire to adopt a child in the future. Given his inclusion on the *Registry*, he is gravely concerned that his placement on the *Registry* will foreclose his ability to adopt a child.

136. Additionally, individuals who are seeking to become kinship legal guardians, N.J.S.A. 30:4C-86, foster a child, N.J.S.A. 30:4C-27.7, or who want to assume the care of a child whose parent is incarcerated, N.J.S.A. 9:6-8.10(c), are also subject to a *CARI Check*.

137. While individuals who are on the *Registry* are not *expressly* prohibited from serving in these capacities, the stigma that accompanies inclusion on the *Registry* will likely hamper their abilities to adopt a child, become a foster parent, or kinship legal guardian.

138. Inclusion on the *Registry* denotes, falsely, a present risk to children. No matter how significantly one rehabilitates himself or herself, or even if that individual obtains legal relief from continued placement on Megan's Law, that individual will forever remain on the *Registry*, and has no opportunity to seek removal from the *Registry*.

3. *Reputational Harms*

139. Given the ever expanding number of entities/organizations/individuals to whom disclosure of a registrant's inclusion on the *Registry* may or must be made, K.C., and others similarly situated, suffer reputational damage as their continued placement on the *Registry* suggests that they pose a "danger" to children.

140. Since the offense that triggered K.C.'s placement on the *Registry* occurred when he was a juvenile, and was resolved in the Family Court, he was not subject to the public disapprobation that adults experience when facing criminal charges and prosecution. Thus, the only means by which his status as someone who was previously found to have engaged in an act of child abuse can be publicly exposed, is via the *Registry*.

141. Currently, there are twenty-three specified groups, entities, and individuals to whom child abuse reports *shall*, "upon written request," be disclosed.

142. Over the last thirty years, the Legislature repeatedly expanded the list of agencies/entities/organizations/individuals to whom an individual's placement on the *Registry* would be disclosed. Thus, once an individual is included on the *Registry*, they are likely to face increased exposure to dissemination of their *Registry* status, as the Legislature continues to expand the requirements for *CARI Check* to be conducted.

143. The initial intent of the Central Registry was to compile records for statistical purposes, as well as to prevent individual children from suffering subsequent incidents of child abuse or

neglect. See supra at ¶¶ 9-22. The original intent of the *Registry* did not include it being used to foreclose an individual from certain employment or career opportunities for the rest of that individual's life.

4. *Psychological Harms*

144. K.C.'s placement on the *Registry* causes him to feel ashamed, embarrassed, fearful, anxious, and depressed. See Exhibit D (Certification of K.C.) at ¶ 22..

145. K.C. attests that one of the reasons why he left the mental health field was due to his inability to advance professionally for fear that applying for new positions outside his previous mental health non-profit organization, which would subject him to a *Registry* check, and potentially pose a barrier to obtaining such employment. Id. at ¶ 20.

146. Notwithstanding the fact that he may not obtain employment in various mental health organizations, facilities, and agencies due to his status as a "Child Abuse" *Registrant*, he is also gravely concerned that his reputation would suffer if disclosure were disseminated to such providers/facilities/organizations. Ibid.

147. Given K.C.'s previous work experience in a mental health agency, K.C. attests that individuals in the mental health field are in close communications with each other. Therefore, he is concerned that if he seeks employment for any number of the multitude of agencies/facilities/organizations that require a *CARI Check,* the resulting disclosure of his name on the *Registry*, will damage his reputation and cause him to be "blacklisted" from other positions in the mental health field if such information is transmitted to others in the field. Id. at ¶¶ 24-25.

148. K.C. has over 13 years of work experience providing counseling and other support to mentally ill adults. Id. at ¶ 13. Notwithstanding the fact that he voluntarily left the mental health field, he would like to return to the mental health field and provide counseling services to adults afflicted with mental illnesses. Id. at ¶21.

149. K.C. is frustrated and often depressed that many of the jobs providing services only to adults that he would like to apply for in the mental health field are "licensed, contracted, or regulated by the Department of Human Services, or include jobs at facilities or organizations providing community-based services with indirect State funding to individuals with developmental disabilities." N.J.S.A. §9:6-8.10(f). See Exhibit D at ¶ 26.

150. Previously, K.C. had applied for and was interviewed for several positions within the mental health field. On at least two occasions, K.C. had advanced past the second and third interviews, but withdrew his application after he was informed by the hiring managers of those respective organizations/agencies that a *CARI Check* was required. Id. at ¶ 17.

151. Based on the above, the declarations, certifications and other evidence attached hereto, Plaintiff K.C. alleges the following violation of his rights under the New Jersey Constitution.

V. CAUSES OF ACTION

FIRST COUNT
LIFETIME PLACEMENT ON THE CHILD ABUSE REGISTRY DENIES PLAINTIFF OF HIS SUBSTANTIVE DUE PROCESS RIGHTS (AS APPLIED CHALLENGE)

152. Plaintiff repeats and re-alleges each and every allegation as set forth in ¶¶1 thru 150 if set forth herein.

153. *Lifetime Placement* on the *Registry* infringes on K.C.'s state-created protectible liberty interests, his fundamental rights to privacy and reputation, and his unalienable rights to enjoy life, liberty, and property, and to pursue happiness, including the right to form a family and raise children.

154. Further, *Lifetime Placement* on the *Registry* inflicts on K.C. and his family, serious, life-long harms, disabilities, and infirmities.

155. Defendants subject Plaintiff K.C. to *Lifetime Placement* on the *Registry,* even though Plaintiff is able to establish that he does not pose a risk of re-offense greater than that posed by juvenile adjudicants without a sex offense history, or by juvenile adjudicants adjudicated delinquent for a sex offense not involving a family member.

156. ***WHEREFORE,*** the *Unconstitutional Provisions* requiring *Lifetime Placement* on the *Registry,* as applied to Plaintiff K.C., violate K.C.'s substantive due process rights under Art. 1, para. 1 of the New Jersey Constitution and should be declared unconstitutional under the State Constitution.

SECOND COUNT
LIFETIME PLACEMENT OF *REGISTRANTS* ON THE CHILD ABUSE REGISTRY DENIES JUVENILES THEIR SUBSTANTIVE DUE PROCESS RIGHTS (FACIAL CHALLENGE)

157. Plaintiff repeats and re-alleges each and every allegation as set forth in ¶¶1 thru 156, as if set forth herein.

158. *Lifetime Placement* on the *Registry* deprives *Registrants* (whether adults or juveniles at the time of offense conduct) of state-created protectible liberty interests, fundamental rights to privacy and reputation, and unalienable rights to enjoy life, liberty, and property, and to pursue happiness, including the right to form a family and raise children.

159. Further, *Lifetime Placement* on the *Registry* inflicts on *Registrants* and their families serious, life-long harms, disabilities, and infirmities.

160. Defendants subject *Registrants* to *Lifetime Placement* on the *Registry,* even though *Registrants* are able to establish that they do not pose a risk of re-offense greater than that posed by individuals without a sex offense history.

161. ***WHEREFORE,*** the *Unconstitutional Provisions* requiring *Lifetime Placement* on the *Registry* on *Registrants,* violate substantive due process under Art. 1, para. 1 of the New Jersey Constitution and should be declared unconstitutional under the State Constitution.

THIRD COUNT
CATEGORICAL IMPOSITION OF *LIFETIME PLACEMENT* ON *THE REGISTRY* ON K.C. AND OTHER *REGISTRANTS* WITHOUT A HEARING OR RIGHT TO SEEK REMOVAL FROM THE *REGISTRY*, VIOLATES PROCEDURAL DUE PROCESS

162. Plaintiff repeats and re-alleges each and every allegation as set forth in ¶¶1 thru 161 as if set forth herein.

163. Given the evidence of Plaintiff K.C.'s low risk of re-offense and his ability to prove that he is not likely to pose a danger to the safety of others, imposition of the *Lifetime Placement* on the *Registry* by the Defendants constitutes an irrebuttable presumption of dangerousness that is wholly unrelated to and non-predictive of sex offense recidivism or future incidence of child abuse or neglect; thus imposition of the *Lifetime Placement* on the *Registry on* Plaintiff K.C. by the Defendants is arbitrary and capricious in violation of the Procedural Due Process Guarantees of Art. 1, para. 1 of the New Jersey State Constitution.

164. Given the scientific evidence that the majority of *Registrants* whose names are placed on the *Registry* pose very low risk of re-offense and given those *Registrants* would be able to prove that they are not likely to pose a danger to the safety of others, imposition of the *Lifetime Placement* on the *Registry* by the Defendants constitutes an irrebuttable presumption of dangerousness that is wholly unrelated to and non-predictive of sex offense recidivism or future incidence of child abuse or neglect; thus imposition of the *Lifetime Placement* on the *Registry* on *Registrants* by the Defendants is arbitrary and capricious in violation of the Procedural Due Process Guarantees of Art. 1, para. 1 of the New Jersey State Constitution.

165. ***WHEREFORE,*** the *Unconstitutional Provisions* of the *Lifetime Placement* on the *Registry* violate the procedural due process rights of Plaintiff K.C. and *Registrants*, as guaranteed under Art. 1, para. 1 of the New Jersey Constitution and, therefore, should be declared unconstitutional under the State Constitution.

FOURTH COUNT
DISPARATE TREATMENT OF JUVENILES WITH SEX OFFENSE HISTORIES BASED SOLELY ON WHETHER THE JUVENILE WAS A PARENT/GUARDIAN OF A CHILD VIOLATES EQUAL PROTECTION GUARANTEES

166. Plaintiff repeats and re-alleges each and every allegation as set forth in ¶¶1 thru 165 as if set forth herein.

167. The *Unconstitutional Provisions* treat juveniles who commit sex offenses differently depending on whether the juvenile was a parent or guardian of the victim child, despite the lack of any empirical or rational basis for the differential treatment, thus subjecting juvenile *Registrants* like K.C. to *Lifetime Placement* on the *Registry*.

168. ***WHEREFORE,*** the *Unconstitutional Provisions* of the *Lifetime Placement* on the *Registry* imposed on some juveniles violate the Equal Protection Guarantees found in Art. 1, para. 1 of the New Jersey Constitution and therefore, should be declared unconstitutional.

VI. STATEMENT OF CLAIMS APPLICABLE TO ALL COUNTS

169. Plaintiff K.C. has no plain, adequate, or complete remedy at law to address the wrongs described herein. Plaintiff has been, and will continue to be, irreparably injured by the actions of the Defendants, unless this Court grants the declaratory and injunctive relief that Plaintiff seeks.

VII. PRAYER FOR RELIEF

170. **WHEREFORE**, Plaintiff requests that this Court, as authorized pursuant to N.J.S.A. §10:6-2, as well as N.J.S.A. §2A:16-52 and 16-53, and pursuant to its own equitable powers:

a. Render declaratory judgment, declaring that the *Unconstitutional Provisions*, imposing *Lifetime Placement* on the *Registry* and as applied to Plaintiff K.C., deprives him of substantive due process rights under Art. 1, para. 1, of the New Jersey State Constitution;

b. Render declaratory judgment, declaring that the *Unconstitutional Provisions*, imposing *Lifetime Placement* on the *Registry* on *Registrants* deprive them of substantive due process rights under Art. 1, para. 1, of the New Jersey Constitution;

c. Render declaratory judgment, declaring that the *Unconstitutional Provisions* as applied to K.C., create an irrebuttable presumption of dangerousness, absent due process protections, and thus violate K.C.'s procedural due process rights under Art. 1, para. 1, of the New Jersey Constitution;

d. Render declaratory judgment, declaring that the *Unconstitutional Provisions* create an irrebuttable presumption of dangerousness, absent due process protections, and thus violate *Registrants'* procedural due process rights under Art. 1, para. 1, of the New Jersey Constitution;

e. Render declaratory judgment, declaring that the *Unconstitutional Provisions*, imposing *Lifetime Placement* on the *Registry* on juvenile *Registrants*, violate

the Equal Protection guaranteed by Art. 1, para. 1, of the New Jersey Constitution;

f. Enter a permanent injunction enjoining Defendants from enforcing the *Unconstitutional Provisions* against Plaintiff, and order that a hearing be conducted forthwith, at which hearing K.C. shall be permitted to introduce evidence to prove that he does not pose a threat to the safety of others that justifies the imposition of *Lifetime Placement* on the *Registry*, and that, therefore, his *Lifetime Placement* on the *Registry* obligations should be terminated.

g. Enter a permanent injunction enjoining Defendants from enforcing the *Unconstitutional Provisions* until such time as the DCF and DCPP adopt regulations providing *Registrants* with the right to a hearing, at which they shall be permitted to introduce evidence to prove that they do not pose a threat to the safety of others that justifies the imposition of *Lifetime Placement* on the *Registry,* and that, therefore*,* their *Lifetime Placement* on the *Registry* obligations should be terminated, irrespective of the length of time since the substantiated finding of abuse or neglect, triggering inclusion of the *Registry*, was made.

h. Enter an order terminating Plaintiff K.C. from the *Registry*;

i. Award Plaintiff the cost of bringing this action, and reasonable attorney's fees pursuant to N.J.S.A. §10:6-2(f) and under state law; and provide such other additional relief as the Court may deem just and proper.

VIII. REPRESENTATIONS BY PLAINTIFF TO COURT

1. Plaintiff represents to this Court that this Complaint is not being presented for any improper purposes, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and
2. The claims and legal contentions are warranted by existing law or non-frivolous argument for the extension, modification, or reversal of existing law, or the establishment of new law; and
3. The allegations and factual contentions contained in this Complaint have evidentiary support.

Date: February 28, 2022

/s/ James H. Maynard, Esq.
James H. Maynard, Esq.
Representing Plaintiff K.C.

CERTIFICATION OF PLAINTIFF
IN SUPPORT OF VERIFIED COMPLAINT

I, C[redacted] K[redacted], being of full age, hereby certify as follows:

1. I, C[redacted] K[redacted], am K.C., the Plaintiff in the above captioned matter.

2. I have reviewed the Complaint in the matter entitled "K.C., Plaintiff, v. Andrew J. Bruck, Acting Attorney General for the State of New Jersey, and Christine Norbut Beyer, Commissioner of the New Jersey Department of Children and Families, in their Official Capacities, Defendants.

3. Regarding the allegations in the Complaint of which I have personal knowledge, I know or believe them to be true.

4. Regarding the allegations in the Complaint, of which I do not have personal knowledge, I believe them to be true based on specified information, documents, or both.

I, C[redacted] K[redacted], hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Date: February 24, 2022

[redacted]
C[redacted] K[redacted]