

Beacon Hill Byline – By Rep. Mary Rogeness

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Boston Justice

The Massachusetts courts of law are always important to the participants in the cases they handle, but they make headlines when they handle a high profile crime or involve unusual circumstances. Unusual circumstances caused the headlines this month when a judge sentenced a sex offender to probation. Because repercussions have echoed through the populace and into the legislative and executive branches, I am writing this week's Byline about Judge Maria Lopez's infamous decision.

In summary, the case involved a defendant who pled guilty to kidnapping and molesting an 11 year old boy. Judge Lopez called the crime a low level offense and sentenced the perpetrator to a year of home detention followed by 4 years of probation. He will be allowed to attend classes and counseling sessions.

Prosecutors' first objection actually came a full month before the sentence was pronounced. Judge Lopez delayed sentencing when word of her intent leaked to the press, reacting angrily to the leak.

The sentence has been given, and the month delay did not eliminate a public outcry. The boy's family is outraged, prosecutors are angry and the public has responded with fury to this perceived slap on the wrist. Public officials are now looking for a means of correcting the behavior of the judge who, according to news reports, has a record of delivering light sentences or probation to sex offenders.

Our constitution established an independent judiciary, which limits any interference by the governor or legislature, so these are the methods we are attempting to use.

Governor Cellucci made a public request that Judge Lopez refrain from handling criminal cases while this case is pending. She complied, clearing the docket for the remainder of this session.

The first recourse established by law is the filing of a complaint with the Judicial Conduct Commission. This appointed board investigates complaints against the judiciary and can recommend sanctions. Such complaints and investigations are confidential, so the public would not know if one has been undertaken. The commission cannot second-guess sentencing practices of a judge, but would be able to look at other aspects of her conduct using such aids as eyewitness reports and courtroom videotapes.

A second recourse is the arcane constitutional provision known as a Bill of Address. This procedure can be initiated by the governor or the legislature. It is acted on by the legislature to remove a judge. House Minority Leader Fran Marini has initiated the procedure in the House with my support and the co-sponsorship of 40 other legislators. Speaker Finneran has stated that the bill cannot be considered until January, but the fact that the bill is now on file should keep the issue alive until then.

A third recourse might be available in another state: an appeal of the sentence to a higher court. Massachusetts does not allow such appeals, so the provision cannot be used here. The case, however, can act as a catalyst to achieve passage of a new law. Our law books contain many laws that are passed after an instance in which their need became apparent. Megan's law, for example, protects children from anonymous sex offenders.

I have tried to tell this story using dispassionate language, so it does not convey my utter distaste for this situation. A young boy was victimized by an adult. That is a crime. The judge who accepted a guilty plea has now indicated that somehow the boy was complicit in the crime, victimizing him again. We have laws to protect our children, and the criminal admitted breaking those laws. The judge then pronounced a sentence that denied justice to a boy, his family and to all of society. I will work to see that such a miscarriage of justice does not happen again.