

HOUSE BILL REPORT

SSB 5203

As Passed House - Amended:

April 7, 2011

Title: An act relating to improving the administration and efficiency of sex and kidnapping offender registration.

Brief Description: Improving the administration and efficiency of sex and kidnapping offender registration.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Hargrove, Stevens and Shin).

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 3/9/11, 3/15/11 [DPA].

Floor Activity:

Passed House - Amended: 4/7/11, 92-0.

Brief Summary of Substitute Bill (As Amended by House)

- Makes numerous changes to the sex offender registration and notification laws.
- Defines the terms "fixed residence" and "lacks a fixed residence" for purposes of sex offender registration.
- Requires a sheriff to notify a school or institution of higher education when a student's risk level classification is changed or when the sheriff is notified of a change in the student's address.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: Do pass as amended. Signed by 11 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton, Armstrong, Goodman, Hope, Kirby, Moscoso and Ross.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Alexa Silver (786-7190).

Background:

Sex Offender Policy Board (SOPB): The SOPB, which was created in 2008 to promote a coordinated and integrated response to sex offender management, has been tasked with reviewing the sex offender registration and notification laws. Many of the changes to the registration and notification laws recommended by the SOPB were enacted in 2010, but the SOPB's 2010 report to the Legislature contained additional recommendations for changes to the registration and notification laws.

Sex Offender Registration: A person who is convicted of a sex or kidnapping offense must register with the sheriff in the person's county of residence. A "sex offense" is defined as:

- any felony defined as a sex offense in the Sentencing Reform Act, Sexual Misconduct with a Minor in the second degree, Communication with a Minor for Immoral Purposes, and a gross misdemeanor that is an attempt, solicitation, or conspiracy to commit a sex offense; and
- a federal or out-of-state conviction for an offense for which the person would be required to register in the state of conviction, or an offense that would be a sex offense under Washington law, unless a court in the state of conviction has made an individualized determination that the person should not be required to register.

The sex offender must provide the following information at the time of registration: name, residential address, date and place of birth, employment, crime, date and place of conviction, aliases, Social Security number, photograph, fingerprints, and if the person lacks a fixed residence, where he or she plans to stay. A person who lacks a fixed residence must also report to the sheriff on a weekly basis and keep an accurate account of where he or she stays during the week. The sheriff must forward registration information, including the offender's risk level and notice of address changes, to the Washington State Patrol (WSP) within five working days, and the WSP must maintain a central registry of sex and kidnapping offenders. The WSP must also forward necessary information to the Washington Association of Sheriffs and Police Chiefs (WASPC).

Notice to the Public: A public agency may release information about sex and kidnapping offenders if disclosure is relevant and necessary to protect the public and counteract the danger created by the offender. The sheriff with whom a level III offender is registered must publish a sex offender community notification in at least one newspaper with circulation in the area of the offender's residence or location. Twice yearly the sheriff must also publish a current list of level III offenders. Local law enforcement must make a good faith effort to notify the public 14 days before a sex offender is released or as soon as possible after a sex offender moves.

The WASPC must maintain a website of registered sex and kidnapping offenders, including all level II and III offenders, as well as level I offenders who are out of compliance. For level III offenders, the website must be searchable by type of conviction, county, city, zip code, last name, and address by block.

Notice Regarding School Attendance and Employment: A sex offender who is attending or planning to attend a school, who is admitted to an institution of higher education, or who gains employment at an institution of higher education must notify the county sheriff three business days prior to arriving at the school or institution. In addition, a sex offender whose enrollment or employment at an institution of higher education is terminated must notify the sheriff within three business days. The sheriff must then promptly notify the school principal or institution's department of public safety and provide them with the same information provided to the sheriff.

Failure to Register: A person commits the crime of Failure to Register if he or she has a duty to register for a felony sex offense and knowingly fails to comply with the registration requirements. Failure to Register is a class C felony or a class B felony if the person has been convicted in Washington of felony Failure to Register on two or more prior occasions.

Removal from the Registry: The duration of the duty to register depends on the classification of the offense. For class A felonies, federal convictions, out-of-state convictions, and persons with a prior sex offense, the duty continues indefinitely. For class B felonies, the duty ends if the person has spent 15 years in the community without a disqualifying offense. For class C felonies, the duty ends if the person has spent 10 years in the community without a disqualifying offense. A person may request that the sheriff investigate whether the duty to register has ended.

A sex offender may petition for relief from the duty to register under the following circumstances: if the person committed the offense as a juvenile; if the person is not prohibited from petitioning for relief and has spent 10 consecutive years in the community without being convicted of a disqualifying offense; *and* if the person is required to register for a federal or out-of-state conviction and has spent 15 consecutive years in the community without being convicted of a disqualifying offense.

Summary of Amended Bill:

Sex Offender Registration: A sex offender must provide an accurate residential address when registering and may be required to update his or her information in conjunction with address verification or as part of notice required by the registration laws. The requirement that the WSP send registration information to the WASPC is removed.

"Fixed residence" means a building that the person lawfully and habitually uses as living quarters (*i.e.*, sleeping, eating, storing belongings, receiving mail, paying utilities) a majority of the week. A nonpermanent structure may qualify as a residence if it is primarily kept at one location with a physical address and the person owns or rents the location or has the permission of the owner or renter. A shelter may qualify as a residence if it is designed to provide temporary accommodations, provide the person with a personally assigned living space, and the person may store belongings there. A person "lacks a fixed residence" if the person does not have a living situation that meets the definition of fixed residence, including a shelter program, an outdoor sleeping location, or locations where the person does not have permission to stay.

"Institution of higher education" means a public or private institution dedicated to postsecondary education. "School" includes public and private schools. "Sex offense" includes a federal conviction classified as a sex offense under federal law, a military conviction for a sex offense, and a conviction for a sex offense in a foreign country if obtained with safeguards for due process under federal guidelines.

Notice to the Public: Local law enforcement must notify the public and residents within a reasonable time after an offender registers. The following requirements are removed: (1) that the sheriff publish a list of level III offenders twice a year; (2) that a change in risk level classification be sent to the WASPC; and (3) that the registry website be searchable by type of conviction.

Notice Regarding School Attendance and Employment: Requirements for notice to schools and institutions of higher education are moved to a new section of law. The sheriff must notify the school district, in addition to the principal and department of public safety, when an offender plans to attend a school. The sheriff must provide the school district, principal, and department of public safety with the following information: name and aliases, residential address, date and place of birth, employment, crime, date and place of conviction, Social Security number, photograph, and risk level classification. The sheriff must provide notice when a student's risk level classification is changed or when the sheriff is notified of a change in the student's address.

Failure to Register: A person convicted of felony Failure to Register who has two or more prior convictions for felony Failure to Register in another state (in addition to Washington) is guilty of a class B felony.

Removal from the Registry: An offender who is included in the sex offender registry due to a federal or out-of-state conviction may request that the sheriff investigate whether the person should be removed from the registry if the person provides proof to the sheriff that a court in the state of conviction has made an individualized determination that the person should not be required to register. A person requesting relief from the duty to register must file the petition in the county where the person is registered rather than Thurston County. "In the community" is defined as residing outside of confinement.

A number of technical corrections, such as updates to cross-references, are made.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill, which builds on legislation from last session, is the result of consensus-based recommendations from the SOPB. It will help sheriffs and attorneys determine

whether an offender is required to register. The flexible definition of "fixed residence" is appreciated.

(Opposed) None.

Persons Testifying: Senator Regala, prime sponsor; Jo Arlow, Washington Association of Sheriffs and Police Chiefs; Brad Meryhew, Washington Association of Criminal Defense Lawyers; and Andrea Piper, Washington Coalition of Sexual Assault Programs.

Persons Signed In To Testify But Not Testifying: None.