

SENATE BILL REPORT

SB 5123

As of January 19, 2021

Title: An act relating to creating a developmentally appropriate response to youth who commit sexual offenses.

Brief Description: Creating a developmentally appropriate response to youth who commit sexual offenses.

Sponsors: Senators Darneille, Das, Nguyen, Saldaña and Wilson, C..

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/19/21.

Brief Summary of Bill

- Removes sex offender registration requirements for sex offenses committed under 18 years of age.
- Amends the Special Sexual Offender Disposition Alternative (SSODA) to create a deferred disposition allowing for the sex offense conviction to be vacated and dismissed if the supervision period is completed without any revocation of the SSODA.
- Removes certain sentencing enhancements in adult court, which stems from the existence of juvenile sex offense adjudications.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Staff: Julie Tran (786-7283)

Background: Special Sex Offender Disposition Alternative. The Special Sex Offender Disposition Alternative (SSODA) is a probation program focused on sex offender therapy. To be eligible, the juvenile offenders must have:

- committed a non-violent and less serious sex offense and no history of a prior sex

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

- offense; or
- committed assault in the fourth degree with sexual motivation and no history of a prior sex offense.

The court may order an examination to determine whether an eligible individual is amenable to sex offender treatment and the individual's relative risk to the community.

If the court grants an individual a SSODA sentence, the court must impose a determinate disposition within the offense's standard range. If the court finds the disposition would cause injustice, it may suspend execution of the disposition and place the individual in community supervision for at least two years.

The court may also impose the following conditions including up to 30 days of confinement and any one or more of the following requirements:

- devote time to a specific education, employment, or occupation;
- available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the offense's standard range of confinement;
- remain within the prescribed geographical boundaries;
- report to the prosecutor and probation counselor prior to any change in a sex offender treatment provider and have the court's prior approval;
- pay all court-ordered legal financial obligations and restitution; and
- comply with any court-ordered probation bond conditions.

The court must order the individual to not attend the school of the victim or the victim's siblings. The sex offender treatment provider must provide quarterly reports on the individual's progress in treatment. The court may hold a revocation hearing if the individual violates the SSODA conditions or fails to make satisfactory progress in treatment.

Juvenile Sex Offender Registration. Adults and juveniles convicted of a sex offense are required to register with the county sheriff, of the county of the offender's residence. For a juvenile adjudicated for a class A felony, the court may relieve the offender of the duty to register after 60 months following adjudication and completion of any term of confinement if:

- the juvenile has not been adjudicated or convicted of any sex offenses, kidnapping offenses, or for a failure to register; and
- the court finds there has been sufficient rehabilitation to remove the registration requirement.

For a juvenile adjudicated for any other registration offenses, the court may remove the registration requirement after 24 months if the other conditions apply.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Failure to Register as a Sex Offender. An

individual who committed a sex offense when they were under 18:

- is not required to register as a sex offender, unless the individual is adjudicated in an adult court and subject to autodecline;
- is not subject to the scoring enhancements applicable for sentencing in adult court for failure to register as a sex offender and sexual offense convictions; and
- cannot be charged with failure to register as a sex offender.

By August 1, 2021, the Washington State patrol shall:

- remove all persons from the sex or kidnapping offender registry whose requirement to register is ended by this act; and
- notify any person, whose obligation to register is ended by this act, and their school if they are enrolled in school or higher education.

Mandatory minimum sentencing for certain sexual offenses' exemptions are clarified to be applicable for individuals who committed an offense when they were under the age of 18 and were tried as adults.

Deferred Disposition. A deferred disposition is created under SSODA, which applies if the following requirements are met:

- the individual has completed their supervision period without any violation of their deferred disposition; and
- the state cannot prove by clear and convincing evidence that the dismissal is not in the best interest of the individual and the community.

If an individual qualifies for this deferred disposition, the court will schedule a dismissal hearing, where the individual's sentence is vacated and their charges are discharged.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony On Proposed Substitute: PRO: State law provides a range of robust responses from evaluation, treatment, probation, and incarceration. This bill does not change these responses. This legislation ends the ineffective and harmful requirement of youth sex offender registration. Youth registration is associated with an increase in likelihood of suicide, physical assault, and child sex abuse. Youth registration does not prevent harm and it does not keep the community safe. It is a promotion of punitive punishment and it impacts the youth's ability to try and do better. Studies have shown that 97 percent of youth never reoffend with new sex crimes. It is critical that we end youth notification and registration laws. We should support the future of our youth.

CON: Juvenile sex offender registration needs review. We need to address how juveniles can be more accountable for their behavior. This is a very complex area of law and policy and the duty to register can cause harm on juveniles. This bill and the proposed changes risk public safety. Registration is appropriate as some juvenile sex offenders are violent or re-offenders. This bill does not consider that there could be those who are a danger to the public and there should be discretion as they should be required to register. We believe the changes to SSODA would impact public safety and we are concerned about the deferred disposition. Sex offenses should not be a deferred crime.

Persons Testifying: PRO: Senator Jeannie Darneille, Prime Sponsor; Elizabeth J. Letourneau, Moore Center for the Prevention of Child Sexual Abuse; Timothy Kahn, Certified Sex Offender Treatment Provider; Katherine Hurley, King County Department of Public Defense; Roger Rogoff, King County Superior Court Judge; Kendrick Washington, ACLU of Washington.

CON: Laura Merchant, Harborview Abuse and Trauma Center; James McMahan, Washington Association of Sheriffs and Police Chiefs; Russell Brown, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: No one.