

HOUSE BILL REPORT

SSB 5326

As Reported By House Committee On:

Corrections
Appropriations

Title: An act relating to registration of sex offenders.

Brief Description: Revising provision for registration of sex offenders.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Fairley, Roach, Hargrove, West, Oke and Winsley).

Brief History:

Committee Activity:

Corrections: 3/21/95, 3/29/95 [DPA];
Appropriations: 4/3/95 [DPA(COR/APP)s].

HOUSE COMMITTEE ON CORRECTIONS

Majority Report: Do pass as amended. Signed by 10 members: Representatives Blanton, Vice Chairman; Sherstad, Vice Chairman; Quall, Ranking Minority Member; Tokuda, Assistant Ranking Minority Member; Cole; Dickerson; Koster; Radcliff; K. Schmidt and Schoesler.

Staff: Rick Neidhardt (786-7841).

Background: Sex offenders must register with their county sheriff within 24 hours of being released from confinement. The registration requirement clearly applies to offenders convicted of a sex offense in Washington's state courts.

Foreign convictions. A concern exists that a sex offender convicted in a foreign country is not currently required to register when he or she moves to this state. The registration statute requires a sex offender to register when he or she moves to Washington after being convicted of sex offenses in other states or in federal courts, but this same requirement is not extended to an offender who moves to Washington after being convicted of a sex offense in a foreign country.

Offenders under federal jurisdiction. Another concern exists about sex offenders who are convicted under federal statutes and then are released, within our state, under the

supervision of the United States Probation Service. The registration statute does not expressly require these sex offenders to register.

Not guilty by reason of insanity. A person charged with a sex offense can be found not guilty by reason of insanity. If the court finds the person is a substantial danger to others, or presents a substantial risk of committing felonies that jeopardize public safety, the court can commit the person to the custody of the Department of Social and Health Services. A person who has pleaded insanity cannot later contest the validity of the commitment on the grounds that he or she did not commit the acts charged.

The person is to be released once the person is no longer a substantial danger to others and no longer presents a substantial risk of committing felonies that jeopardize public safety. A person released under these circumstances is not required to register as a sex offender.

Verification of addresses. A sex offender who is required to register must disclose the address where he or she is living. A concern has been raised that some sex offenders are not living at their registered address. The current registration law does not require any law enforcement agency to verify that a sex offender is actually living at the registered address.

Offenders moving within the state. A registered sex offender who moves to a new address in the same county must notify the sheriff of the new address within 10 days of establishing the new residence. A registered sex offender who moves to a new address in another county must register with the sheriff in the new county within 10 days of establishing the new residence.

Prosecutors sometimes have difficulty proving that an offender has established a new residence. Proving a "residence" requires proving an intent to live there indefinitely.

Offenders moving out-of-state. When a registered sex offender moves out of the state, current law does not require the offender to disclose the new address to any law enforcement agency in this state.

Penalty for failing to register. The penalty for failing to register as a sex offender depends on the severity of the underlying sex offense. If the underlying sex offense is a class A felony, then the failure to register is a class C felony. The failure to register is a gross misdemeanor for all other sex offenses.

Summary of Amended Bill:

Foreign convictions. An offender convicted in a foreign country of a sex offense who then moves to Washington is required to register in this state.

Offenders under federal jurisdiction. Offenders under federal supervision on July 23, 1995, for a sex offense, are required to register within 10 days of that date. Offenders who are confined on or after July 23, 1995, in a federal or military correctional facility must register within 24 hours of being released to live in Washington State.

Not guilty by reason of insanity. The requirement to register as a sex offender is extended to people who were charged with committing a sex offense but were found not guilty by reason of insanity.

Any such person who is under the custody of the Department of Social and Health Services on or after July 23, 1995, must register within 24 hours of being released. The department must notify these individuals of the registration requirement.

The department must make reasonable attempts, within available resources, to notify people who were released prior to July 23, 1995, that they are required to register. Any person in this category who receives notice of the registration requirement must register within 24 hours of receiving notice.

The duration of the registration requirement depends, just as with sex offense convictions, on whether the charged sex offense was a class A, B or C felony. A person must register for life for a class A felony, 15 years for a class B felony, 10 years for a class C felony. Just as with sex offense convictions, the registration requirement can be terminated earlier by order of the court.

Verification of addresses. When a sex offender registers with the county sheriff, the sheriff's department must make reasonable attempts to verify the offender is living at the registered address. At a minimum, the department must send certified mail, with return receipt requested, to the registered address. If the receipt is returned without the offender's signature, the department must follow up by talking in person with the residents at the registered address. The department must make reasonable attempts to locate any sex offender not living at the registered address.

Offenders moving within the state. The term "establishing a new residence" is changed to "moving." Accordingly, a registered sex offender who moves to a new county must re-register within 10 days of moving, and a registered sex offender who moves to a new address in the same county must notify the sheriff within 10 days of moving.

Offenders moving out-of-state. A registered sex offender who moves out of this state must disclose the new address to the sheriff of the county where the offender most recently registered.

Penalty for failing to register. The penalty for failing to register as a sex offender is made a class C felony, regardless of the severity of the underlying sex offense. The same penalty is created for offenders who move to a new address without notifying the sheriff.

Amended Bill Compared to Substitute Bill: The striking amendment replaces the provisions of the substitute bill with the provisions of a bill that passed out of the House of Representatives, 2SHB 1214. In particular, the striking amendment adds provisions that: (1) extend registration requirements to individuals who were charged with committing a sex offense but were found not guilty by reason of insanity; (2) require county sheriffs to verify addresses registered by sex offenders; and (3) increase the penalty for failing to register as a sex offender to a class C felony in all instances. Minor clarification and technical changes are incorporated.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The registration requirements for sex offenders should be expanded. Use of the term "moving" is better than "establishing a new residence." It is through the federal State Department that local law enforcement agencies usually find out about U.S. citizens being convicted in foreign countries. It can sometimes be difficult to determine what is the comparable Washington crime for a conviction received in a foreign country. Police sometimes have difficulty processing gross misdemeanor cases, when they tend to get only small penalties in district court. Increasing the penalty for the crime of failing to register as a sex offender is not the way to get law enforcement to focus on enforcing that crime. There could be constitutional questions in requiring registration from those found not guilty of a sex offense by reason of insanity. Requiring verification of addresses is a good idea.

Testimony Against: None.

Testified: Senator Jeanine H. Long, Prime Sponsor (pro); and Larry Erickson, Washington Association of Sheriffs & Police Chiefs (pro).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Corrections as such amendment is amended by Committee on Appropriations. Signed by 30 members: Representatives Silver, Chairman; Clements, Vice Chairman; Huff, Vice Chairman; Pelesky, Vice Chairman; Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Basich; Brumsickle; Carlson; Chappell; Cooke; Crouse; Dellwo; G. Fisher; Foreman; Grant; Hargrove; Hickel; Jacobsen; Lambert; Lisk; McMorris; Poulsen; Reams; Rust; Sehlin; Sheahan; Talcott; Thibaudeau and Wolfe.

Staff: John Woolley (786-7154).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Corrections: Current law is restored regarding the classification of the offense of failing to register as a sex offender. Prior to the committee amendment, the bill would have made failing to register a class C felony; as amended, failure to register is a class C felony for those who committed the most serious sex offenses and a gross misdemeanor for those who committed other sex offenses.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: None.

Testified: None.