

# HOUSE BILL REPORT

## HB 2412

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### As Reported by House Committee On:

Criminal Justice & Corrections

Appropriations

**Title:** An act relating to increasing the penalty for violating the registration statute by imposing a term of mandatory community custody upon the first offense and assigning the second offense a seriousness level.

**Brief Description:** Changing the penalty provisions for violating the registration statute.

**Sponsors:** Representatives O'Brien, Rodne, Ericks, Lovick and Anderson.

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 1/12/06, 1/31/06 [DPS];

Appropriations: 2/3/06, 2/4/06 [DPS(CJC)].

### Brief Summary of Substitute Bill

- Increases the penalty for failure to register as a sex offender.

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## HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby, Strow and Williams.

**Staff:** Jim Morishima (786-7191).

### Background:

#### Sex Offender Registration

In 1990, the Legislature enacted the Community Protection Act, which, among other things, created a sex offender registry in Washington. A sex or kidnapping offender must register with the county sheriff in the county where he or she resides within certain specified deadlines. The offender must notify the sheriff when he or she enrolls in a public or private school, enrolls in an institution of higher education, changes addresses or becomes homeless. The offender must also notify the county sheriff and the Washington State Patrol (WSP) if he or she changes his or her name.

A sex offender who knowingly fails to register or notify the county sheriff, or who changes his or her name without notifying the county sheriff or the WSP, is guilty of a crime. The offender is guilty of an "unranked" class C felony (zero-12 months in jail, a fine of up to \$10,000, or both) if the sex offense that caused the person to register was a felony. The person is guilty of a gross misdemeanor (zero-12 months in jail, a fine of up to \$5,000, or both) if the sex offense that caused the person to register was a misdemeanor or a gross misdemeanor. The crime is a "sex offense" for purpose of criminal sentencing.

#### Community Custody for Sex Offenses

"Community custody" refers to the portion of an offender's sentence spent in the community under the supervision of the Department of Corrections. When sentencing an offender for a sex offense, a court must sentence the offender to a term of community custody of 36-48 months if the offender's term of incarceration is over one year. If the offender's term of incarceration is one year or less, the court may sentence the offender to a term of community custody of up to 12 months.

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#### **Summary of Substitute Bill:**

The penalty for failure to register as a sex offender is increased. The offense remains "unranked" for the first offense. However, a mandatory term of community custody is imposed for a first offense that is equal to the term of community custody imposed for a sex offense that carries a term of incarceration of over a year. A second conviction for the offense is "ranked" at seriousness level II, which would result in a mandatory prison term and another mandatory term of community custody.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill clarifies that the term of community custody for the first offense is equal to the term of community custody imposed for sex offenses that carry terms of incarceration of over a year.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** This bill is a product of work sessions the Joint Task Force on Sex Offender Management had over the summer. This is a good common sense change to the registration statute. It will help law enforcement and the prosecutors do their jobs.

**Testimony Against:** None.

**Persons Testifying:** James McMahan, Washington Association of Sheriffs and Police Chiefs.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill by Committee on Criminal Justice & Corrections be substituted therefor and the substitute bill do pass. Signed by 30 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Buri, Chandler, Clements, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hinkle, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, Miloscia, Pearson, Priest, Schual-Berke, P. Sullivan, Talcott and Walsh.

**Staff:** Bernard Dean (786-7130).

### **Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Criminal Justice & Corrections:**

No new changes were recommended.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** There has been a public outcry about the number of released sex offenders in the community who are not registered.

**Testimony Against:** None.

**Persons Testifying:** Representative O'Brien, prime sponsor.

**Persons Signed In To Testify But Not Testifying:** None.