

HOUSE BILL REPORT

ESSB 5245

As Reported by House Committee On:
Public Safety

Title: An act relating to the safety of crime victims.

Brief Description: Concerning the safety of crime victims.

Sponsors: Senate Committee on Human Services, Reentry & Rehabilitation (originally sponsored by Senators Brown, Wilson, L., Rolfes and Wagoner).

Brief History:

Committee Activity:

Public Safety: 3/12/21, 3/18/21 [DP], 2/17/22, 2/22/22 [DPA].

**Brief Summary of Engrossed Substitute Bill
(As Amended By Committee)**

- Expands the list of crimes of conviction triggering the Department of Corrections' requirement to provide notification to certain persons of an incarcerated person's parole, release, community custody, work release placement, furlough, or escape.
- Exempts from disclosure under the Public Records Act specified information and records pertaining to notification and requests for notification of a person's custody or supervision status, upcoming hearing, case disposition, or service of a protection order.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass as amended. Signed by 13 members: Representatives Goodman, Chair; Johnson, J., Vice Chair; Mosbrucker, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Davis, Graham, Griffey, Hackney, Orwall, Ramos, Simmons, Thai and Young.

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.

Staff: Omeara Harrington (786-7136).

Background:

Victim and Witness Notification Program.

The Department of Corrections (DOC) is required to send written notice to certain persons regarding the parole, release, community custody, work release placement, furlough, or escape of a specific person convicted of a violent offense, a sex offense, a domestic violence court order violation, or a felony Harassment offense. Except in the event of escape or emergency furloughs, the notice must be sent at the earliest possible date and no later than 30 days before release.

The persons to whom the notice must be sent include:

- the chief of police to the city in which the person will reside or in which placement will be made in a work release program;
- the sheriff of the county in which the person will reside or in which placement will be made in a work release program;
- the sheriff of a county where the person was convicted if the DOC does not know where the person will reside;
- the Washington State Patrol for the release of all sex offenders; and
- to the following persons if the notice was requested in writing:
 - the victim of the crime for which the person was convicted or the victim's next of kin if the crime was a homicide;
 - any witnesses who testified against the person in any court proceedings involving the violent offense;
 - any person specified in writing by the prosecuting attorney; and
 - any person who requests such notice about a specific person convicted of a sex offense at least 60 days prior to the person's expected release date.

If a person convicted of a violent offense, sex offense, domestic violence court order violation, or of felony Harassment escapes from a correctional facility, the DOC must immediately notify the chief of police of the city and sheriff of the county in which the person resided immediately before the person's arrest and conviction. If previously requested, the DOC must also notify the witnesses and the victim of the crime for which the person was convicted. If the person is recaptured, the DOC must send the required notice as soon as possible but no later than two working days after the DOC learns of the recapture.

The Public Records Act.

The Public Records Act (PRA) requires state and local agencies to make their written records available to the public for inspection and copying upon request, unless the information is exempt from disclosure in the PRA or as otherwise provided in law. The PRA is liberally construed, and its exemptions interpreted narrowly.

The Jail Booking and Reporting and Victim Information and Notification Systems.

The Jail Booking and Reporting System (JBRS) is an electronic central repository and information source for statewide city and county jail booking information. The JBRS contains descriptive information of each person booked into jail, such as the person's name, vital statistics, address, and mugshot, along with date and time of any release or transfer and other information. The JBRS is capable of communicating electronically with every Washington city and county jail and with all other Washington criminal justice agencies.

A component of the JBRS system is the statewide automated Victim Information and Notification (VINE) System. The VINE system automatically notifies a registered victim when various changes occur such as when an incarcerated person transfers to another facility, is discharged, changes custody or supervision levels, escapes, becomes noncompliant in certain instances, or has an upcoming court date.

Summary of Amended Bill:

In addition to current notification requirements, the DOC is required to send written notice to specified persons regarding the parole, release, community custody, work release placement, furlough, or escape of incarcerated persons convicted of the following additional crimes:

- domestic violence offenses;
- Assault in the third degree;
- Unlawful Imprisonment;
- Vehicular Homicide by disregard for the safety of others; and
- Controlled Substances Homicide.

Information and records prepared, owned, used, or retained by the Washington Association of Sheriffs and Police Chiefs (WASPC) revealing the existence of a notification, or of registration to be notified, regarding any specific individual, or the identity of or any information submitted by a person who registers to be notified of a person's custody or supervision status, upcoming hearing, case disposition, or service of a protection order pursuant to the JBRS or VINE systems, or any other program used for such notification purposes, are exempt from public inspection and copying under the PRA.

Amended Bill Compared to Engrossed Substitute Bill:

The provision is removed stating that the DOC need not provide notice to witnesses and victims when a person is released due to a court order pursuant to felony resentencing proceedings. An exemption from disclosure under the PRA is created for specified information and records pertaining to notification and requests for notification regarding a person's custody or supervision status, upcoming hearing, case disposition, or service of a protection order. The bill's effective date is delayed to July 1, 2022. A technical change is made to update an amendatory section to reflect changes made during the 2021 legislative session.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect on July 1, 2022.

Staff Summary of Public Testimony:

(In support) The expansion of victim notification programs is a good thing, as victims should be informed and included. Adding an amendment to create a PRA exemption for the victim notification program is essential. That program has been in place for 15 years under assumption that it is exempt from the PRA, and it is not. As a result, people who access that program could have their information made public. The exemption is limited to information a person gives to WASPC so that they can receive notification and information associated with a notification having been provided. This exemption will prevent incarcerated persons from asking if anyone has registered for notification about them. The importance of this exemption cannot be overstated. Sexual assault victims come forward at considerable personal cost. The very least that can be done is to provide protection for them.

(Opposed) There is no problem with victims of domestic violence, Controlled Substances Homicide, or Unlawful Imprisonment being notified of the convicted person's release. Likewise, there is no problem with protecting the identities of people asking for notification. However, it is a problem to notify law enforcement when people with low level offenses enter communities. It puts an aura around a person that they cannot get away from, as their information will be in law enforcement databases and visible every time an officer comes into contact with that person. This can affect their interactions with law enforcement. Assault in the third degree is based on the victim's employment or based on negligence, not intentional action, and is often an Assault in the fourth degree that because of some additional factor qualifies as a felony offense. Often these cases involve people who do not know one another and will never see each other again. Victim notification is less worrisome, but amendments should be made to limit the vast expansion of law enforcement notification.

Persons Testifying: (In support) James McMahan, Washington Association of Sheriffs and Police Chiefs; and Mary Ellen Stone, King County Sexual Assault Resource Center.

(Opposed) Kari Reardon, Washington Association of Criminal Defense Lawyers and Washington Defender Association.

Persons Signed In To Testify But Not Testifying: None.