

HOUSE BILL REPORT

HB 2015

*As Reported By House Committee on:
Judiciary*

Title: An act relating to refinements of the community protection act of 1990.

Brief Description: Changing provisions relating to offenders.

Sponsor(s): Representative Appelwick.

Brief History:

Reported by House Committee on:
Judiciary, March 1, 1991, DPS.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *That Substitute House Bill No. 2015 be substituted therefor, and the substitute bill do pass.*

Signed by 17 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Paris, Assistant Ranking Minority Member; Belcher; Broback; Forner; Inslee; Locke; R. Meyers; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; Vance; and Wineberry.

Staff: Pat Shelledy (786-7149).

Background: In 1990, the Legislature passed a comprehensive act concerning sex offenders which was termed the Community Protection Act of 1990.

The act created a civil commitment scheme for civil commitment of sexually violent predators. The act provides that three months before the anticipated release from total confinement of a sex offender who committed a sex offense between June 30, 1984 and July 1, 1988, the Department of Corrections must notify the prosecutor of the county where the person was convicted of the offender's release, provide information to the prosecutor about the offender's conduct in prison, and advise the prosecutor whether the department recommends that the prosecutor file a civil commitment petition. Under the Civil Commitment Act, several other sex offenders are eligible for civil commitment, including juveniles, insane people who were found not guilty by reason of insanity, and persons acquitted of sex offenses due to incompetence to stand trial. No specific statute exists

requiring those agencies to notify the prosecutor, nor does a specific statute exist requiring notice to the prosecutor of offenders being released whose crimes were not committed within that four-year period.

Under the civil commitment statute, the court is required to set a trial on the petition for commitment within 45 days of the filing of the petition. Conceivably, the petition may be filed when the person is at large. More than 45 days could pass before the person could be found and then taken to the evaluation center for an evaluation to determine whether civil commitment is appropriate.

The provisions regarding when a person is to be referred to the prosecutor and when a person is eligible for civil commitment are not identical. One statute states that the department may refer three months before the release from "total confinement." Another statute states that for adults a person may be eligible for civil commitment when the sentence of the person convicted of a sexually violent offense is about to expire, or has expired before, on, or after July 1, 1990.

No specific statute exists that states whether parole is tolled or runs concurrently with offenders on parole who are civilly committed.

The Department of Corrections must notify various parties no later than 10 days before a sex or violent offender is paroled, placed in community placement or work release, or furloughed. The statute does not expressly state that the department must notify those parties when the offender is released.

The Division of Juvenile Rehabilitation is also required to provide notice to certain parties no later than 10 days before a juvenile sex offender is to be released, paroled, placed on leave, or transferred to a community residential facility from an institution. Some bed spaces in community residential facilities become available suddenly and do not remain open for 10 days. Some offenders who would otherwise have been placed in the facility have not been placed because of the 10-day notice requirement.

Certain juvenile sex offenders' periods of parole were extended from 18 months to 24 months under the 1990 act.

Two separate bills that passed through different committees amended the background check provisions. The policy behind the bills are not inconsistent with each other, but due to code revisor rules both were published in the code.

Under the special sexual offender sentencing alternative, a number of requirements were imposed on sex offender therapists to provide certain information on evaluations and follow-up reports. In addition, defendants are restricted from changing therapists or treatment conditions without prior notice to the prosecutor and the community corrections officer, and if they object to the change, the offender must obtain prior court approval. In addition, the court is required to consider the victim's opinion about the appropriateness of the sentencing alternative. Further, the court may order a second evaluation of the offender's amenability to treatment. This provision took effect for offenders who commit offenses on or after July 1, 1990.

Summary of Substitute Bill: Three months before the anticipated release from total confinement of a sex offender, any agency that has jurisdiction over the sex offender for a sex offense must notify the prosecuting attorney of the county where the person was convicted if the agency recommends that a civil commitment petition be filed. "Agency" means the Department of Corrections, the Indeterminate Sentence Review Board, or the Department of Social and Health Services as appropriate. The agency will be immune from any liability for any good faith conduct in referring the person for commitment.

A sex offender whose "term of confinement," rather than "sentence," is about to expire, or has expired, before, on, or after July 1, 1990, may be eligible for civil commitment.

If a sexually violent predator who is civilly committed is under the Indeterminate Sentence Review Board's jurisdiction when committed, the parole period will run concurrently with the civil commitment period and will not be tolled.

The court must conduct a trial on the civil commitment petition within 45 days after the alleged sexually violent predator is taken into custody, rather than 45 days from the filing of the petition.

The Department of Corrections must provide notice of a sex offender's release at least 10 days before the offender's release, in addition to current requirements of providing notice of parole, community placement, work release placement, furlough, or escape. If the department does not know where the sex offender will reside, the department must send notice to the county sheriff and the chief of police in the city and county where the offender was convicted. The department must also notify the State Patrol who shall put the information into the crime information center for dissemination to law enforcement. This comports with current practice.

The Division of Juvenile Rehabilitation must provide notice of a juvenile's transfer to a community residential facility within three days of the transfer rather than 10 days of the transfer.

A technical correction is made to the Juvenile Justice Act to amend a provision that provides that certain sex offenders will be under parole for 24 months. This is not a change in the law, it only amends a section of the chapter that was not amended last year.

The provisions governing background checks are reenacted merging the two independently enacted bills amending the same section.

Sex offenders who are sentenced under a special sexual sentencing alternative must comply with the reporting requirements and the restrictions on changing sex offender therapists and treatment conditions enacted under the 1990 act, whether the offender committed the sex offense before, on, or after July 1, 1990. Sex offender therapists must also comply with the reporting requirements for any offender the therapist is treating, regardless of when the offender committed the act. The court must consider the victim's opinion regarding the appropriateness of the sentencing alternative, regardless of when the offender committed the act.

This act will apply to all sex offenses committed on, before, or after the effective date of this act, which will take effect immediately.

Substitute Bill Compared to Original Bill: A provision is added that requires the Department of Corrections to notify the State Patrol of the release of all sex offenders, and the State Patrol will place that information in the crime information center for dissemination to law enforcement.

Fiscal Note: Requested February 15, 1991.

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

Testimony For: The bill clarifies and improves sections of the Community Protection Act, but adding a provision requiring the Department of Corrections to notify the State Patrol when sex offenders are released, and then having the State Patrol place that information in the crime information center for dissemination to law enforcement, is suggested. This conforms with existing practice.

Testimony Against: None.

Witnesses: Tim Erickson, Washington State Patrol (pro).