

# SENATE BILL REPORT

## SHB 2316

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As Reported By Senate Committee On:  
Human Services & Corrections, February 26, 1998

**Title:** An act relating to release of information about sex offenders and kidnapping offenders.

**Brief Description:** Revising provisions relating to release of information about sex offenders and kidnapping offenders.

**Sponsors:** House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Ballasiotes, Scott, Sheahan and McDonald).

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/19/98, 2/26/98 [DPA].

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** Do pass as amended.

Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

**Staff:** Fara Daun (786-7459)

**Background:** Current law contains two versions of several statutory sections affected the offender registration and public notification statutes. This occurred because two laws enacted in 1997 amended these sections differently. The separate versions need to be merged.

Washington's current community notification law has been upheld as constitutional in both our Supreme Court and at the Ninth Circuit. In both cases, the courts cited the statutory restrictions on the nature and content of permitted disclosures as a significant factor in favor of holding the statute constitutional. To be constitutional, no disclosure may be made unless there is evidence of the offender's future dangerousness, the disclosure relevant and necessary to prevent future harm, the geographic area of the disclosure is rationally related to the future threat that the offender poses, and the disclosure is intended to prevent future danger rather than punish past crimes. In addition to the information disclosable because of the sex offender registry, conviction and current prosecution records are available without restriction to any person under Washington's Criminal Records Privacy Act.

A public agency includes all state and local agencies, offices, departments, divisions, boards, commissions, bureaus, counties, cities, towns, municipal and quasi-municipal corporations, and special purpose districts.

**Summary of Amended Bill:** The conflicting amendments are merged and certain clarifications are made.

It is clarified that the community notification statute does not relieve a public agency of a duty to disclose records otherwise disclosable under other statutes. It also amends the language discussing release, disclosure, and dissemination of information. The term "release" is used except in relation to the Public Disclosure Act. No substantive change in law is intended by the Legislature in making either of these amendments. The purpose of both amendments is to alleviate perceived confusion at the local level that the community notification statute limits public disclosures made under other statutes. The community notification statute is distinct from both the Criminal Records Privacy Act and other public disclosure statutes and does not limit them. Neither do the Criminal Records Privacy Act and other public disclosure statutes expand the community notification statute.

Jails must obtain additional information from offenders subject to registration, must inform them of their duty to register, and inform offenders released after July 31, 1998 of their classified sex offender risk level.

County sheriffs must notify the chief law enforcement officer of the jurisdiction in which the offender has registered to live. The sheriff, the chief of police, or the town marshal must make reasonable attempts to verify the offender's address, and to locate any offender not at the registered address.

**Amended Bill Compared to Substitute Bill:** The bill strikes amending language regarding the release of information under the community notification act and replaces it with other language to more clearly define these as a technical change with no substantive intent.

**Appropriation:** None.

**Fiscal Note:** Requested on February 18, 1998.

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

**Testimony For:** There is inconsistency in the use of the terms "release," "disclose," and "disseminate." The term disseminate should be used throughout because it is a notification statute. Using different terms confuses agencies and they refuse to release information that they should release under public disclosure laws. No substantive change is intended.

**Testimony Against:** The manner in which the changes have been made may destroy the distinction between the risk level classifications and their differing levels of notification. The use of the term disseminate indicates that the state would have to make a broad release of information even at the lowest risk level. If we were to remove the distinctions between the risk levels, the notification statute might no longer be classified as regulatory under the test used in *State v. Ward*. That case held the statute constitutional because the notification was regulatory and not punitive. In addition, by making undefined "information" about registrants disclosable public records under the public disclosure law and mandating disclosure upon request, the substitute bill creates an expectation that all information is disclosable and must be disseminated. This will lead to a substantial increase in the number of requests for sex offender information, which would have a substantial fiscal impact.

**Testified:** Representative Ida Ballasiotes, prime sponsor (pro); Roland Thompson, Allied Daily Newspapers (pro); Victoria Roberts, DOC (con); Mike Patrick, WSCPO (con).

