

HOUSE BILL REPORT

HB 2796

As Reported by House Committee On:
Human Services & Early Learning

Title: An act relating to juvenile sex offense registration waivers under the special sexual offender disposition alternative.

Brief Description: Concerning juvenile sex offense registration waivers under the special sexual offender disposition alternative.

Sponsors: Representatives Frame, Peterson, Pollet and Santos.

Brief History:

Committee Activity:

Human Services & Early Learning: 2/4/20, 2/7/20 [DPS].

Brief Summary of Substitute Bill

- Expands eligibility for a juvenile Special Sex Offender Disposition Alternative (SSODA) to include offenders who were found to have committed Assault in the fourth degree with Sexual Motivation when the offender has no history of a prior sex offense.
- Creates a presumption that the offender is sufficiently rehabilitated upon completion of a SSODA to warrant removal from the central registry of sex offenders and must relieve the offender's duty to register unless the court finds that the offender is not sufficiently rehabilitated to warrant removal.

HOUSE COMMITTEE ON HUMAN SERVICES & EARLY LEARNING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Dent, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Corry, Goodman, Griffey, Kilduff, Klippert, Lovick and Ortiz-Self.

Staff: Luke Wickham (786-7146).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Juvenile Special Sex Offender Disposition Alternative.

A juvenile Special Sex Offender Disposition Alternative (SSODA) is an alternative to a standard juvenile disposition where the court orders conditions, which may include sex offender treatment, for two years. The court suspends any confinement that would be ordered as part of the SSODA while the juvenile is subject to the conditions of the SSODA, and may revoke the SSODA and impose the suspended disposition if the juvenile fails to comply with the terms of the SSODA.

A juvenile is eligible for a SSODA when he or she is found to have committed a sex offense, other than a serious violent offense, and the offender has no history of a prior sex offense.

If a juvenile is eligible for a SSODA, the court may order an examination to determine whether he or she is amenable to treatment. The report of the examination must set forth the evaluator's sources and include:

- the respondent's version of the facts and the official version of the facts;
- the respondent's offense history;
- an assessment of problems in addition to alleged deviant behaviors;
- the respondent's social, educational, and employment situation; and
- other evaluation measures used.

The examiner must assess and report regarding the respondent's amenability to treatment and relative risk to the community. The examiner must also provide a proposed treatment plan.

After receiving this information, the court must consider whether the offender and the community will benefit from the use of this SSODA and consider the victim's opinion whether the juvenile should receive a SSODA. If the court determines that the SSODA is appropriate, the court must impose a determinate disposition and the court may suspend the disposition and place the offender on community supervision for at least two years. As a condition of the suspended disposition, the court may impose conditions including up to 30 days of confinement and requirements to undergo available sex offender treatment.

The juvenile's sex offender treatment provider must submit quarterly reports on the juvenile's progress in treatment to the court and the parties.

If the offender violates any condition of the disposition, or the court finds that the juvenile is failing to make satisfactory progress in treatment, the court may revoke the suspension and order execution of the disposition or order up to 30 days of confinement for the violation.

Sex Offender Registry.

Any adult or juvenile who is residing, is a student, or is employed in Washington who has been found to have committed or has been convicted of a sex or kidnapping offense (or who has been found not guilty by reason of insanity of committing a sex or kidnapping offense) must register with his or her local county sheriff. The length of time an offender must register depends on the underlying offense and prior offenses.

Sheriffs must assign risk level classifications to all registered offenders. Registered offenders are classified according to risk levels I, II, and III based on risk to reoffend in the community (low, moderate, and high risk, respectively).

The Washington State Patrol (WSP) maintains Washington's central registry of sex and kidnapping offenders. A person who has been convicted of a sex or kidnapping offense must register with the sheriff in the county in which he or she resides and must provide the sheriff with a variety of location and identification information. The sheriff must forward registration information, including the offender's risk level and notice of any address changes, to the WSP for inclusion in the registry. Information on registered sex and kidnapping offenders is available to the public.

Relief from Duty to Register for Juveniles.

Individuals who committed a sex offense or kidnapping offense when under age 18 may petition the superior court to be relieved of the duty to register if he or she has not been determined to be a sexually violent predator as follows:

- For Class A offenses committed at ages 15 to 18 if:
 - at least five years have passed and he or she has not been adjudicated or convicted of another sex or kidnapping offense;
 - he or she has not been adjudicated or convicted of failing to register as a sex offender; and
 - he or she shows by a preponderance of the evidence that he or she is sufficiently rehabilitated to warrant removal from the registry.
- For all other sex or kidnapping offenses:
 - at least two years have passed and he or she has not been adjudicated or convicted of another sex or kidnapping offense;
 - he or she has not been adjudicated or convicted of failing to register as a sex offender; and
 - he or she shows by a preponderance of the evidence that he or she is sufficiently rehabilitated to warrant removal from the registry.

In determining whether a petitioner is sufficiently rehabilitated, statutory guiding factors are provided to assist the court in making its determination.

Juveniles convicted in adult court of a sex or kidnapping offense must follow the procedures for adults seeking relief from the duty to register.

Summary of Substitute Bill:

Eligibility for a SSODA is expanded to include offenders who were found to have committed Assault in the fourth degree with Sexual Motivation when the offender has no history of a prior sex offense.

At the end of the supervision ordered under a SSODA, there is a presumption that the offender is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and must relieve the offender's duty to register unless the court finds that the offender is not sufficiently rehabilitated to warrant removal and may consider certain factors.

Qualified professionals may conduct examinations and treatment ordered through a SSODA, instead of only certified sex offender treatment providers or certified affiliate sex offender treatment providers.

A sex offender therapist who examines or treats a juvenile sex offender does not have to be certified by the Department of Health (DOH) if the therapist is a professional licensed by the DOH and the treatment is evidence-based.

Substitute Bill Compared to Original Bill:

The substitute bill requires the court to order a juvenile offender to register as a sex offender upon adjudication instead of allowing the court to suspend the juvenile's requirement to register upon entry of a juvenile SSODA.

The substitute bill creates a presumption that the offender is sufficiently rehabilitated upon completion of a SSODA to warrant removal from the central registry of sex offenders and must relieve the offender's duty to register unless the court finds that the offender is not sufficiently rehabilitated to warrant removal and may consider certain factors.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is about a sensitive and triggering topic. Children who commit offenses in the juvenile offender system are going to reintegrate into the community. The focus for these individuals should be on effective treatment. There are many times that juvenile sex offenders are repeating behavior that was perpetrated on them. Most juveniles who receive sex offender treatment do not reoffend. Ninety-one and one-third percent of juvenile offenders complete the SSODA. Sex offender registration is a tool for public notice. This bill makes registration the exception rather than the rule because the evidence suggests that most of these juveniles are rehabilitated.

(Opposed) This is a bill that prosecutors drafted and supported in its original form. Prosecutors support the ability for courts to end registration at the time an individual completes his or her SSODA. This would be two to five years sooner than allowed in current law. There are concerns with not requiring sex offender registration at the time the SSODA is entered. Currently, if there is a situation with a lot of support in the family, prosecutors may want to charge Assault in the fourth degree with Sexual Motivation, but there is not the programming available to individuals, so prosecutors end up charging a sex offense. By expanding the SSODA to allow Assault in the fourth degree with Sexual Motivation, more

juveniles will be able to benefit from the SSODA. There should be public notice that an individual was adjudicated for a sex offense at the time a SSODA is entered.

Persons Testifying: (In support) Representative Frame, prime sponsor.

(Opposed) Russell Brown, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.