

HOUSE BILL REPORT

HB 1997

*As Reported By House Committee on:
Judiciary*

Title: An act relating to sex offender registration.

Brief Description: Clarifying provisions relating to registration of sex offenders.

Sponsor(s): Representatives Tate, Riley, Padden, Hargrove, Mielke, Ludwig, Bowman, Dorn, Ferguson, Paris, D. Sommers, Vance, Forner, Scott, Winsley, Kremen, Broback, Brough, Roland, Jacobsen, Holland, Horn, Wynne, Morton, R. Johnson, Van Luven, Chandler, P. Johnson, Brumsickle, Silver and Rasmussen.

Brief History:

Reported by House Committee on:
Judiciary, February 27, 1991, DPS.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *That Substitute House Bill No. 1997 be substituted therefor, and the substitute bill do pass.*
Signed by 15 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Paris, Assistant Ranking Minority Member; Belcher; Forner; Hargrove; Inslee; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; Vance; and Wineberry.

Staff: Pat Shelledy (786-7149).

Background: In 1990, the Legislature passed sex offender registration provisions as part of the Community Protection Act. Any adult or juvenile sex offender must register with the county sheriff for the county of the person's residence. The sheriff forwards the registration to the State Patrol.

The person must register within 45 days of establishing residence in Washington. If a current resident, the offender must register within 30 days of release from confinement, if any.

The duty to register applies to sex offenders who commit sex offenses on or after February 28, 1990. The duty to register also applies to sex offenders who committed sex offenses prior to February 28, 1990, if the offender is

under the custody or active supervision of the Department of Corrections or the Department of Social and Health Services as a result of the sex offense.

Failure to register is a class C felony for sex offenders convicted of class A sex offenses or a gross misdemeanor for sex offenders convicted of other sex offenses.

The sex offender registration provisions took effect February 28, 1990.

Sex offenders required to register may petition the court for relief from the duty to register. The court may relieve the petitioner of the duty to register only if the petitioner proves, by clear, cogent, and convincing evidence, that future registration of the petitioner will not serve the purposes of the registration statute. The petition requirement applies to both adults and juveniles regardless of the age of the offender when the offender committed the sex offense.

Summary of Substitute Bill: Various rules and deadlines for registration of sex offenders are established depending upon the custodial status of the sex offender and when the offender committed or was convicted of the sex offense.

SEX OFFENDERS IN CUSTODY. Sex offenders who are in custody on the effective date of this act must register within 24 hours of their release from custody.

The duty to register applies to all sex offenders who committed sex offenses on, before, or after February 28, 1990, and who are in custody on the effective date of this act as a result of that offense.

The duty applies to sex offenders released from the custody of the Department of Corrections, the Department of Social and Health Services, a local division of youth services, or a local jail or juvenile detention facility.

Failure to appear and register within 24 hours is a per se violation of the registration statute. The county sheriff is not required to determine whether the person is actually living in the county.

SEX OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who are not in custody on the effective date of the act but who are under the jurisdiction of the Indeterminate Sentence Review Board, or the active supervision of the Department of Corrections, the Department of Social and Health Services, or a local division of youth

services must register within 10 days of the effective date of this act.

The duty applies to sex offenders who on the effective date of the act are under the Indeterminate Sentence Review Board's jurisdiction or the active supervision of the Department of Corrections, Department of Social and Health Services, or a local division of youth services for sex offenses committed before, on, or after February 28, 1990.

SEX OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after the effective date of the act for offenses committed on or after February 28, 1990, but who are not sentenced to a term of confinement, must register with the county sheriff immediately upon sentencing.

SEX OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders who are from out of state that are going to move to Washington State who are not under the jurisdiction of the State must register within 30 days of moving to Washington.

The duty to register applies to sex offenders who commit sex offenses on or after February 28, 1990.

Sex offenders who are moving to Washington but are under the jurisdiction of the State when they move here must register within 24 hours of the date they move to Washington. The agency that has jurisdiction over the sex offender must notify the sex offender of the duty to register prior to the sex offender's move.

CONSEQUENCES OF THE FAILURE TO REGISTER. Failure to register within the time required constitutes a per se violation of the statute. The county sheriff does not have to determine whether the person is living in the county. If an offender charged with the failure to register asserts as a defense that he or she did not have notice of the duty to register, arrest on charges of failure to register, service of the information, or arraignment on charges for failure to register, constitutes actual notice and the offender must register immediately following actual notice or another charge can be filed. Registering following receipt of actual notice through service or arraignment does not relieve the offender of criminal liability on the original charge.

The new deadlines for registering under this act do not relieve any offender of the duty to register under the rules under the law as those exist prior to the effective date of this act.

An offender who commits a sex offense when under age 15, may prove by a preponderance of the evidence rather than clear, cogent, and convincing evidence, that future registration of the offender will not serve the purposes of the registration statute, if the offender has not been adjudicated of any sex offenses during the 24 months following adjudication for the sex offense that gave rise to the duty to register.

Substitute Bill Compared to Original Bill: The requirement that offenders in custody register prior to release from custody and then re-register upon release is stricken. Instead, the deadline for registration following release from custody is reduced from the current law's deadline of 30 days to 24 hours following release. The extension of the requirement of the duty to register to all sex offenders under the jurisdiction of any state agency is stricken, and the limitation that the offender be under "active supervision" is restored, except that offenders who are under the jurisdiction of the Indeterminate Sentence Review Board must register even if those offenders are not under the active supervision of the Department of Corrections. The requirement that the agency that has jurisdiction over the offender notify the offender of the duty to register is removed. The deadline for registration of out-of-state offenders who are under the jurisdiction of an agency when they move to Washington is reduced from three days to 24 hours of the time of the move.

Fiscal Note: Requested February 15, 1991.

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

Testimony For: Any bill that strengthens the registration requirement so that community members know where sex offenders reside will help protect the community. Interpretation of the term "active supervision" has excluded some sex offenders under the jurisdiction of the Indeterminate Sentence Review Board from the registration requirement. The Indeterminate Sentence Review Board supports requiring those sex offenders to register.

Testimony Against: None.

Witnesses: Representative Tate, Prime Sponsor; Dennis Marsh, Indeterminate Sentence Review Board (pro on portion of original bill that extends requirement of registration to sex offenders under the jurisdiction of the Indeterminate Sentence Review Board); and Ronda Henry and her two children, Tennis Shoe Brigade (in favor of original bill and strengthening sex offender registration laws in general).