

HOUSE BILL REPORT

HB 1147

As Reported by House Committee On:
Criminal Justice & Corrections

Title: An act relating to protecting communities from sex offenders through the establishment of community protection zones.

Brief Description: Protecting communities from sex offenders through the establishment of community protection zones.

Sponsors: Representatives Clements, O'Brien, Skinner, Woods, Pearson, Simpson, Lovick, Tom and B. Sullivan.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/28/05, 2/22/05 [DPS].

Brief Summary of Substitute Bill

- Establishes community protection zones around schools.
- Prohibits certain sex offenders from living in the zones.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Kirby and Strow.

Staff: Jim Morishima (786-7191) and Yvonne Walker (786-7841).

Background:

An offender convicted of more than one "two strikes" sex offense will be sentenced for life in prison without the possibility of parole. Two strikes sex offenses include:

- rape in the first and second degrees;
- rape of a child in the first and second degrees;
- child molestation in the first degree;
- indecent liberties by forcible compulsion; and
- the following crimes when committed *with sexual motivation*:
 - murder in the first and second degrees;

- homicide by abuse;
- kidnapping in the first and second degrees;
- assault in the first and second degrees;
- assault of a child in the first degree; and
- burglary in the first degree.

An offender who commits a first "two strikes" sex offense will be sentenced to a "determinate plus" sentence. Such an offender will receive a minimum term and a maximum term. The minimum term is generally equal to the offender's standard range sentence. The maximum term is the statutory maximum term for the crime: life for class A felonies, 10 years for class B felonies, and five years for class C felonies.

The offender will be evaluated by the Indeterminate Sentence Review Board after the expiration of his or her minimum term and must be released unless he or she is likelier than not to commit a predatory sex offense. If the offender is released, he or she will be on community custody for the remainder of his or her maximum term. The terms for the community custody must include conditions such as reporting to a community corrections officer and obtaining residence approval from the Department of Corrections (DOC).

Summary of Substitute Bill:

Community protection zones are established around public and private schools. The zones have a radius of 880 feet around the schools.

The court must prohibit an offender who is convicted of a first "two strikes" sex offense against a minor victim from residing in a community protection zone while on community custody. In addition, the DOC may not approve a residence location for such offenders if the proposed residence is in a community protection zone.

The DOC must reject a residence location if the proposed residence is within 880 feet of schools, child care centers, playgrounds, or other grounds or facilities where children of similar age or circumstance as a previous victim are present who the department determines may be put at substantial risk of harm by the sex offender's residence at that location.

Law enforcement agencies and the DOC are immune from civil liability for damages from any discretionary decisions made if they make a good faith effort to comply with the act.

Substitute Bill Compared to Original Bill:

Provisions are deleted that: (1) increased the penalty for failing to register for certain sex offenders who live in community protection zones; (2) required the sheriff to notify schools when certain sex offenders move into community protection zones; and (3) required school districts to conduct public hearings regarding adopting a parental notification policy.

The substitute bill establishes community protection zones around schools and prohibits certain sex offenders from living within those zones. The DOC must reject a residence

location if the proposed residence is within 880 feet of schools, child care centers, playgrounds, or other grounds or facilities where children of similar age or circumstance as a previous victim are present who the department determines may be put at substantial risk of harm by the sex offender's residence at that location. A provision is added that makes law enforcement agencies and the DOC immune from civil liability for damages from any discretionary decisions made if they make a good faith effort to comply with the act.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Last year in the Selah area, a level III sex offender moved in next to a school. This offender would wear very little clothes and would parade around in front of children. There was a 90 percent chance that the offender would re-offend again.

It took seven months to draft this piece of legislation which establishes protection zones. This bill only deals with the worst of the worst that have committed egregious crimes against children. The purpose of this bill is to deal with the general safety of children within a two-block radius of schools. The purpose is not to create an unfunded mandate or a burden on anyone. It invests the power in the local school boards. Since one of the major obligations of the school district is to provide safety for children that attend their schools.

Washington has no legislation that prohibits a level III sex offender from living near schools. It is a parent's nightmare to receive a notice that a sex offender is living near a school. Washington needs a law in place to ensure parents that their children can feel safe walking to and from their schools without a sex offender living in their direct path to that school. Our children deserve the chance to grow up safely while they are in our care.

(Concerns) Out of the 18,500 sex offenders registered in this state, less than 16 percent of them are under the supervision of the DOC. This bill would only impact those offenders under supervision and would not affect those sex offenders living without supervision as in the Selah case. The DOC already has the authority to prevent offenders from living within the close proximity of schools, daycare centers, and other public places.

The bill will not unilaterally protect child victims. Studies have shown that sex offenders who do reoffend in schools are those that are traveling to those places and not ones living close to schools. Sex offenders do not re-offend in their own communities, they actually travel to other communities where they are unknown.

There are several other concerns with this bill. Sex offender notification should be a law enforcement responsibility and not a school responsibility. Charter schools could continuously be created and as a result sex offenders could be driven underground or out into the rural communities. There also are liability issues both with the expansion of the

community protection zones created by schools and the responsibilities of the law enforcement agencies to notify the community.

The big concern of this bill is that it creates a false sense of security. It is time that we start thinking about where sex offenders should go and not where they should not be going.

Testimony Against: There are constitutional concerns with living restrictions placed on offenders that are no longer under the custody of the DOC. The process by which community protection zones could be expanded is also a concern.

In addition, the bill is based upon crimes and not sex offender levels. A person could be convicted of a crime but their assigned sex offender level could be much lower. The use of the term predator is flawed. Most offenders offend against people that they know. Predators offend against people that they do not know.

The bill is very vague regarding how a community protection zone is actually defined. It can start off at two blocks and then it may be extended indefinitely. There are no perimeters or borders for community protection zones. There are many sex offenders that cannot live in certain areas already because the renter or family member can lose his or her lease. What ends up happening is that sex offenders will register as a transient with the police station and then go back and live in these same areas that they were previously prohibited from.

Persons Testifying: (In support) Representative Clements, prime sponsor; Penny Pitman; Pearl Mande; Shelly Grahman; and Velma Chidson.

(Concerns) Victoria Roberts, Department of Corrections; Suzanne Brown-McBride, Washington Coalition of Sexual Assault Programs; James McMahan, Washington Association of Sheriffs and Police Chiefs; and Dan Steele, Washington State School Director's Association.

(Opposed) Michael Kahrs, Washington Defenders Association and Washington Association of Criminal Defense Lawyers; and Keith Barnes, Pierce County Sheriff's Department.

Persons Signed In To Testify But Not Testifying: None.