

HOUSE BILL REPORT

2SHB 2714

As Amended by the Senate

Title: An act relating to making failure to register as a sex offender or kidnapping offender a class B felony.

Brief Description: Changing provisions concerning registration of sex offenders and kidnapping offenders.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Loomis, Hurst, Lantz, Upthegrove, Conway, Simpson, VanDeWege and Kelley).

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 1/23/08, 1/28/08 [DPS];

Appropriations: 2/5/08, 2/6/08 [DP2S(w/o sub PSEP)].

Floor Activity:

Passed House: 2/12/08, 97-0.

Senate Amended.

Passed Senate: 3/4/08, 46-0.

House Refused to Concur.

Senate Amended.

Passed Senate: 3/11/08, 49-0.

<p style="text-align: center;">Brief Summary of Second Substitute Bill</p> <ul style="list-style-type: none">• Changes Failure to Register as a Sex Offender from a class C felony to a class B felony.
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HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives O'Brien, Chair; Hurst, Vice Chair; Pearson, Ranking Minority Member; Ross, Assistant Ranking Minority Member; Ahern and Goodman.

Staff: Jim Morishima (786-7191).

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.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Public Safety & Emergency Preparedness. Signed by 34 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Cody, Conway, Darneille, Ericks, Fromhold, Grant, Green, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDonald, McIntire, Morrell, Pettigrew, Priest, Ross, Schmick, Schual-Berke, Seaquist, Sullivan and Walsh.

Staff: Alex MacBain (786-7288).

Background:

Failure to Register as a Sex Offender

Under the Community Protection Act of 1990, a sex offender must register with the county sheriff of the county in which he or she resides. An offender must provide a variety of information upon registration including name, complete residential address, date and place of birth, place of employment, crime of conviction, date and place of conviction, aliases, Social Security number, photograph, and fingerprints.

Registered sex offenders are subject to a variety of requirements after registration. For example, if an offender must notify the county sheriff if he or she moves or changes any of the information in the registry. Also, homeless offenders must check in with the county sheriff once a week. Level II and level III sex offenders must check in with the county sheriff every 90 days.

A sex offender who knowingly violates the requirements of the registration statute is guilty of a class C felony if the offense that caused the duty to register was a felony. The offense is "unranked" on the first offense, which means the offender would be subject to a term of confinement within the standard range of zero to 12 months. A first-time offender is also subject to a mandatory term of community custody (supervision in the community) of 36-48 months. For second and subsequent offenses, the offense is ranked at seriousness level II, which means the offender, assuming he or she has no other prior offenses, would be subject to a term of confinement of 12-14 months. The offender would also be subject to a mandatory term of community custody of 36-48 months.

A sex offender who knowingly violates the requirements of the registration statute is guilty of a gross misdemeanor if the offense that caused the duty to register was not a felony.

Classes of Felonies

In Washington, felonies are divided into three classes: A, B, and C. The class of felony determines the statutory maximum for the offense; the term of confinement plus any term of community custody may not exceed this maximum. In addition, the class of felony

determines the maximum amount an offender may be fined. The maximums for the different classes of felonies are as follows:

- class A felonies: Life in prison and \$50,000.
- class B felonies: 10 years in prison and \$20,000.
- class C felonies: Five years in prison and \$10,000.

Juvenile Sentencing

In general, the sentence for a juvenile offender is determined by the offender's criminal history and the "offense category" for the offense. The offense category for many felonies is determined in statute. For felonies that do not have a specific offense category assigned to them, the offense category is determined based on the class of the felony. Failure to Register as a Sex Offender, since it does not have a specific offense category assigned to it, has an offense category of C (D for attempts, bailjumps, conspiracies, or solicitations).

Summary of Second Substitute Bill:

The penalty for felony-level Failure to Register as a Sex Offender is increased from a class C felony to a class B felony.

Juvenile Sentencing

For purposes of juvenile sentencing, the offense category for Failure to Register as a Sex Offender is retained at its current level, which is offense category C (offense category D for attempts, bailjumps, conspiracies, or solicitations).

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment requires the Sex Offender Policy Board to review and make recommendations regarding sex and kidnapping offender registration and public notification. The review and recommendations must, at a minimum, include: the appropriate class of felony and sentencing designations for a conviction of Failure to Register; the appropriate groups and classes of adult and juvenile offenders who should be required to register; the duration and termination process for sex and kidnapping offender registration and public notification; simplification of statutory language to allow the Department of Corrections, law enforcement, and offenders to more easily identify registration and notification requirements.

In formulating its recommendations, the Sex Offender Policy Board must review the experience in other jurisdictions and any available evidence-based research to ensure that its recommendations have the maximum impact on public safety. The Sex Offender Policy Board must report to the Governor and the Legislature no later than November 1, 2009.

The Senate amendment also extends the effective date of the increased penalties for Failure to Register as a Sex Offender to 90 days after the adjournment sine die of the 2010 legislative session.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony: (Public Safety & Emergency Preparedness)

(In support) This bill ensures that some sex offenders will be supervised in the community for a longer period of time, which will make our families safer. Currently, some sex offenders convicted of failure to register are not serving their entire terms of community custody. This is because these offenders serve a longer term of confinement, which cuts off their period of community custody. This bill does not increase confinement, but just ensures that an offender's full term of community custody will be served.

(Opposed) None.

Staff Summary of Public Testimony: (Appropriations)

(In support) The committee may wish to amend the bill to fix the unintended effect that the bill has on the juvenile system. The bill was intended to increase the length of adult community supervision, and was not intended to impact the juvenile system.

(Opposed) None.

Persons Testifying: (Public Safety & Emergency Preparedness) Representative Loomis, prime sponsor; and Tom McBride, Washington Association of Prosecuting Attorneys.

Persons Testifying: (Appropriations) Tom McBride, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: (Public Safety & Emergency Preparedness) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.