

# HOUSE BILL REPORT

## SSB 5154

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**As Reported by House Committee On:**  
Public Safety

**Title:** An act relating to registered sex or kidnapping offenders.

**Brief Description:** Concerning registered sex or kidnapping offenders.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senator Hargrove).

**Brief History:**

**Committee Activity:**

Public Safety: 3/13/15, 3/31/15 [DPA].

**Brief Summary of Substitute Bill  
(As Amended by Committee)**

- Requires the Sex Offender Policy Board to make findings and recommendations regarding: (1) public disclosure of sex and kidnapping offender information; and (2) procedures for review of sex and kidnapping offender risk classifications.

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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** Do pass as amended. Signed by 9 members: Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Griffey, Moscoso, Pettigrew and Wilson.

**Staff:** Cassie Jones (786-7303).

**Background:**

Sex Offender and Kidnapping Offender Registration.

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 the county sheriff for the county of the person's residence, or county of school or employment if not a resident. The length of time an offender must register is

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*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.*

dependant upon the offense for which the offender was convicted and whether the offender has any prior offenses.

#### Community Notification and Public Disclosure.

The Department of Corrections (DOC) is authorized to release relevant information that is necessary to protect the public concerning offenders convicted of sex offenses. The DOC has established the End-of-Sentence Review Committee (Committee) for the purposes of assigning risk levels, reviewing release plans, and making appropriate referrals for sex offenders. The Committee classifies offenders according to risk levels I, II, and III based on risk to re-offend in the community (low, moderate, and high risk, respectively).

Law enforcement agencies responsible for disseminating information regarding sex and kidnapping offenders must do the following: (1) review available risk level classifications made by the DOC and other agencies; (2) assign risk level classifications to all offenders; and (3) make a good faith effort to notify the public and residents within a reasonable period of time after the offender registers with the agency.

Public agencies are authorized to release information to the public regarding sex offenders and kidnapping offenders when the agency determines that disclosure of the information is relevant and necessary to protect the public and counteract the danger created by a particular offender. The extent of the public disclosure must be relationally related to: (1) the level of risk posed by the offender to the community; (2) the locations where the offender resides, expects to reside, or is regularly found; and (3) the needs of the affected community members for information to enhance their individual and collective safety.

Law enforcement must consider certain guidelines in determining the extent of the public disclosures regarding sex and kidnapping offenders. For example, for offenders classified as risk level I, the agencies must share information with other law enforcement agencies, and if the offender is a student, with the public or private school. Agencies may disclose information about a level I sex offender to any victim or witness to the offense and to any individual community member who lives near the offender's residence. In addition, agencies may disclose information regarding level II sex offenders to law enforcement agencies, public and private schools, day care centers, libraries, and other entities near where the offender resides. Agencies may also disclose information regarding level III sex offenders to the public at large. The county sheriff with whom an offender is registered as a risk level III must also publish by legal notice, advertising, or news release a sex offender community notification in at least one legal newspaper with general circulation in the area of the sex offender's registered address or location.

#### Sex Offender Policy Board.

The Sex Offender Policy Board (SOPB) was created by the Legislature in 2008. The SOPB, established and maintained by the Sentencing Guidelines Commission, advises the Governor and the Legislature as necessary on issues relating to sex offender management.

The Governor or a Legislative Committee may request that the SOPB undertake projects to assist policy makers in making informed judgments about issues relating to sex offender policy and conduct case review of sex offense incidents to understand the performance of

Washington's sex offender prevention and response systems. The SOPB consists of 13 voting members from the following organizations:

- the Washington Association of Sheriffs and Police Chiefs;
- the Washington Association of Prosecuting Attorneys;
- the Washington Association of Criminal Defense Lawyers;
- the Indeterminate Sentence Review Board;
- the Washington Association for the Treatment of Sex Abusers;
- the Department of Corrections;
- the Washington Superior Court Judges Association;
- the Juvenile Rehabilitation Administration;
- the Office of Crime Victims Advocacy;
- the Washington State Association of Counties;
- the Association of Washington Cities;
- the Washington Association of Sexual Assault Programs; and
- the Special Commitment Center.

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### **Summary of Amended Bill:**

The SOPB is required to review and make findings and recommendations regarding the following:

- public disclosure of sex and kidnapping offender information and the relationship between the Public Records Act and the community notification statute; and
- ability of registered sex and kidnapping offenders to have their risk level classification reviewed and whether there should be a uniform statewide policy for review.

The SOPB must report its findings and recommendations to the Governor and appropriate committees of the Legislature by December 1, 2015.

### **Amended Bill Compared to Substitute Bill:**

All provisions of the original bill are removed. The original bill contained the following provisions:

- established new registration procedures for sex and kidnapping offenders and made other changes and clarifications to sex and kidnapping registration laws;
- created the crime of refusal to provide a DNA sample;
- exempted from public disclosure information held by public agencies that was compiled for the purpose of sex offender and kidnapping offender registration; and
- made multiple changes to the community notification procedures and requirements of public agencies regarding sex and kidnapping offenders.

The amended bill requires the SOPB to review and make findings and recommendations regarding the following:

- public disclosure of sex and kidnapping offender information and the relationship between the Public Records Act and the community notification statute; and

- ability of registered sex and kidnapping offenders to have their risk level classification reviewed and whether there should be a uniform statewide policy for review.

The SOPB must report its findings and recommendations to the Governor and appropriate committees of the Legislature by December 1, 2015.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended 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 of original bill) A number of changes are made in this bill that have been vetted and have full support of many groups. The bulk of this bill was before this committee in a prior session. The big change from the last version is the public records piece. The bill clarifies that the public notification law is how the community is given information about the sex offender registry. This should not to be done under the Public Records Act. A number of people exploit the Public Records Act to cause alarm in the community and create unnecessary costs to public agencies.

Sheriff's offices have received massive public records requests for their entire databases on sex offenders. This bill would provide clarity from the Legislature that notification and release of information is not governed by the Public Records Act. The courts have struggled to deal with the two conflicting statutes: the Public Records Act, and the community notification statute. Under the Public Records Act, public officials are not to consider the identity of the requester or his or her reason for the request. However, under the community notification statute, any disclosures beyond what is required to be posted online must meet a three part test or a set of guidelines that conflict with the Public Records Act. There is a request for an amendment that would make the bill remedial and retroactive.

Various stakeholder groups have participated in the crafting of this legislation. This bill should be passed as written. The defense bar is supportive of maintaining the privacy of its clients subject to the registry where possible and is supportive of the housekeeping provisions of the bill. State law does not parallel the federal law in terms of travel. State defendants do not get notice of the federal laws. If state law does parallel federal law then defendants actually have more notice of the federal requirements. The criminalization of failure to provide DNA is a compromise among stakeholders. It is a better outcome than making it a felony as part of the failure-to-register. Most registered sex offenders are felons and have given their DNA in any case. This crime would only apply to a very narrow group of offenders.

(Opposed) None.

**Persons Testifying:** James McMahan, Washington Association of Sheriffs and Police Chiefs; Mike Sommerfeld, Pierce County Sheriff's Department; and Paul Strophy, Washington Association of Criminal Defense Lawyers.

**Persons Signed In To Testify But Not Testifying:** None.