

SENATE BILL REPORT

SB 5578

As Reported by Senate Committee On:
Law & Justice, February 16, 2017

Title: An act relating to the release of sex offender information.

Brief Description: Concerning the release of sex offender information. [**Revised for 1st Substitute:** Concerning sex offender registry information.]

Sponsors: Senator Pearson.

Brief History:

Committee Activity: Law & Justice: 2/08/17, 2/16/17 [DPS, DNP].

Brief Summary of Substitute Bill

- Requires law enforcement to share information about a registered sex or kidnapping offender with any individual who requests information.
- Allows a Level I sex or kidnapping offender to petition the court for relief from registration when the person has spent five consecutive years in the community without committing a new offense.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5578 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Angel, Frockt and Wilson.

Minority Report: Do not pass.

Signed by Senator Darneille.

Staff: Shani Bauer (786-7468)

Background: RCW 4.24.550 is the statute which requires the Washington Association of Sheriffs and Policy Chiefs to create and maintain a statewide website providing information about Level II and Level III sex and kidnapping offenders to the public. The statute also provides guidelines as to when law enforcement agencies are otherwise authorized to release

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.

information about a sex or kidnapping offender. Disclosure of information must be rationally related to the level of risk posed by the offender, the location where the offender resides or is regularly found, and the need of the affected community member for the information.

For a Level I offender, law enforcement must share information with other law enforcement agencies and schools that the offender attends. Law enforcement may disclose information upon request to any victim or witness to the crime, a community member who resides near the offender, or an individual who requests information about a specific offender. For a Level II or III sex or kidnapping offender, law enforcement may additionally share information with relevant schools or businesses near the offender's residence. For a Level III sex or kidnapping offender, law enforcement may share information with the public at large.

The Supreme Court recently ruled in *John Doe A v. Wash. State Patrol*, 185 Wn.2d 363 (Wash. 2016) that all sex and kidnapping offender information is subject to disclosure under the Public Records Act (PRA). The court found that RCW 4.24.550 does not operate as an exemption to the PRA as there is no legislative intent in the statute that this is to be the exclusive means the public may obtain sex or kidnapping offender information. The court case was in response to a woman who had requested a complete copy of the Washington State Patrol's (WSP) statewide sex and kidnapping offender database. The court found that the WSP was required to turn over the information under the PRA.

Summary of Bill (First Substitute): Law enforcement must share information about a registered sex or kidnapping offender with any individual who requests information.

A person required to register as a sex or kidnapping offender and classified as a Risk Level I may petition the court for relief from registration when the person has spent five consecutive years in the community without being convicted of a disqualifying offense during that time period.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Allows a person required to register as a sex or kidnapping offender and classified as a Risk Level I to petition the court for relief from registration when the person has spent five consecutive years in the community without being convicted of a disqualifying offense during that time period.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The issues addressed in this bill were brought to my attention by some victims who moved to Washington. This bill is needed

to address a lapse in following the law. We need a stronger statute to deal with the disclosure of sex offender information.

A sex offender was sentenced to six years in prison in another state and required to register as a Level 1 sex offender. The victims moved to Washington several years ago. Recently, the offender moved to Lacey without ever being notified. The victims contacted the Thurston County Sheriff who refused to give them any information beyond confirming that the offender was registered in the county. The victims were never notified that he moved to the neighborhood. Information is not freely available. When this bill was submitted, the sheriff's office changed its stance on the release of information. This bill is needed to ensure that the public and victims would have the information needed to protect themselves from sex offenders.

CON: It is absolutely correct that the victims and Senator Pearson's office called the Thurston County Sheriff to get information about a specific sex offender and were improperly denied the information. This is a misinterpretation of the statute and a training issue. The undersheriff and lieutenant in Thurston County have assured this will not happen again. The person responsible for the release of information was a new employee and has not been through the extensive annual training delivered by WASPC. The problem with the bill is the expectation that practice will somehow be different as a result of this change in law. We also question if this is where the Legislature wants to go, what is the purpose of the "may" section in the law. It would make more sense to delete the portion of the law addressing what information may be released by Law Enforcement and require release under any circumstance.

In 2015, the Legislature asked the Sex Offender Policy Board (SOPB) to review whether Level 1 sex offender information should be freely available to the public. The SOPB included a broad variety of stakeholders from victim's advocacy, prosecutors, judges, and defense representatives. After reviewing all information and relevant research, the SOPB determined that Level 1 sex offender information should be protected and not open for wholesale distribution. The SOPB submitted a report and recommended legislation to the Legislature that has, in large part, been ignored. This bill opens the door to a great number of harms that are outlined in the report. The release of this information, particularly for juveniles, has a huge impact on the families and the person's ability to successfully integrate in the community. In typical experience, juvenile sex offenders are 12-14 year olds that have been sexualized and acted out against a family member. Research shows that juveniles are different than adults. Juveniles are imminently treatable, most times do not reoffend, and go on to live productive lives. Release of this information has the potential to work a grave injustice and hardship on their lives.

Persons Testifying: PRO: Bethany Coco, citizen; Brandi Rose, citizen; Jasmine DeVinney, citizen.

CON: James McMahan, WA Association of Sheriffs and Police Chiefs; Brad Meryhew, WA Defender Association, WA Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: No one.