

HOUSE BILL REPORT

ESB 6180

As Reported by House Committee On:
Human Services & Early Learning

Title: An act relating to juvenile sex offense registration waivers under the special sexual offender disposition alternative.

Brief Description: Concerning juvenile sex offense registration waivers under the special sexual offender disposition alternative.

Sponsors: Senators Darneille, Nguyen, Das and Wilson, C.

Brief History:

Committee Activity:

Human Services & Early Learning: 2/25/20, 2/27/20 [DPA].

Brief Summary of Engrossed Bill
(As Amended by Committee)

- Expands eligibility for a juvenile Special Sex Offender Disposition Alternative (SSODA) to include offenders who were found to have committed Assault in the fourth degree with Sexual Motivation when the offender has no history of a prior sex offense.
- Creates a presumption that a juvenile is sufficiently rehabilitated to warrant removal from the sex offender registry when the juvenile completes supervision under a SSODA.

HOUSE COMMITTEE ON HUMAN SERVICES & EARLY LEARNING

Majority Report: Do pass as amended. Signed by 11 members: Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Eslick, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Corry, Goodman, Griffey, Kilduff, Lovick and Ortiz-Self.

Minority Report: Do not pass. Signed by 2 members: Representatives Dent, Ranking Minority Member; Klippert.

Staff: Luke Wickham (786-7146).

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.

Background:

Juvenile Special Sex Offender Disposition Alternative.

A juvenile Special Sex Offender Disposition Alternative (SSODA) is an alternative to a standard juvenile disposition where the court orders conditions, which may include sex offender treatment, for two years. The court suspends any confinement that would be ordered as part of the SSODA while the juvenile is subject to the conditions of the SSODA, and may revoke the SSODA and impose the suspended disposition if the juvenile fails to comply with the terms of the SSODA.

A juvenile is eligible for a SSODA when he or she is found to have committed a sex offense, other than a serious violent offense, and the offender has no history of a prior sex offense.

If a juvenile is eligible for a SSODA, the court may order an examination to determine whether he or she is amenable to treatment. The report of the examination must set forth the sources used and include:

- the respondent's version of the facts and the official version of the facts;
- the respondent's offense history;
- an assessment of problems in addition to alleged deviant behaviors;
- the respondent's social, educational, and employment situation; and
- other evaluation measures used.

The examiner must assess and report regarding the respondent's amenability to treatment and relative risk to the community. The examiner must also provide a proposed treatment plan.

After receiving this information, the court must consider whether the offender and the community will benefit from the use of this SSODA and consider the victim's opinion whether the juvenile should receive a SSODA. If the court determines that the SSODA is appropriate, the court must impose a determinate disposition and the court may suspend the disposition and place the offender on community supervision for at least two years. As a condition of the suspended disposition, the court may impose conditions including up to 30 days of confinement and requirements to undergo available sex offender treatment.

The juvenile's sex offender treatment provider must submit quarterly reports on the juvenile's progress in treatment to the court and the parties.

If the offender violates any condition of the disposition, or the court finds that the juvenile is failing to make satisfactory progress in treatment, the court may revoke the suspension and order execution of the disposition or order up to 30 days of confinement for the violation.

Sex Offender Registry.

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 his or her local county sheriff. The length of time an offender must register depends on the underlying offense and prior offenses.

Sheriffs must assign risk level classifications to all registered offenders. Registered offenders are classified according to risk levels I, II, and III based on risk to reoffend in the community (low, moderate, and high risk, respectively).

The Washington State Patrol (WSP) maintains Washington's central registry of sex and kidnapping offenders. A person who has been convicted of a sex or kidnapping offense must register with the sheriff in the county in which he or she resides and must provide the sheriff with a variety of location and identification information. The sheriff must forward registration information, including the offender's risk level and notice of any address changes, to the WSP for inclusion in the registry. Information on registered sex and kidnapping offenders is available to the public.

Relief from Duty to Register for Juveniles.

Individuals who committed a sex offense or kidnapping offense when under age 18 may petition the superior court to be relieved of the duty to register if he or she has not been determined to be a sexually violent predator as follows:

- For Class A offenses committed at ages 15 to 18 if:
 - at least five years have passed and he or she has not been adjudicated or convicted of another sex or kidnapping offense;
 - he or she has not been adjudicated or convicted of failing to register as a sex offender; and
 - he or she shows by a preponderance of the evidence that he or she is sufficiently rehabilitated to warrant removal from the registry.
- For all other sex or kidnapping offenses:
 - at least two years have passed and he or she has not been adjudicated or convicted of another sex or kidnapping offense;
 - he or she has not been adjudicated or convicted of failing to register as a sex offender; and
 - he or she shows by a preponderance of the evidence that he or she is sufficiently rehabilitated to warrant removal from the registry.

In determining whether a petitioner is sufficiently rehabilitated, statutory guiding factors are provided to assist the court in making its determination.

Juveniles convicted in adult court of a sex or kidnapping offense must follow the procedures for adults seeking relief from the duty to register.

Summary of Amended Bill:

Eligibility for a SSODA is expanded to include offenders who were found to have committed Assault in the fourth degree with Sexual Motivation when the offender has no history of a prior sex offense.

At the end of the supervision ordered under a SSODA, there is a presumption that the offender is sufficiently rehabilitated to warrant removal from the sex offender registry. The court must relieve the offender's duty to register unless the court finds that the offender is not

sufficiently rehabilitated to warrant removal and may consider the same factors that a court uses when reviewing a petition seeking to relieve a juvenile from the requirement to register as a sex offender.

Qualified professionals may conduct examinations and treatment ordered through a SSODA, instead of only certified sex offender treatment providers or certified affiliate sex offender treatment providers.

A sex offender therapist who examines or treats a juvenile sex offender does not have to be certified by the Department of Health (DOH) if the therapist is a professional licensed by the DOH and the treatment is evidence-based for sex offender treatment.

Amended Bill Compared to Engrossed Bill:

The amended bill creates a presumption that a juvenile offender is sufficiently rehabilitated to warrant removal from the sex offender registry following completion of a SSODA. The amended bill specifies certain factors the court may consider to overcome that presumption.

The amended bill specifies the requirements for a "qualified professional" who may examine and provide treatment for juveniles under a juvenile SSODA.

The amended bill specifies that a sex offender therapist who examines or treats a juvenile under a SSODA does not have to be certified by the DOH if the therapist is licensed by the DOH as a psychologist, social worker, or therapist, and the treatment employed is evidence-based for sex offender treatment.

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) Both this bill and the House companion bill are prosecutor requested and supported bills. Prosecutors support this version of the bill. This bill provides an important tool that allows prosecutors to manage juveniles who have been charged with certain sex offenses. The bill gives juveniles an opportunity to get the appropriate treatment. It is appropriate to expand the SSODA to include Assault in the fourth degree with Sexual Motivation to extend treatment options for those individuals.

(Opposed) None.

Persons Testifying: Russell Brown, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.