

SENATE BILL REPORT

SB 5351

As of February 2, 2019

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: Senator Darneille.

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/29/19.

Brief Summary of Bill

- Allows a juvenile adjudicated for assault 4 with a sexual motivation to participate in a special sex offender disposition alternative (SSODA).
- Allows a court to remove the requirement to register as a sex offender from a juvenile after the juvenile has completed all the requirements of a SSODA, under certain circumstances.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Staff: Kevin Black (786-7747)

Background: A SSODA for juveniles is a disposition alternative available when the juvenile is found to have committed a sex offense other than a serious violent offense and has no history of a prior sex offense. The court on its own motion or the motion of any party may order an examination to determine whether an eligible juvenile is amenable to sex offender treatment, to determine the relative risk posed to the community by the juvenile, and to propose a specific plan of treatment. A second examination may be ordered on the motion of any party. The court may order a SSODA if it determines the juvenile and community will benefit from the use of the SSODA after consideration of the victim's opinion.

To impose a SSODA, the court must order a determinate disposition within the standard range, or if it determines such a disposition would cause a manifest injustice, it may impose a disposition under Option D and suspend the execution of the disposition and place the

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juvenile on community supervision for at least two years. The court may impose conditions including up to 30 days of confinement, community supervision, and payment of legal financial obligations and restitution. The court must order the juvenile to not attend the school of the victim or the victim's siblings. The sex offender treatment provider must provide quarterly reports as to the juvenile's progress in treatment. The court may hold a revocation hearing if the juvenile violates the conditions of the SSODA or fails to make satisfactory progress in treatment.

Sex offender registration is a collateral consequence of conviction of a sex offense, requiring registration with the county sheriff, of the county of the offender's residence, for a specified period of time. For a juvenile adjudicated for a class A felony, the court may relieve the offender of the duty to register after 60 months following adjudication and completion of any term of confinement if the offender has not been adjudicated or convicted of any sex offenses, kidnaping offenses, or for failure to register, and the court finds there has been sufficient rehabilitation to remove the registration requirement. For a juvenile adjudicated for any other registration offense, the court may remove the registration requirement after 24 months if the other conditions apply.

Assault in the fourth degree is a gross misdemeanor. A sexual motivation means one of the purposes for which the defendant committed the crime was for the purpose of sexual gratification. Assault 4 with a sexual motivation is not a sex offender registration offense.

Summary of Bill: A juvenile found to have committed assault in the fourth degree with a sexual motivation and who has no history of a prior sex offense may participate in a SSODA.

A court must order a juvenile participating in a SSODA to register as a sex offender if otherwise required by law. If any time remains on the juvenile's registration requirement at the end of the SSODA, the court may terminate the sex offender registration requirement if:

- the court finds the juvenile has met all the statutory requirements of the SSODA and terms of supervision;
- the SSODA was not revoked;
- the juvenile is at low risk to reoffend according to the juvenile's treatment evaluation; and
- by a preponderance of the evidence sufficient reason exists to remove the registration requirement after considering the circumstances of the case.

Appropriation: None.

Fiscal Note: Requested on January 28, 2019.

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: PRO: A health impact review of a similar bill reviews states there is strong evidence that waiving sex offender registration for juveniles would reduce the burden of negative collateral consequences associated with sex offender registration, such as losing employment and housing, and will improve physical and mental

outcomes for the juvenile. Several prosecutors participated in the crafting of this bill. Think of it as being not just supported, but sponsored by prosecutors. We have difficulty proving these cases. Adding SSODA to assault 4 gives a tool to prosecutors to ask for treatment requirements to be imposed when more serious sex offense charges need to be reduced, perhaps because the family will not cooperate with prosecution. Most kids we charge with sex offenses do not have any criminal history, they are good kids who made a bad mistake. SSODA comes with two year supervision. If they get through it without revocation, we can have confidence they will do well. Even victims usually want treatment instead of punishment for these juveniles. The court will be able to make a sua sponte decision to lift registration without a motion. The judge has discretion to decide not to lift the registration requirement.

Persons Testifying: PRO: Senator Jeannie Darneille, Prime Sponsor; Todd Dowell, Washington Association of Prosecuting Attorneys.

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