

# SENATE BILL REPORT

## SB 5351

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As Reported by Senate Committee On:  
Human Services, Reentry & Rehabilitation, February 12, 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, 2/12/19 [DPS, w/oRec].

**Brief Summary of First Substitute 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 suspend the sexual offender registration requirement for certain juveniles upon entry of a SSODA.
- Requires the court to order the juvenile to register as a sex offender if the SSODA is revoked.
- Allows qualified professionals who are not certified sex offender treatment providers to provide a SSODA evaluation and treatment pursuant to a SSODA if the treatment is evidence-based.

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### SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

**Majority Report:** That Substitute Senate Bill No. 5351 be substituted therefor, and the substitute bill do pass.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; Wilson, C. and Zeiger.

**Minority Report:** That it be referred without recommendation.

Signed by Senator O'Ban.

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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.*

**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 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 (First Substitute):** 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.

- Upon entry of a SSODA, a court may suspend the requirement of sex offender registration for a juvenile if:
  - the juvenile is not charged with a violent offense;
  - the juvenile is at low risk to reoffend according to the juvenile's treatment evaluation; and
  - the interests of the juvenile and the community weigh in favor of suspending the requirement to register as a sex offender.

If the court subsequently revokes the SSODA, the court must order the juvenile to register as a sex offender.

If a juvenile is required to register as a sex offender and remains required to register 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.

A qualified professional who is not a certified sex offender treatment provider may provide a SSODA examination and provide sex offender treatment pursuant to a SSODA if the treatment employed is evidence-based. A qualified professional to provide sex offender treatment who is not a certified sex offender treatment provider must be a psychologist, mental health counselor, social worker, or marriage and family therapist.

**EFFECT OF CHANGES MADE BY HUMAN SERVICES, REENTRY & REHABILITATION COMMITTEE (First Substitute):**

- Allows juvenile court to suspend the sex offender registration requirement when the juvenile enters a SSODA if the juvenile is not charged with a violent offense, is at low risk to reoffend, and the interests of the juvenile and the community weigh in favor of suspending the requirement to register as a sex offender.
- Requires juvenile court to order the juvenile to register as a sex offender if the SSODA is revoked after suspension of the registration requirement.
- Allows a qualified professional who is not a certified sex offender treatment provider to conduct a SSODA evaluation and provide sex offender treatment if the treatment method is evidence-based.

**Appropriation:** None.

**Fiscal Note:** Available.

**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: 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.