

HOUSE BILL REPORT

SSB 5081

As Reported by House Committee On:
Community Safety, Justice, & Reentry

Title: An act relating to victim notification.

Brief Description: Concerning victim notification.

Sponsors: Senate Committee on Human Services (originally sponsored by Senators Nobles, Trudeau, Dhingra, Frame, Hasegawa, Keiser, Lovick, Nguyen, Saldaña, Salomon, Shewmake, Stanford, Wagoner, Warnick, Wellman, Wilson, C. and Wilson, J.; by request of Department of Corrections).

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 3/9/23, 3/23/23 [DPA].

Brief Summary of Substitute Bill
(As Amended By Committee)

- Expands the crimes that require the Department of Corrections (DOC) to provide victims and witnesses with a statement of the right to request notification when certain incarcerated individuals are released or escape.
- Exempts the DOC's victim and witness notifications from public disclosure under the Public Records Act.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: Do pass as amended. Signed by 9 members: Representatives Goodman, Chair; Simmons, Vice Chair; Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Davis, Farivar, Fosse, Graham and Ramos.

Staff: Martha Wehling (786-7067).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Notification of Inmate Release.

Notification to Law Enforcement. The Department of Corrections (DOC) is required to provide law enforcement with notice at least 30 days before the release of certain incarcerated individuals. Notification must be provided when an incarcerated individual will be released from custody for parole, release, community custody, work release placement, furlough, or escape. The notification is required when an incarcerated individual is in custody for about 80 crimes, including violent offenses; sex offenses; domestic violence offenses; Harassment felonies; certain Assaults; Unlawful Imprisonment; Vehicular Homicide; Controlled Substance Homicide; or Domestic Violence Court Order Violations. The DOC must notify the chief of police and the county sheriff where the incarcerated individual will reside or work after release. The DOC must also notify the Washington State Patrol when an individual convicted of a sex offense will be released.

Notification to Victims, Witnesses, and Next of Kin. The DOC must provide certain victims, witnesses, and next of kin with a statement of the right to request and receive notification when an incarcerated individual is released from custody. If the victim, witness, or next of kin makes a written request to be notified, the DOC must notify those individuals about the incarcerated individual's release. Individuals who may request notification include the victim of the crime, the next of kin for homicides, witnesses who testified against the incarcerated individual, individuals identified by the prosecuting attorney, and any person who requests notice for an individual sex offender. The victim and witness notifications or information about those individuals is considered confidential.

Victim, witness, and next of kin notification are available for:

- certain violent offenses,
- certain sex offenses,
- certain domestic violence court orders,
- certain orders for domestic violence prevention or vulnerable adult abuse, and
- certain felony harassment crimes and Stalking.

The DOC is required to send the notification to the last address provided by the requestor, and for two years, must keep records related to proof of registration in a victim or witness notification program and any notification sent to the requestor. It is the victim, witness, or next of kin's obligation to furnish current contact information to the DOC. For witnesses who are younger than 16, notice is sent to the witnesses' parent or legal guardian. If the notice is returned as undeliverable, the DOC must use an alternative method to attempt to contact the requestor, including a telephone call.

Notification for Drug Offenses. For serious drug offenses, the DOC must provide 10 days' notice before release for parole, community custody, work release placement, furlough, or escape. Notification must be provided to witnesses who testified against the incarcerated

individual and individuals identified by the prosecuting attorney. A "serious drug offense" relates to certain narcotic drugs or flunitrazepam, amphetamine or methamphetamine, or counterfeits.

Notification of Escape. If an incarcerated individual escapes, the DOC is required to notify the chief of police and the county sheriff where the incarcerated individual resided prior to incarceration. The DOC must also notify victims or witnesses who requested notification. If the incarcerated individual is recaptured, the DOC must provide notification of recapture within two days.

Victim Information and Notification System. A victim may separately register with the Washington Association of Sheriffs and Police Chiefs' (WASPC) Victim Information and Notification system (VINE). VINE provides notification about an incarcerated individual's custody status, upcoming hearings, case disposition, or service of a protection order. The information is also available via a toll-free telephone number and on a public website.

Public Records Act.

The Public Records Act applies to all state and local agencies, including the DOC, and entities which perform equivalent functions as state agencies. A person may request a public record from an agency. A "public record" is a writing containing information relating to the conduct of government or the performance of any governmental or proprietary function that is prepared, owned, used, or retained by any state or local agency. Certain information and records are exempt from disclosure under the Public Records Act, including WASPC's records related to victim notification, identity, or registration in VINE. The Public Records Act requires agencies to produce written records upon request, unless a specific exemption applies. Exemptions are construed narrowly to effectuate the general policy in favor of disclosure.

Summary of Amended Bill:

The Department of Corrections' (DOC) victim and witness notifications and associated records are exempt from public disclosure under the Public Records Act.

The crimes for which the DOC is required to notify victims and witnesses of their right to request and receive notification are expanded to include:

- Coercion of Involuntary Servitude (9A.40.110),
- Controlled Substance Homicide (RCW 69.50.415),
- Criminal Gang Intimidation (RCW 9A.46.120),
- Custodial Interference in the First Degree (RCW 9A.40.060),
- certain domestic violence offenses (RCW 10.99.020),
- Intimidating a Public Servant (RCW 9A.76.180),
- Intimidation or Harassment with an Explosive (RCW 70.74.275),

- Luring (RCW 9A.40.090),
- Assault Third Degree (RCW 9A.36.031),
- Unlawful Imprisonment (RCW 9A.40.04), and
- Vehicular Homicide by Disregard for the Safety of Others (RCW 46.61.520).

Amended Bill Compared to Substitute Bill:

The terminology related to the Department of Corrections' (DOC) records is modified in order to apply the public disclosure exemption to protect victim and witness identity, location, or other information from disclosure.

Victims and witnesses are permitted to request notification, and the DOC is required to notify law enforcement, when an individual is released from custody or escapes for six additional felonies in addition to the existing ~80 crimes: Custodial Interference in the First Degree (RCW 9A.40.060), Luring (RCW 9A.40.090), Coercion of Involuntary Servitude (RCW 9A.40.110), Criminal Gang Intimidation (RCW 9A.46.120), Intimidating a Public Servant (RCW 9A.76.180), and Intimidation or Harassment with an Explosive (RCW 70.74.275).

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) When an incarcerated individual is released, the victim can request to be notified. The Department of Corrections (DOC) operates the notification program, and notification is required when an individual escapes, is released, or is transferred to partial confinement. Domestic violence is increasing, and notification provides the survivors with the peace of mind that they deserve. However, the request for notification is not exempt from the Public Records Act, so individuals who are released from incarceration can request the names of the victims who requested notification. This could put those victims in harm's way, which happened in the 1980s when released individuals raped and murdered their victims. The bill exempts information about survivors and witnesses who request to be notified from disclosure under the Public Records Act. While people deserve to receive notification, oversight of the process by the media is still needed. The bill is consistent with last year's legislation which exempted notification for the Washington Association of Sheriff and Police Chiefs' notification system, the Victim Information and Notification system (VINE). Victims of crime often enroll in both the DOC's program and VINE. This legislation would align both programs so that victims' information is protected under both.

(Opposed) None.

Persons Testifying: Senator T'wina Nobles, prime sponsor; Mac Pevey, Washington State Department of Corrections; and Rowland Thompson, Allied Daily Newspapers of Washington, Washington Newspaper Publishers Association, and Washington State Association of Broadcasters.

Persons Signed In To Testify But Not Testifying: None.