

# HOUSE BILL REPORT

## HB 1180

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**As Reported by House Committee On:**  
Community Safety

**Title:** An act relating to implementing certain recommendations from the sex offender policy board concerning the criminal offense of failure to register.

**Brief Description:** Implementing certain recommendations from the sex offender policy board concerning the criminal offense of failure to register.

**Sponsors:** Representatives Farivar, Goodman, Reed, Obras, Simmons, Ormsby and Hill.

**Brief History:**

**Committee Activity:**

Community Safety: 2/3/25, 2/17/25 [DPS].

**Brief Summary of Substitute Bill**

- Modifies policies concerning the criminal offense of Failure to Register as a Sex Offender including the felony classification and seriousness level, the community custody requirements, and the definition of "sex offense."

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### HOUSE COMMITTEE ON COMMUNITY SAFETY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Goodman, Chair; Simmons, Vice Chair; Davis, Farivar, Fosse and Obras.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Graham, Ranking Minority Member; Griffey, Assistant Ranking Minority Member.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Burnett.

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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 part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Michelle Rusk (786-7153).

**Background:**

Sex Offense Registration.

An adult residing in Washington who has been convicted of any sex offense or kidnapping offense must register with the county sheriff for the county of the person's residence or the person's school or place of work. Sex offenses requiring registration include, for example, rape, child molestation, sexual misconduct with a minor, incest, any felony with a finding of sexual motivation, and a second or subsequent felony violation of sex offender registration laws.

*Failure to Register.*

An adult commits the felony offense of Failure to Register if the person has a duty to register for a felony sex offense, and knowingly fails to comply with any registration requirements. Felony Failure to Register is an unranked class C felony where there is a duty to register and the person has no or one prior felony Failure to Register conviction. If an adult has a duty to register and has been convicted of felony Failure to Register on two or more prior occasions, the offense is a class B felony and seriousness level II offense.

A person is guilty of a gross misdemeanor Failure to Register offense if the person has a duty to register for a sex offense other than a felony and knowingly fails to comply with registration requirements.

Under the Sentencing Reform Act (SRA), a second or subsequent felony Failure to Register offense is a sex offense.

*Required Length of Registration.*

The duration of a person's duty to register varies:

- The duty to register must continue indefinitely for an adult convicted of a class A felony requiring registration or one or more prior convictions for a sex offense or kidnapping offense.
- Adults convicted of a class B felony requiring registration who do not have a previous conviction requiring registration must register for 15 years.
- Adults convicted of a class C felony requiring registration or attempt, solicitation, or conspiracy to commit a class C felony, and who do not have a previous conviction requiring registration, must register for 10 years.

For purposes of determining if someone has been convicted of one or more sex offenses, Failure to Register as a Sex Offender is not a sex offense.

*Community Custody.*

Community custody is a portion of a sentence served in the community, subject to conditions imposed by the court and the Department of Corrections (DOC). The DOC

supervises certain categories of persons sentenced to community custody, including individuals convicted of different types of sex offenses. Courts impose one year of community custody when someone's felony Failure to Register violation is their first violation, and up to 18 months or three years for other sex offenses.

*Model Policy.*

In 1997 the Washington Association of Sheriffs and Police Chiefs (WASPC) was directed to convene a sex offender policy work group to develop a model policy for law enforcement agencies and other criminal justice personnel. The model policy provides guidelines for sex offender registration, community notification, and strategies for sex offender management.

Individual Reentry Plans.

The DOC is required to develop individual reentry plans for each incarcerated person under its jurisdiction, subject to a few exceptions. As part of developing a reentry plan, the DOC must identify an incarcerated person's criminogenic risks, programmatic needs, and educational and vocational skills of each. Before someone is discharged, the DOC must evaluate the person's individual needs and connect the person with existing services and resources.

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**Summary of Substitute Bill:**

Changes to Failure to Register Offenses.

Felony Failure to Register as a Sex Offender is an unranked class C felony, and the elevation to a class B felony for a third or subsequent felony Failure to Register offense is removed. The definition of "sex offense" in the SRA is also modified to not include a second or subsequent felony Failure to Register offense.

*Reentry Plans and Community Custody.*

For anyone under the DOC's jurisdiction for a sex offense or Failure to Register offense, the DOC must utilize existing resources and methods to support compliance and improve functioning in the community as part of developing a person's individualized reentry plan.

Modifications are also made to community custody requirements for Failure to Register violations. Regardless of a person's risk classification and whether the person has been sentenced to more or less than one year of confinement, courts must impose varying lengths of community custody for felony and misdemeanor Failure to Register violations for both sex offenses and kidnapping offenses. Specifically, courts may impose up to one year of community custody for a first misdemeanor or felony Failure to Register as a Sex Offender violation or Failure to Register as a Kidnapping Offender violation. Courts must impose two years of community custody for a second or subsequent violation of any of the foregoing.

*Model Policy.*

The WASPC must review its model policy regarding Adult and Juvenile Sex Offender Registration to identify opportunities to utilize technology, and report its findings to the Legislature by December 1, 2025, and update the model policy by June 1, 2026.

**Substitute Bill Compared to Original Bill:**

The substitute bill:

- removes the automatic extinguishing of existing legal obligations to register as a sex offender based on the definition of "sex offense" before the bill's effective date, and removes the direction to registering agencies to remove such persons from the sex offender registry;
- removes retroactive application to Failure to Register charges pending or filed after the bill's effective date based on alleged conduct occurring before the bill's effective date;
- clarifies that, whether someone is sentenced to more or less than one year of confinement for a Failure to Register offense, and regardless of risk classification:  
(1) courts may impose up to one year of community custody for a first misdemeanor or felony Failure to Register as a Sex Offender violation or Failure to Register as a Kidnapping Offender violation; and (2) courts must impose two years of community custody for a second or subsequent violation of any of the foregoing;
- restores current law providing that the duty to register shall continue indefinitely where an adult convicted of any sex or kidnapping offense has one or more prior convictions for a sex offense or kidnapping offense, instead of one or more prior convictions requiring registration for a sex or kidnapping offense;
- removes the intent section; and
- modifies how the DOC must develop individualized reentry plans for individuals committed to its jurisdiction for sex offenses or Failure to Register offenses by requiring that the DOC use existing resources and methods to support compliance and improve functioning in the community.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 18, 2025.

**Effective Date of Substitute Bill:** The bill contains multiple effective dates. Please see the bill.

**Staff Summary of Public Testimony:**

(In support) This legislation takes the five unanimous recommendations of the Sex Offender Policy Board (SOPB) and tries to implement them in statute. These unanimous recommendations come from the involvement of defenders, prosecutors, law enforcement,

service providers, and more. They are well-rounded, and it is rare that a policy reform has such widespread support.

These recommendations started from a review of the research, which showed the SOPB that the policy of registration as a sex offender has not achieved the goals we all thought it would. There is no evidence that registration deters crimes or increases public safety, but there is strong evidence the public has come to rely on it and wants it to remain. Accordingly, the SOPB reviewed how this offense is penalized and how compliance can be increased, which led to this package of reforms that includes compromises.

Failure to Register is oftentimes a crime of poverty. Many people fail to register as a sex offender because of barriers to transportation, housing, employment, mental health, and more. We also have an aging population required to register who finds themselves in and out of hospitals, skilled nursing facilities, and presenting with intransigent long-term issues with their ability to comply with registration requirements. Continuing to have these offenses as felonies allows courts to require people to address why they failed to register, while allowing for discretion with respect to imposing jail time. These changes are in alignment with the evidence that Failure to Register does not make a person more likely to reoffend.

(Opposed) The text of the bill does not reflect the unanimous policy recommendations of the SOPB. Some of the recommendations were negotiated and adopted by the SOPB as a package, because the changes necessarily rely on one another. Additionally, several sections of the bill contain changes that were not recommended by the SOPB and those sections should be removed.

There has been a lot of conversation around unranked felony offenses, and many prosecutors think that making everything unranked is going the opposite direction of where we have been. Under the bill, Failure to Register is unranked, and prosecutors recommend ranking a second, third, or subsequent violation. If these offenses are indeed becoming non-sex offenses, the sentences would decrease anyways. Additionally, it seems more appropriate to have limited retroactive application of these policy changes, and in particular not to have retroactive application to pending Failure to Register cases.

**Persons Testifying:** (In support) Representative Darya Farivar, prime sponsor; Kate Benward; Brad Meryhew, Sex Offender Policy Board; and Keri-Anne Jetzer, WA State Sentencing Guidelines Commission.

(Opposed) James McMahan, WA Assoc Sheriffs and Police Chiefs; Russell Brown, WA Association of Prosecuting Attorneys; and Ian McCulloch, Snohomish County Sheriff's Office.

**Persons Signed In To Testify But Not Testifying:** Joanne Smieja, WA Voices; Priscilla Hannon; Jill Anderson, Snohomish County Public Defender Association; and Halley Hupp.