

HOUSE BILL REPORT

HB 2403

As Reported by House Committee On:
Community Safety

Title: An act relating to modifying provisions relating to the crime of failure to register consistent with general principles articulated in recommendations by the sex offender policy board.

Brief Description: Modifying provisions relating to the crime of failure to register.

Sponsors: Representatives Farivar, Scott and Reed.

Brief History:

Committee Activity:

Community Safety: 1/20/26, 1/22/26 [DP].

Brief Summary of 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."
- Requires the Washington Association of Sheriffs and Police Chiefs to review the model policy for opportunities to streamline registration.

HOUSE COMMITTEE ON COMMUNITY SAFETY

Majority Report: Do pass. Signed by 6 members: Representatives Goodman, Chair; Simmons, Vice Chair; Davis, Farivar, Fosse and Obras.

Minority Report: Do not pass. Signed by 3 members: Representatives Graham, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Burnett.

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:

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 for 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 a person's felony Failure to Register violation is their first violation, and 18 months to three years for other sex offenses.

Model Policy.

In 1997 the Washington Association of Sheriffs and Police Chiefs 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. Before a person is discharged, the DOC must evaluate the person's individual needs and connect the person with existing services and resources.

Summary of Bill:

Changes to Failure to Register Offenses.

Felony Failure to Register as a Sex Offender is a seriousness level I offense and 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 a Failure to Register.

Model Policy.

The Washington Association of Sheriffs and Police Chiefs is required to review its model policy regarding Adult and Juvenile Sex Offender Registration to identify opportunities to utilize technology, report its findings to the Legislature by December 1, 2026, and update

the model policy by June 1, 2027.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Community custody will deter future noncompliance with registration, allowing better use of resources and increased compliance. The offense of Failure to Register is more administrative than criminal and is largely a crime of poverty, not ill intent. Multiple studies found that prison time for Failure to Register is an unwise investment of taxpayer dollars. Reducing the seriousness level will still result in consequences and the option of community custody.

(Opposed) None.

(Other) This bill was heavily reviewed and negotiated. A coordinated and consistent system across the state is appreciated, and the position on the policy of ranking a subsequent crime is neutral.

Persons Testifying: (In support) Brad Meryhew, Sex Offender Policy Board; Whitney Hunt, Sex Offender Policy Board; Katie Hurley, King county dept of public defense; Keri-Anne Jetzer, WA State Sentencing Guidelines Commission; and Sonja Hardenbrook, WDA and WACDL.

(Other) Russell Brown, WA Association of Prosecuting Attorneys; and James McMahan, WA Assoc Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: None.