

SENATE BILL REPORT

SHB 1997

AS REPORTED BY COMMITTEE ON WAYS & MEANS, APRIL 8, 1991

Brief Description: Clarifying provisions relating to registration of sex offenders.

SPONSORS: House Committee on Judiciary (originally sponsored by Representatives Tate, Riley, Padden, Hargrove, Mielke, Ludwig, Bowman, Dorn, Ferguson, Paris, D. Sommers, Vance, Forner, Scott, Winsley, Kremen, Broback, Brough, Roland, Jacobsen, Holland, Horn, Wynne, Morton, R. Johnson, Van Luven, Chandler, P. Johnson, Brumsickle, Silver and Rasmussen).

HOUSE COMMITTEE ON JUDICIARY

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, L. Kreidler, Newhouse, and Rasmussen.

Staff: Jon Carlson (786-7459)

Hearing Dates: April 1, 1991; April 2, 1991

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators McDonald, Chairman; Craswell, Vice Chairman; Bailey, Bauer, Bluechel, Cantu, Gaspard, Hayner, Johnson, L. Kreidler, Matson, Murray, Newhouse, Niemi, Owen, Rinehart, Saling, L. Smith, Talmadge, West, and Wojahn.

Staff: Cindi Holmstrom (786-7715)

Hearing Dates: April 5, 1991; April 8, 1991

BACKGROUND:

In 1990, the Legislature passed sex offender registration provisions as part of the Community Protection Act. Any adult or juvenile sex offender must register with the county sheriff for the county of the person's residence. The sheriff forwards the registration to the State Patrol.

The person must register within 45 days of establishing residence in Washington. If a current resident, the offender must register within 30 days of release from confinement, if any.

The duty to register applies to sex offenders who commit sex offenses on or after February 28, 1990. The duty to register also applies to sex offenders who committed sex offenses prior to February 28, 1990, if the offender is under the custody or active supervision of the Department of Corrections or the Department of Social and Health Services as a result of the sex offense.

Failure to register is a class C felony for sex offenders convicted of class A sex offenses or a gross misdemeanor for sex offenders convicted of other sex offenses.

The sex offender registration provisions took effect February 28, 1990.

Sex offenders required to register may petition the court for relief from the duty to register. The court may relieve the petitioner of the duty to register only if the petitioner proves, by clear, cogent, and convincing evidence, that future registration of the petitioner will not serve the purposes of the registration statute. The petition requirement applies to both adults and juveniles regardless of the age of the offender when the offender committed the sex offense.

SUMMARY:

Various rules and deadlines for registration of sex offenders are established depending upon the custodial status of the sex offender and when the offender committed or was convicted of the sex offense.

Sex Offenders in Custody. Sex offenders who are in custody on the effective date of this act must register within 24 hours of their release from custody.

The duty to register applies to all sex offenders who committed sex offenses on, before, or after February 28, 1990, and who are in custody on the effective date of this act as a result of that offense.

The duty applies to sex offenders released from the custody of the Department of Corrections, the Department of Social and Health Services, a local division of youth services, or a local jail or juvenile detention facility.

Failure to appear and register within 24 hours is a per se violation of the registration statute. The county sheriff is not required to determine whether the person is actually living in the county.

Sex Offenders Not in Custody But Under State or Local Jurisdiction. Sex offenders who are not in custody on the effective date of the act but who are under the jurisdiction of the Indeterminate Sentence Review Board, or the active supervision of the Department of Corrections, the Department of Social and Health Services, or a local division of youth services must register within 10 days of the effective date of this act.

The duty applies to sex offenders who on the effective date of the act are under the Indeterminate Sentence Review Board's jurisdiction or the active supervision of the Department of Corrections, Department of Social and Health Services, or a local division of youth services for sex offenses committed before, on, or after February 28, 1990.

Sex Offenders Who Are Convicted But Not Confined. Sex offenders who are convicted of a sex offense on or after the effective date of the act for offenses committed on or after February 28, 1990, but who are not sentenced to a term of confinement, must register with the county sheriff immediately upon sentencing.

Sex Offenders Who Are New Residents or Returning Washington Residents. Sex offenders who are from out of state that are going to move to Washington State who are not under the jurisdiction of the state must register within 30 days of moving to Washington.

The duty to register applies to sex offenders who commit sex offenses on or after February 28, 1990.

Sex offenders who are moving to Washington but are under the jurisdiction of the state when they move here must register within 24 hours of the date they move to Washington. The agency that has jurisdiction over the sex offender must notify the sex offender of the duty to register prior to the sex offender's move.

Consequences of the Failure to Register. Failure to register within the time required constitutes a per se violation of the statute. The county sheriff does not have to determine whether the person is living in the county. If an offender charged with the failure to register asserts as a defense that he or she did not have notice of the duty to register, arrest on charges of failure to register, service of the information, or arraignment on charges for failure to register, constitutes actual notice and the offender must register immediately following actual notice or another charge can be filed. Registering following receipt of actual notice through service or arraignment does not relieve the offender of criminal liability on the original charge.

The new deadlines for registering under this act do not relieve any offender of the duty to register under the rules under the law as those exist prior to the effective date of this act.

An offender who commits a sex offense when under age 15, may prove by a preponderance of the evidence rather than clear, cogent, and convincing evidence, that future registration of the offender will not serve the purposes of the registration statute, if the offender has not been adjudicated of any sex offenses during the 24 months following adjudication for the sex offense that gave rise to the duty to register.

Appropriation: none

Revenue: none

Fiscal Note: available

SUMMARY OF PROPOSED SENATE WAYS & MEANS AMENDMENT:

Language is added which makes the act contingent upon funding in the Omnibus Appropriations Act.

TESTIMONY FOR (Law & Justice):

This measure increases protection for communities by shortening the deadlines for sex offenders to register. It also clarifies that offenders under the jurisdiction of the Indeterminate Sentence Review Board are also subject to the registration requirements.

TESTIMONY AGAINST (Law & Justice): None

TESTIFIED (Law & Justice): Representative Randy Tate, prime sponsor (pro); Helen Harlow, President, Tennis Shoe Brigade (pro); Dennis Marsh, Executive Secretary, Indeterminate Sentence Review Board

TESTIMONY FOR (Ways & Means):

This bill strengthens the sex offender registration requirement by shortening the deadlines for registration.

TESTIMONY AGAINST (Ways & Means): None

TESTIFIED (Ways & Means): Representative Randy Tate, prime sponsor (pro)