
Public Safety Committee

ESSB 5735

Brief Description: Concerning registered sex or kidnapping offenders.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Carrell and Darneille).

Brief Summary of Engrossed Substitute Bill

- Allows law enforcement agencies to disclose information about a level I offender to any individual who identifies the offender by name.
- Requires registered sex offenders to notify the sheriff before travelling out of the country.
- Makes willfully refusing to provide a required DNA sample a gross misdemeanor.
- Requires persons determined to be sexually violent predators to register for the rest of their life.
- Allows juvenile sex offenders to petition for relief from the duty to register in their home county.
- Requires each school district to create a written, publically available, policy regarding registered sex offenders enrolled as students.
- Requires each school to designate a primary contact regarding students who are registered sex offenders and to create an individual student safety plan for any student who is a registered sex offender.
- Clarifies that relief from duty to register does not constitute a certificate of rehabilitation for the purpose of restoration of the right to possess a firearm.
- Clarifies language around leveling and notification.

Hearing Date: 3/26/13

Staff: Sarah Koster (786-7303).

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.

Background:

Sex Offender Registration and Levels.

Any adult or juvenile offender residing in the state who has been convicted of a sex offense must register with the county sheriff upon release from confinement. The offender must provide complete information to the county sheriff including the offender's address, aliases used, place of employment, Social Security number, photograph, and fingerprints. Beginning in 2008, all registered offenders also must provide a deoxyribonucleic acid (DNA) sample. This requirement is not part of the registration requirements and therefore the failure to provide a DNA sample is not a failure to register.

The End of Sentence Review Committee (ESRC), chaired by the Department of Corrections, classifies sex offenders being released from Washington correctional institutions according to their risk of reoffense within the community. The ESRC classifies each offender as a level I – low risk, level II – moderate risk, or level III – high risk, and then forwards this classification to the county sheriff in the jurisdiction where the offender will reside. The sheriff may adopt ESRC's risk level or establish a different level. If the ESRC has not had the opportunity to classify a sex offender, such as when the offender has moved to Washington from another state, the sheriff's office will perform its own classification of the offender's risk. The risk level classification dictates the level of notice to the public and the amount of information the sheriff may release about the offender.

The Washington Association of Sheriffs and Police Chiefs (WASPC) operates an electronic statewide unified sex offender notification and registration program which contains a database of all registered sex offenders in the State of Washington. The WASPC creates and maintains a public website that posts all level II and level III sex offenders. Law enforcement may also disclose information about offenders classified as level I upon the request of any victim or witness to the offense or any community member who lives near the offender. For level III sex offenders, law enforcement must additionally publish notice in at least one newspaper in the area of the sex offender's registered address.

Relief From the Duty to Register.

An adult sex offender may petition the superior court to be relieved of the duty to register when the person has spent 10 consecutive years in the community without being convicted of a disqualifying offense during that time period. If the person is required to register for a federal or out-of-state conviction, the person may petition after 15 consecutive years in the community without a disqualifying offense. A person may not petition for relief from registration if the person has been determined to be a sexually violent predator or convicted as an adult of a sex offense that is a class A felony that was committed with forcible compulsion. Otherwise, an offender's duty to register ends after 10 years in the community without conviction of a disqualifying offense for a class C felony, after 15 years in the community without conviction of a disqualifying offense for a class B felony, and indefinitely for a class A felony, a federal or out-of-state offense, or if the offender had any prior registerable offenses.

A person who is required to register for an offense committed as a juvenile may petition the court to be relieved of that duty if the offender has not been convicted of any additional sex offenses and five years have passed since completing any term of confinement if the offender was 15 years old or older and the offense was a class A sex or kidnapping offense. For other offenses, or

younger offenders, the offender may petition the court if 24 months have passed since completing any term of confinement. The petition will be made to the court which sentenced them or, for out-of-state, federal, or foreign convictions, Thurston County.

Sex Offender Students and Information for Parents.

The Washington Coalition of Sexual Assault Programs (WCSAP), in consultation with the WASPC, the Washington Association of Prosecuting Attorneys, and the Office of Superintendent of Public Instruction (OSPI), is required to develop educational materials to inform parents and community members about sex offense and offender registration laws, how to recognize characteristics of sex offenders and prevent victimization, and community resources for victims of sexual assault.

When a convicted juvenile sex offender is released, the school district and private schools in the area will be notified, as well as the school the offender is planning to attend. A juvenile sex offender may not attend elementary, middle, or high school with a victim or sibling of a victim. If a student is risk level I, the principal shall provide information about the student only to those personnel who, in the principal's judgment, should be aware of the student's record for security purposes. If the student is classified as risk level II or III, the principal shall provide the student's information to the student's teachers, as well as any other personnel who supervise the student or should be aware for security purposes. Any further dissemination of the student's information is prohibited.

Jacob Wetterling Act.

In 1994 Congress passed the Jacob Wetterling Act (Act). That Act required states to institute lifetime registration requirement for offenders convicted of specified sex offenses or face financial penalties to the federal Byrne grant. In 2001 the Legislature passed the Jacob Wetterling provisions requiring lifetime registration for further classes of offenders. Those provisions expired on July 1, 2012.

Summary of Bill:

Sex Offender Registration and Levels.

In assigning risk levels, an offender must be classified as a:

- level I– if the person's risk assessment and other relevant factors indicate that the person is a low-risk offender within the community at large;
- level II– if the person's risk assessment and other relevant factors indicate that the person is a moderate-risk offender within the community at large; or
- level III– if the person's risk assessment and other relevant factors indicate that the person is a high-risk offender within the community at large.

If an offender who is required to register is transferred from total confinement to partial confinement within the community, the offender is required to register upon the time of transfer.

Law enforcement may disclose information about offenders classified as level I upon the request of any person seeking information regarding a specifically named offender. When an offender is classified as a level III, law enforcement must issue a new release, but is not required to actively publish notice in the newspaper.

A person required to register as a sex offender who intends to travel outside the United States must notify the county sheriff where the person is registered at least 21 days prior to travel. The notice must include identifying information and details regarding the person's travel. The county sheriff must notify the United States Marshals Service as soon as practicable after receipt of the notification.

The crime of refusal to provide DNA is established. A person is guilty of the refusal to provide DNA if the person has a duty to register and refuses to comply with a request for a DNA sample as required by law. The refusal to provide DNA is a gross misdemeanor.

Relief From Duty to Register.

A person who has been determined to be a sexually violent predator will be required to register indefinitely.

Someone who was convicted of a registerable offense as a juvenile may petition to be relieved of the duty to register in their county of registration and will not be ineligible to petition based on other convictions more than five years before the instant conviction.

The court's decision to relieve a sex offender of the duty to register does not constitute a certificate of rehabilitation for the purposes of restoring a person's right to possess a firearm.

Sex Offender Students and Information for Parents.

The OSPI must publish on its website educational materials developed with the WCSAP and partner agencies on sex offenses, sex offenders, and victims of sexual assault. Each school district must develop their own policies in how to manage enrolled students who are required to register as sex or kidnapping offenders to ensure the health and safety of students and staff. Policy guidelines are outlined. Each school must designate a primary contact for law enforcement and, in coordination with other interested professionals, must develop individual student safety plans for any enrolled student who is required to register as a sex or kidnapping offender.

Jacob Wetterling Act.

Expired provisions that were passed in order to comply with the federal Act are removed.

Appropriation: None.

Fiscal Note: Available on original bill . New fiscal note requested on March 21, 2013.

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