

HOUSE BILL REPORT

2SHB 1214

As Passed House:

March 8, 1995

Title: An act relating to registration of sex offenders.

Brief Description: Revising provision for registration of sex offenders.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Mitchell, Carrell, Lambert, Sheahan, McMahan, Huff, Buck, Hickel, Padden, Elliot, Delvin, Kremen, Johnson, Casada, Thompson, Backlund, Honeyford, Mulliken, Boldt and Van Luven).

Brief History:

Committee Activity:

Corrections: 2/21/95, 2/24/95 [DPS];

Appropriations: 3/2/95, 3/3/95 [DP2S(w/o sub COR)].

Floor Activity:

Passed House: 3/8/95, 98-0.

HOUSE COMMITTEE ON CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Ballasiotes, Chairman; Blanton, Vice Chairman; Sherstad, Vice Chairman; Quall, Ranking Minority Member; Tokuda, Assistant Ranking Minority Member; Cole; Dickerson; Koster; Radcliff; K. Schmidt and Schoesler.

Staff: Rick Neidhardt (786-7841).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Corrections. Signed by 31 members: Representatives Silver, Chairman; Clements, Vice Chairman; Huff, Vice Chairman; Pelesky, Vice Chairman; Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Basich; Beeksma; Brumsickle; Carlson; Chappell; Cooke; Crouse; Dellwo; G. Fisher; Foreman; Grant; Hargrove; Hickel; Jacobsen; Lambert; Lisk; McMorris; Poulsen; Reams; Rust; Sehlin; Sheahan; Talcott; Thibaudeau and Wolfe.

Staff: John Woolley (786-7154).

Background: Sex offenders must register with their county sheriff within 24 hours of being released from confinement. The registration requirement clearly applies to offenders convicted of a sex offense in Washington's state courts.

Foreign convictions. A concern exists that sex offenders convicted in a foreign country are not currently required to register when they move to this state. The registration statute requires sex offenders to register when they move to Washington after being convicted of sex offenses in other states or in federal courts, but this same requirement is not extended to offenders who move to Washington after being convicted of a sex offense in a foreign country.

Offenders under federal supervision. Another concern exists about sex offenders who are convicted under federal statutes and then are released, within our state, under the supervision of the United States Probation Service. The registration statute does not expressly require these sex offenders to register.

Not guilty by reason of insanity. A person charged with a sex offense can be found not guilty by reason of insanity. If the court finds the person is a substantial danger to others, or presents a substantial risk of committing felonies that jeopardize public safety, the court can commit the person to the custody of the Department of Social and Health Services. A person who has pleaded insanity cannot later contest the validity of the commitment on the grounds that he or she did not commit the acts charged.

The person is to be released once the person is no longer a substantial danger to others and no longer presents a substantial risk of committing felonies that jeopardize public safety. A person released under these circumstances is not required to register as a sex offender.

Verification of addresses. A sex offender who is required to register must disclose the address where he or she is living. A concern has been raised that some sex offenders are not living at their registered address. The current registration law does not require any law enforcement agency to verify that a sex offender is actually living at the registered address.

Offenders moving within the state. A registered sex offender who moves to a new address in the same county must notify the sheriff of the new address within 10 days of establishing the new residence. A registered sex offender who moves to a new address in another county must register with the sheriff in the new county within 10 days of establishing the new residence.

Prosecutors sometimes have difficulty proving that an offender has established a new residence. Proving a "residence" requires proving an intent to live there indefinitely.

Offenders moving out-of-state. When a registered sex offender moves out of the state, current law does not require the offender to disclose the new address to any law enforcement agency in this state.

Penalty for failing to register. The penalty for failing to register as a sex offender depends on the severity of the underlying sex offense. If the underlying sex offense is a class A felony, then the failure to register is a class C felony. The failure to register is a gross misdemeanor for all other sex offenses.

Summary of Bill:

Foreign convictions. An offender convicted in a foreign country of a sex offense who then moves to Washington is required to register in this state.

Offenders under federal supervision. Offenders under federal supervision on July 23, 1995 for a sex offense, are required to register within 10 days of that date.

Not guilty by reason of insanity. The requirement to register as a sex offender is extended to people who were charged with committing a sex offense but were found not guilty by reason of insanity.

Any such person who is under the custody of the Department of Social and Health Services on or after July 23, 1995, must register within 24 hours of being released. The department must notify these individuals of the registration requirement.

The department must make reasonable attempts, within available resources, to notify people who were released prior to July 23, 1995, that they are required to register. Any person in this category who receives notice of the registration requirement must register within 24 hours of receiving notice.

The duration of the registration requirement depends, just as with sex offense convictions, on whether the charged sex offense was a class A, B or C felony. A person must register for life for a class A felony, 15 years for a class B felony, 10 years for a class C felony. Just as with sex offense convictions, the registration requirement can be terminated earlier by order of the court.

Verification of addresses. When a sex offender registers with the county sheriff, the sheriff's department must make reasonable attempts to verify the offender is living at the registered address. At a minimum, the department must send certified mail, with return receipt requested, to the registered address. If the receipt is returned without the offender's signature, the department must follow up by talking in person with the

residents at the registered address. The department must make reasonable attempts to locate any sex offender not living at the registered address.

Offenders moving within the state. The term "establishing a new residence" is changed to "moving." Accordingly, a registered sex offender who moves to a new county must re-register within 10 days of moving, and a registered sex offender who moves to a new address in the same county must notify the sheriff within 10 days of moving.

Offenders moving out-of-state. A registered sex offender who moves out of this state must disclose the new address to the sheriff of the county where the offender most recently registered.

Penalty for failing to register. The penalty for failing to register as a sex offender is made a class C felony, regardless of the severity of the underlying sex offense. The same penalty is created for offenders who move to a new address without notifying the sheriff.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Corrections) Sex offenders who were convicted in Canada should be required to register when the move to Washington. Sex offenders under federal supervision should be required to register when they live in our state. Law enforcement agencies need to know when sex offenders move out of the state. The criminal justice system treats too lightly the offense of failing to register when that offense is only a gross misdemeanor. Prosecutors have difficulty proving when a person has established a new "residence;" they should only have to prove that a person has moved.

(Appropriations) None.

Testimony Against: (Corrections) None.

(Appropriations) None.

Testified: (Corrections) Robert Shilling, Washington State Council of Police Officers (pro); Tom McBride, Washington Association of Sheriffs and Police Chiefs, and Washington Association of Prosecuting Attorneys (pro, with proposed amendments); and Casey Johnson, King County Police Department (pro).

(Appropriations) None.