

HOUSE BILL REPORT

HB 2454

As Reported By House Committee On:
Criminal Justice & Corrections

Title: An act relating to offenders.

Brief Description: Revising provisions relating to offenders in schools.

Sponsors: Representatives Carrell, Chandler, Mulliken, Boldt, Lambert, Mielke, Mitchell and Thompson.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/27/98, 2/6/98 [DPS].

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Ballasiotes, Chairman; Benson, Vice Chairman; Koster, Vice Chairman; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Cairnes; Dickerson; Hickel; McCune; Mitchell and Sullivan.

Staff: Yvonne Walker (786-7841).

Background:

ADULT OFFENDERS

Definitions: The term "school" is defined as including all public and private K-12 schools and day-care centers.

The terms "known sex offender," "public place," and "sex offender loitering" are not defined in current law. There is no penalty for sex offender loitering. The Community Protection Act of 1990 authorizes local law enforcement agencies to notify local communities regarding the release of sex offenders when it is necessary for public protection. The Department of Corrections (DOC), the Juvenile Rehabilitation Administration (JRA), and the Indeterminate Sentence Review Board (ISRB) are required to classify all sex offenders releasing from their facilities into risk levels I (low risk), II (moderate risk), or III (high risk) for the purposes of public notification.

JUVENILE OFFENDERS

Conditions of Discharge/Leave: Upon discharge, parole, or other authorized leave or release, a convicted juvenile sex offender must not attend a school that is attended by a victim or a sibling of a victim of the sex offender. The parents or legal guardians of the convicted juvenile sex offender is responsible for transportation or other costs associated with or required by the sex offender's change in school that otherwise would be paid by a school district. Upon discharge, parole, or other authorized leave or release of a convicted juvenile sex offender, the Department of Social and Health Services must send a written notice of the discharge, parole, other authorized leave or release and any other requirements to the school district board of directors of the district in which the sex offender intends to reside or the district in which the sex offender last attended school, whichever is appropriate.

Special Sex Offender Disposition Alternative (SSODA): SSODA, for certain first-time juvenile sex offenders, allows the court to suspend the sentence of an adjudicated offender and instead order up to 25 months of community supervision and require the youth to receive treatment in the community from a certified sex offender treatment provider. Detention time may also be ordered. Should an offender fail to meet the treatment, supervision, and monitoring terms of the SSODA agreement, the court may revoke the suspended disposition and commit the youth to the Juvenile Rehabilitation Administration to serve the standard range of confinement. In addition, as a condition of the suspended disposition, the court may impose the conditions of community supervision and other conditions and restrictions such as forbidding the offender from attending the same school attended by the victim or the victim's siblings.

Community Supervision & Parole: Juvenile offenders released from residential programs are usually put onto parole. The length of an offender's term of parole is based on the length of his commitment sentence. With the exception of a mandatory two-year supervision period for certain sex offenders, the length of the parole is limited to 24 weeks. The goal of parole is to provide supervision commensurate with the offender's prior criminal history, age, and committing offense. In addition parole develops and implements offense specific interventions designed to reduce the offender's risk to public and safety; and parole helps to promote participation in community services to enhance the offender's social, academic, and health development. Youth on parole who are not complying with their parole conditions may have their parole status revoked and be confined for up to 30 days.

Community Residential Facilities & Other Homes: When an adjudicated juvenile has been transferred to a community residential facility, the Department of Social and Health Services must send a written notice to the school where the youth will be attending while residing at the community residential facility.

SCHOOLS

Specialized Schools for the Adjudicated: School districts, educational service districts, or consortiums of school districts are not authorized to create specialized schools for

students who have been adjudicated or convicted of offenses and who pose a danger to themselves, other students, and staff.

Applications for Non-residents: All districts accepting applications from non-resident students or from students receiving home-based instruction for admission to the district's schools shall consider equally all applications received. Applications of a non-resident student may be rejected if:

- (a) Acceptance of a non-resident student would result in the district experiencing a financial hardship;
- (b) The student's disciplinary records indicate a history of violent or disruptive behavior or gang membership; or
- (c) The student has been expelled or suspended from a public school for more than 10 consecutive days.

As part of any application the school may require the parent to briefly indicate in writing whether the student has:

- (a) Any history of placement in special educational programs;
- (b) Any past, current, or pending disciplinary action;
- (c) Any history of violent behavior or criminal behavior;
- (d) Any unpaid fines or fees imposed by other schools; and
- (e) Any health conditions affecting the student's educational needs.

In addition the school enrolling the student must request the school the student previously attended to send the student's permanent record including records of disciplinary action, attendance, immunization records, and academic performance.

Summary of Substitute Bill:

ADULT OFFENDERS

Definitions: The term "known sex offender" is any person who has, within the knowledge of the arresting officer, been adjudicated or convicted within the last 20 years in any court of a sex offense.

The term "public place" is any area visible to the public including schools, playgrounds, streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, transit stations, shelters and tunnels, all moving and stationary automobiles, doorways and entrances to buildings or dwellings and the grounds enclosing them, and all public buildings.

The term "sex offender loitering" is when a person remains in a public place within one thousand feet of a school, park or playground where children are present and intentionally solicits, induces, entices, or procures another for the purpose of committing a sex offense. In addition a person may be engaging in sex offender loitering if he or she:

- (a) Is a known sex offender;
- (b) Repeatedly beckons to, stops or attempts to stop children or other pedestrians, or engages them in a conversation;
- (c) Circles an area in a motor vehicle and repeatedly beckons to, contacts, or attempts to stop children or pedestrians;
- (d) Is the subject of any court order, which directs as a condition of release from custody, a condition of parole, community placement, or community supervision, the person to stay out of any specified area that explicitly or impliedly includes schools, playgrounds, or parks where children congregate;
- (e) Is subject to conditions of release, supervision, community placement, or parole, as established by the Department of Corrections or the Department of Social and Health Services, that directs the person to stay out of any specified area that explicitly or impliedly includes schools, playgrounds, or parks where children congregate;
- (f) Is a known juvenile sex offender, does not attend the school or is on school premises after hours or after school functions;
- (g) Is not an employee of the school; or
- (h) Is on the grounds of the school, playground, or park when children are present.

Sex offender loitering is a gross misdemeanor if the defendant has not been classified as a risk level II or III under the risk notification levels or is not subject to a court order or terms of parole, community placement, or supervision that directs the person to stay out of any specified area that explicitly or impliedly includes schools, or parks or playgrounds where children congregate.

Sex offender loitering is a class C felony if the defendant has been classified as a risk level II or III under the risk notification levels and is subject to a court order or terms of parole, community placement, or supervision that directs the person to stay out of any specified area that explicitly or impliedly includes schools, or parks or playgrounds where children congregate.

A law enforcement officer, with probable cause, may arrest a person for sex offender loitering who has remained in a public place and has intentionally solicited, induced, enticed, or procured another for the purpose of committing a sex offense. In addition, the law enforcement or community corrections officer may detain a known sex offender if he or she is violating the terms of a court order or conditions of release, supervision, community placement, or parole.

JUVENILE OFFENDERS

Conditions of Discharge/Leave: The conditions of discharge, parole, leave, or release is expanded to include that upon "transfer to a community residential facility," the Department of Social and Health Services must send a written notice of the transfer, to the school district board of directors of the district in which the sex

offender intends to reside or the district in which the sex offender last attended school.

Special Sex Offender Disposition Alternative (SSODA): Requires offenders participating in the sex offender disposition alternative to refrain from sex offender loitering.

Community Supervision & Parole: As a mandatory condition of community supervision or parole, the court must order a sex offender to refrain from sex offender loitering. In addition, in the setting of a release or discharge date, the Department of Social and Health Services must require the offender to refrain from sex offender loitering.

Community Residential Facilities & Other Homes: When a sex offender is placed in a community residential facility, home or center, that facility is required to send a written notice of the offender's criminal history to any school that the offender will be attending and to any employer that employs the offender while residing at the community residential facility.

SCHOOLS

Specialized Schools for the Adjudicated: All school districts, educational service districts, or consortiums of school districts are authorized to create specialized schools for students who have been adjudicated or convicted of offenses and who pose a danger to themselves, other students, and staff. The schools may be designed to address the special educational needs of those students and the security needs of the students and staff. The schools may give priority in placement to adjudicated or convicted youth who are violent or chronically disruptive of the educational process and who would otherwise be subject to suspension or expulsion.

The superintendent of public instruction is directed to assist school districts, educational service districts, and consortiums that intend to create specialized schools.

Applications for Non-residents: All school districts accepting applications from a non-resident student may reject a non-resident student if the student's disciplinary records indicate a history of convictions for offenses or crimes.

As part of any application the school must require the parent to indicate in writing whether the student was placed in special educational programs, any disciplinary actions, violent behavior, criminal behavior, any unpaid fines and any health conditions affecting the student's educational needs.

In addition the school enrolling the student must request the school the student previously attended to send the student's permanent record including criminal and conviction records.

Substitute Bill Compared to Original Bill:

The proposed substitute bill eliminates the following provisions from the original bill:

- All provisions that prohibit adult and juvenile sex offenders from establishing or maintaining a residence within the radius of 1,000 feet of the perimeter of school grounds.
- All provisions that prohibit juvenile sex offenders from attending a school where there are students more than three years younger than the offender or attending a school that is within 1,000 feet of the perimeter of a school that has students more than three years younger than the offender.
- All provisions that require the courts, Department of Corrections, and the Juvenile Rehabilitation Administration to prohibit sex offenders (and include it in their treatment and release plan) from attending a school where there are students more than three years younger than the offender or attending a school that is within 1,000 feet of the perimeter of a school that has students more than three years younger than the offender as part of the offender's special sex offender sentencing alternative, special sex offender disposition alternative, community supervision, community placement, work release, conditional discharge/leave, or parole.
- Lastly, funds appropriated to the state Board of Education from the common school construction fund must be allotted by the state Board of Education. No allotment shall be made to a school district until such district has provided matching funds equal to or greater than the difference between the total approved project cost and the amount of state assistance to the district for financing the project. The provision that required the State Board of Education to waive the matching requirement for districts that have provided funds to construct school buildings to house specialized schools that the districts may create for sex offenders or to make structural changes to convert an existing building or school into a specialized school is eliminated.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: This bill contains an emergency clause and takes effect immediately.

Testimony For: None.

Testimony Against: None.

Testified: None.