

FINAL BILL REPORT

HB 1172

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Synopsis as Enacted

Brief Description: Concerning the failure to register as a sex offender.

Sponsors: Representatives D. Sommers, Sterk, O'Brien, Koster, Thompson, Delvin, Sherstad, Schoesler, Hatfield and Conway.

House Committee on Criminal Justice & Corrections
Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means

Background: In 1994, Congress passed the Jacob Wetterling Act, 42 U.S.C. Section 14071. The act requires states to establish a registration system for persons convicted of certain crimes against minors and sexually violent offenses. States are required to comply with the act or face an automatic 10 percent reduction in federal Byrne Formula Grant funding.

Washington is out of compliance with the Jacob Wetterling Act and is required to amend a number of its provisions covering the state's sex and kidnapping offender registration statute prior to the year 2000. Some of the provisions that need to be amended include:

Offenders Who Are Residents of Other States. Sex and kidnapping offenders who are residents of other states, but who are students, employed, or who carry on a vocation in Washington, are not required to register in Washington.

Offenders in Custody. Sex and kidnapping offenders must register within 24 hours of release with the county sheriff. The offender does not have to register with the agency having jurisdiction over the offender. New photographs and fingerprints are not required as part of the registration with the county sheriff.

Offenders Changing Residence Address within the Same County . When a sex or kidnapping offender changes his or her residence, the offender must send written notice of the change of address to the county sheriff fourteen days prior to moving.

Offenders Moving to a Different County or State. When a sex or kidnapping offender notifies the county sheriff that he or she is moving to a new county or state, the county sheriff of the old county is not required to notify or forward the change of address information to the sheriff of the new county or state.

Name Change. A citizen of Washington who wishes to change his or her name must submit an application with appropriate fees to the local district court. The application must state the reason for the name change. The court in its discretion may approve and order a name change and the new name will replace the former name. A sex offender who has been released from custody and who wishes to change his or her name may do so in a similar manner as any law-abiding citizen.

An offender under the jurisdiction of the Department of Corrections (DOC) who wishes to change his or her name must apply to the local district court. In addition, a copy of the application must be submitted to the DOC five days prior to submitting the original application to the district court. No offender under the jurisdiction of the DOC at the time of application may be granted an order changing his or her name if the court finds that doing so will interfere with legitimate penological interests, except that no order may be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. An offender under the jurisdiction of the DOC who receives approval to change his or her name must submit a copy of the order to the DOC within five days of the entry of the order. A violation of this law is a misdemeanor.

Address Verification. When a sex or kidnapping offender registers with the county sheriff, the county sheriff must make reasonable attempts to verify that the offender is residing at the registered address. Reasonable attempts at verifying an address must include at a minimum sending certified mail, with return receipt requested, to the offender at the registered address, and if the return receipt is not signed by the offender, talking in person with the residents living at the address. The sheriff must make reasonable attempts to locate any offender who cannot be located at the registered address. Information relating to the failure to verify an address is kept internally within the local sheriff's department and is not forwarded to the Washington State Patrol.

End of Duty to Register. A person convicted of a class A sex or kidnapping felony may petition the superior court to be relieved of the duty to register. A person convicted of a class B felony may be relieved of the duty to register after 15 years after the last date of release from confinement. A person convicted of a class C felony or an attempt, solicitation, or conspiracy to commit a class C felony may be relieved of the duty to register after 10 years after the last date of release from confinement. For a sex offense or kidnapping offense committed when the offender was a juvenile, the offender may petition the superior court to be relieved of the duty to register.

Central Registry. The county sheriff must forward all information and fingerprints obtained from sex and kidnapping offenders to the Washington State Patrol within five working days. The State Patrol is required to maintain a central registry of sex offenders and kidnapping offenders.

Technical Amendment. In 1997, the Legislature passed two bills amending the public notification and offender registration process for sex offenders and kidnapers. One chapter required kidnapers to register with local law enforcement agencies upon release from custody. The other chapter required the DOC, the Juvenile Rehabilitation Administration, and the Indeterminate Sentence Review Board to classify all sex offenders released from their facilities into three risk levels for the purposes of public notification: level I (low risk), II (moderate risk), or III (high risk). As a result, the Legislature twice amended the same chapters and sections of the Revised Code of Washington.

Developmentally Disabled Offenders. An agency with jurisdiction over a developmentally disabled sex or kidnapping offender is not required to notify the Division of Developmental Disabilities prior to the release of the offender.

Juvenile Courts. Local juvenile courts are not required to share information with local law enforcement agencies relating to when a juvenile sex or kidnapping offender is "allowed to remain in the community." There is no requirement governing where adult or juvenile sex or kidnapping offenders may reside.

Summary: The following sex and kidnapping offender registration provisions are amended to comply with the federal Jacob Wetterling Act:

Offenders Who Are Residents of Other States. Persons who have been convicted of a sex or kidnapping offense and who are residents of other states, but who are students, employed, or who carry on a vocation in Washington must register in Washington. "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit. "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

Offenders in Custody. At the time a sex or kidnapping offender is released from custody, the offender must register with an official designated by the agency (Department of Corrections, Department of Social and Health Services, a local division of youth services, or a local jail or juvenile detention facility) having jurisdiction over the offender. The associated agency must forward the registration information to the county sheriff of the offender's anticipated residence within three days.

All offenders who are required to register must provide a new photograph and fingerprints during the registration process.

Offenders Changing Residence Address within the Same County . When a sex or kidnapping offender changes his or her residence, the offender must send written notice of the change of address to the county sheriff within seventy-two hours of moving.

Offenders Moving to a Different County or State. Upon receiving notification that an offender is moving to a new county, the county sheriff of the old county must promptly forward the change of address information to the sheriff of the new county. In addition, when an offender notifies the sheriff of a planned out-of-state relocation, the county sheriff must forward the change of address information to the new state's designated registration agency.

Name Change. Sex offenders released from custody and subject to registration requirements are not permitted to change their names if doing so will interfere with legitimate law enforcement interests. Name changes due to changes in marital status, religious, and legitimate cultural reasons are not included in this restriction.

Any sex offender who applies to change his or her name must submit a copy of the application to the county sheriff and the Washington State Patrol at least five days prior to the entry of a name change order and must submit a copy of the court's name change order within five days after the order.

A violation of the name change requirements is a class C felony if the crime for which the individual was convicted was a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony. If the crime was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, a violation of this requirement is a gross misdemeanor.

Address Verification. Each year the county sheriff must attempt to verify the sex or kidnapping offender's registered address by mailing a verification form to the last registered address. The offender must sign and return the form within ten days .

If the offender fails to return the verification form or the offender is not at the last registered address, the county sheriff must promptly forward this information to the Washington State Patrol for inclusion in the central registry of sex offenders.

End of Duty to Register. A sex or kidnapping offender with a prior registration-eligible offense is required to register for life. A sex or kidnapping offender may petition for relief from the registration requirement after spending 10 consecutive years in the community without a new offense; however, this provision does not apply to juveniles prosecuted as adults.

Central Registry. The county sheriff must forward all sex and kidnapping registration information, including change of address information, photographs, and fingerprints, to the Washington State Patrol within three days to be included in the state central registry for sex and kidnapping offenders.

Technical Amendment. Conflicting double amendments involving public disclosure about sex offenders and kidnappers are merged. (This is a technical amendment that updates two sections of law that were amended in 1997.)

Developmentally Disabled Offenders. The agency with jurisdiction over a developmentally disabled sex or kidnapping offender must notify the Division of Developmental Disabilities within thirty days prior to the release of the offender. The jurisdictional agency and the division must assist the offender to register.

Juvenile Courts. A provision is added to require local juvenile courts to share information with local law enforcement agencies when a juvenile sex or kidnapping offender is allowed to remain in the community.

Votes on Final Passage:

House 95 0
Senate 46 0 (Senate amended)
House 96 0 (House concurred)

Effective: June 11, 1998