

HOUSE BILL REPORT

HB 1172

As Passed Legislature

Title: An act relating to sex offender registration.

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.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/31/97, 2/5/97 [DP].

Floor Activity:

Passed House: 2/28/97, 96-0;

Passed House: 1/14/98, 95-0.

Senate Amended.

House Concurred.

Passed Legislature.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 11 members: Representatives Benson, Vice Chairman; Koster, Vice Chairman; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Blalock; Delvin; Dickerson; Hickel; Mitchell; Robertson and Sullivan.

Staff: Yvonne Walker (786-7841).

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 Wetterling Act or face an automatic 10 percent reduction in federal Byrne Formula Grant funding.

Washington is out of compliance with the Jacob Wetterling federal act and is required to amend a number of its provisions covering the state's sex offender registration statute prior to the year 2000. Some of the current provisions needing 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. The offender must register within 24 hours of release with the county sheriff. The offender does not have to register with an official designated by the agency having jurisdiction over the offender.

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. Any citizen of the state of Washington, who is not an offender, wishing to change his or her name must submit an application with its 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.

An offender under the jurisdiction of the Department of Corrections who wishes to change his or her name must apply to their local district court. In addition, a copy of the application must be submitted to the Department of Corrections five days prior to submitting the original application to the district court. No offender under the jurisdiction of the Department of Corrections at the time of application shall 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 shall 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 Department of Corrections who receives approval to change his or her name shall submit a copy of the order to the Department of Corrections within five days of the entry of the order. Violation of this law is a misdemeanor.

Address Verification. When an offender registers with the county sheriff the county sheriff shall make reasonable attempts to verify that the offender is residing at the registered address. Reasonable attempts at verifying an address shall include at a minimum sending certified mail, with return receipt requested, to the sex offender at the registered address, and if the return receipt is not signed by the sex offender, talking in person with the residents living at the address. The sheriff shall make reasonable attempts to locate any sex offender who cannot be located at the registered address.

End of Duty to Register. A person convicted of a class A felony may petition the superior court to be relieved of the duty to register. 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 that duty. For a person convicted of a class B felony, he or she may be relieved of the duty to register after 15 years after the last date of release from confinement. For a person convicted of a class C felony or an attempt, solicitation, or conspiracy to commit a class C felony, he or she may be relieved of the duty to register after 10 years after the last date of release from confinement.

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 shall maintain a central registry of sex offenders and kidnapping offenders.

Technical Amendment. In 1997, the Legislature passed two bills (chapters 113 and 364) amending the public notification and offender registration process for sex offenders and kidnappers. Chapter 113 required kidnappers to register with local law enforcement agencies upon release from custody. Chapter 364 required the Department of Corrections (DOC), the Juvenile Rehabilitation Administration (JRA), and the Indeterminate Sentence Review Board (ISRB) 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 passed two separate bills covering the same chapters and sections of the Revised Code of Washington (RCW).

Developmentally Disabled Offenders. Agencies with jurisdiction over a developmentally disabled sex or kidnapping offenders are 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 on where adult or juvenile offenders may reside.

Summary of Bill: In order to comply with the Wetterling Act this bill amends the following sex offender registration provisions:

Offenders who are Residents of other States. Persons 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 of the offender's anticipated residence within three days.

All offenders who are required to register must provide a 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 instead of fourteen days prior as in currently in law.

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 relocation out-of-state, the county sheriff must forward the change of address information to the new state's designated registration agency.

Name Change. Sex offenders 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 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.

Violation of this law 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, violation of this law is a gross misdemeanor.

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

If the offender fails to return the verification form or the offender is not at the last registered address, the county sheriff shall 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 could 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 instead of the normal five days requirement.

Technical Amendment. The substitute bill merges conflicting double amendments involving public disclosure about sex offenders and kidnappers. This is a technical amendment that partially updates two RCW sections which 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.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The mandate to require released sex offenders to register with their local sheriff is a public health and safety precaution. Due to the number of sex offenders that are released each year, this requirement aids law enforcement agencies in providing adequate supervision of all released sex offenders. It also helps in informing local police departments in surrounding counties and neighboring states when an offender may be moving into one of their local communities. This is

particularly helpful when an offender convicted of a sex offense with a minor may be moving to a neighborhood located next to a school or park where small children may frequently visit.

There is some concern regarding released sex offenders who have developmental disabilities. Due to their physical or mental disabilities, these offenders may not realize the importance of registering with local law enforcement agencies every time a movement of residence occurs. It was noted, however, that these offenders are usually under some type of supervision and the guardian should be aware of the law.

Testimony Against: None.

Testified: Representative Duane Sommers (prime sponsor); Detective Dennis Walter, Spokane Police Department (pro); and Bill Sellars, The Arc of Washington State (pro).