

**HOUSE BILL ANALYSIS
HB 2454**

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.

Hearing Date: **HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS**
January 27, 1998.

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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” is not defined in current law. There is no penalty for sex offender loitering.

Special Sex Offender Sentencing Alternative (SSOSA):

An offender is eligible for SSOSA if he or she has: committed a sex offense that is not rape 1, rape 2, a serious violent offense with a sexual motivation finding, has no prior convictions for sex offenses, and has a sentence of less than eight years of confinement. However before SSOSA may be offered, the sentencing court may order an examination to determine whether the offender is amenable to treatment or relative risk to the community. As part of the examination, a proposed treatment plan must be provided and must include such items as:

- (a) Frequency and type of contact between offender and therapist;
- (b) Specific issues to be addressed in the treatment and description of planned treatment modalities;
- (c) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others.
- (d) Anticipated length of treatment; and
- (e) Recommended crime-related prohibitions.

If the court determines a sex offender should receive a sentence under the sexual offender special sentencing alternative then the court may suspend the sentence and require the offender to participate in the community-based SSOSA treatment program.

Community Supervision, Community Placement & Work Release:

Currently there are no state specifications on where a sex offender can live upon being released to the community. The Department of Corrections, however, has authority to impose residential location and arrangement

restrictions as part of any term of community placement imposed for sex offenders.

There are no state specifications on where a sex offender can work during participation in a work release program.

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 twenty five 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 twenty four 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 thirty days.

Community Residential Facilities & Other Homes:

When an adjudicated juvenile has been transferred to a community residential facility, the a 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

Applications for Nonresidents:

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

- (a) Acceptance of a nonresident 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 ten 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.

Funds appropriated to the state board of education from the common school construction fund shall be allotted by the state board of education. However, 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.

Summary:

If a school district knows that a student is adjudicated or convicted of a sex offense the school district is prohibited from placing the student in a public school with other children more than three years younger than the sex offender. The school district is also prohibited from placing the sex offender in a school that is within one thousand feet of another public or approved private school that has students more than three years younger than the sex offender. As a result any school district, educational service district, or consortium of school districts is 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.

ADULT OFFENDERS

Definitions:

The term "school" is expanded to include the grounds of preschools. In addition any city, town, school district, or county may depict the location and boundaries of the area on or within the radius of one thousand feet of the

perimeter of a school as school grounds

The term "known sex offender" is any person who has, within the knowledge of the arresting officer, been adjudicated or convicted within the last twenty 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.

Penalty for sex offender loitering. 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.

Responsibilities of Law Enforcement Officers & Community Corrections Officers. 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 sex offender if he or she is violating the terms of a court order or conditions of release, supervision, community placement, or parole.

Special Sex Offender Sentencing Alternative (SSOSA):

As a condition of suspended sentence, the court must order the offender to refrain from establishing or maintaining a residence within the radius of one thousand feet of the perimeter of a school ground and to refrain from sex offender loitering. In addition, the item requirements for the offender's treatment plan must also include any living location restrictions as part of his or her monitoring plan. Compliance with the residential restriction requirement must be reported, along with other progress reports, to the court prior to the offender's treatment termination hearing.

Community Supervision, Community Placement & Work Release:

All sex offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation are prohibited from establishing or maintaining a residence within the radius of one thousand feet of the perimeter of a school ground and from sex offender loitering.

The Department of Corrections must not place a sex offender or approve of a work release or residence location for a sex offender if the proposed facility or residence is located within the perimeter of one thousand feet of a school.

JUVENILE OFFENDERS

Conditions of Discharge/Leave:

Upon transfer to a community residential facility, or any other authorized leave or release, a convicted juvenile sex offender cannot attend a school that is attended by any student more than three years younger than the offender. The offender also may not attend any school that is within one thousand feet of the perimeter of a school that has students more than three years younger than the offender. 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. School districts may suspend, expel, or transfer any student who is adjudicated or convicted of a sex offense.

Special Sex Offender Disposition Alternative (SSODA):

Requires offenders participating in the sex offender disposition alternative to refrain from sex offender loitering. In addition, the court shall order that the offender may not attend any school where there are any students more than three years younger than the offender. The court shall also order that the offender may not attend any school that is within one thousand feet of the perimeter of a public or approved private school that has students more than three years younger than the offender. The court must send notice of the

disposition and restriction on attending the school to the approved school that the juvenile will attend, if known, or if unknown, to the approved private schools and public school district board of directors of the district in which the juvenile resides or intends to reside.

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.

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.

The Department of Social and Health Services is prohibited from placing a sex offender into an agency that is located within one thousand feet of a school that has students more than three years younger than the offender.

SCHOOLS

If a school district knows that a student is adjudicated or convicted of a sex offense then the school district may not place the student in a public school with other children more than three years younger than the sex offender. The school district may also not place the sex offender in a school that is within one thousand feet of another public or approved private school that has students more than three years younger than the sex offender. If the student is adjudicated or convicted of the sex offense during the school year, the student shall be suspended pending transfer to another school that the offender may attend without violation. If the school district cannot place the student in another school within the district without violating this section, the school district may enter into an agreement with another school district or an educational service district to provide educational services to the sex offender or may expel the student.

Applications for Nonresidents:

All school districts accepting applications from nonresident student may reject a nonresident student if:

- (a) The student's disciplinary records indicate a history of convictions for offenses or crimes; or
- (b) Acceptance of the student would result in the district placing the sex offender in its own school or another school that is within one thousand feet of a school that has students more than three years younger than the sex offender.

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.

Any school district, educational service district, or consortium of school districts may 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.

Funds appropriated to the state board of education from the common school construction fund shall 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. However, the state board shall 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.

- Rules Authority:** No.
- Fiscal Note:** Requested.
- Effective Date:** This bill contains an emergency clause and takes effect immediately.