SENATE BILL REPORT

ESSB 5759

As Passed Senate, March 15, 1997

Title: An act relating to sex offender risk level classification and public notification procedures.

Brief Description: Changing sex offender risk level classification and public notification procedures.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove, Zarelli, Franklin, Winsley, Oke and Roach).

Brief History:
Committee Activity: Human Services & Corrections: 2/18/97, 2/25/97 [DPS-WM].
Ways & Means: 3/10/97 [DPS (HSC)].
Passed Senate, 3/15/97, 43-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5759 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Staff: Andrea McNamara (786-7483)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5759 as recommended by Committee on Human Services & Corrections be substituted therefor, and the substitute bill do pass.

Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

Staff: Bryon Moore (786-7726)

Background: Under current law, local law enforcement agencies and officials are authorized to make public notifications regarding the release of sex offenders from confinement.

Each local jurisdiction makes its own determination of how to classify a sex offender and what type of public notification is appropriate under the circumstances. Generally, sex offenders are classified into risk Level I, II, or III, depending on the local jurisdiction's assessment of the risk posed by the offender to the community.

Concerns have been raised about the variations in risk level classification decisions and the types of public notifications that are made across the state, particularly when an offender moves from one jurisdiction to another.

Additional concerns have been raised about the difficulty local jurisdictions have in obtaining all the information needed to make an informed decision about the appropriate risk level classification. It has been suggested that, under most circumstances, the releasing agency has more complete information about the offender and is in a better position to assign an appropriate classification.

Summary of Bill: 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.

These releasing agencies must issue to appropriate law enforcement agencies narrative notices that contain the identity, criminal history behavior, and risk level classification for each sex offender being released, and for Level II and III offenders, the reasons underlying the classification.

Local law enforcement agencies are required to consider the state classification level when assigning their own level for public notification purposes. When a local jurisdiction assigns a different risk classification level than the one assigned by the releasing agency, the local jurisdiction must notify the releasing agency of its decision and its reasons for doing so.

Immunity from civil liability is extended to the classification decisions made by a releasing agency or a local law enforcement agency, unless the decision is made with gross negligence or in bad faith. The decision of a local law enforcement agency to classify a sex offender differently than the releasing agency shall not, by itself, be considered gross negligence or bad faith.

The nature and scope of permissible public notifications are identified for each risk level classification. Notifications for Level I sex offenders may include the release of information to other appropriate law enforcement agencies and, upon request, relevant, necessary, and accurate information to any victim or witness to the offense and to any individual community member who lives near the residence where the offender resides.

Notifications for Level II sex offenders may include public and private schools, child day care centers, family day care providers, businesses and organizations that serve primarily children, women, or vulnerable adults, and neighbors and community groups near the residence where the offender resides.

Notifications for Level III sex offenders may also include dissemination of relevant, necessary and accurate information to the general public.

DOC is required to administer an end-of-sentence review committee for the purposes of assigning risk levels, reviewing available release plans, and making appropriate referrals for sex offenders. The committee must have access to all relevant information in the possession of public agencies.

The Washington Association of Sheriffs and Police Chiefs is directed to develop a model policy for public notifications by December 1, 1997. The association must consult with specified stakeholder groups. The issues to be included in the policy are specified, including, among other things, the contents and forms for community notification documents.

DOC, JRA, and the ISRB are required to jointly develop the standards for determining what constitutes low, moderate, and high risk for the purposes of classifying offenders as Level I, II, or III.

DOC, DSHS, and the ISRB must each prepare a report to the Legislature by December 1, 1998, indicating how many sex offenders have been released and assigned to each risk level classification. The report must also identify the number, jurisdictions, and circumstances where local law enforcement agencies made different risk level classifications than the releasing agency.

Local jail administrators are required to obtain from sex offenders in local jails the city, in addition to the county, where the inmate intends to reside upon release. The administrator must then notify the sheriff of the county and, where applicable, the police chief of the city where the offender intends to reside upon release.

Other technical and clarifying changes are made.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Local jurisdictions do not get enough information about most sex offenders to make well-informed decisions about classifying the offenders for public notification purposes. It is difficult and very time consuming for the local jurisdictions to gather records from all over the state. Inconsistent classifications are very common when offenders move from one community to another, and the local classification decisions are often not based on objective criteria. The Supreme Court has upheld the public notification process on the grounds that the classification and notifications are administered objectively and fairly. The actions of a few communities should not be allowed to jeopardize this important tool for public protection.

It makes more sense to have the releasing agency, which has easier access to the relevant records and more specialized expertise than many local jurisdictions, set the level and let the local jurisdictions adjust the level if they have additional information justifying a change.

Testimony Against: None.

Testified: Senator Long, prime sponsor (pro); Sid Sidorowicz, Assistant Secretary for Juvenile Rehabilitation Administration, Department of Social and Health Services (neutral); Kit Bail, Chair of the Indeterminate Sentence Review Board (neutral); Ruben Cedeño, Director of the Division of Offender Programs, Department of Corrections (neutral); Bob Shilling, Detective, Seattle Police Department Special Assault Unit (pro).

House Amendment(s): A null and void clause is added, making the act null and void if funding is not provided in the budget.