

HOUSE BILL REPORT

HB 1176

As Reported By House Committee On:
Criminal Justice & Corrections
Appropriations

Title: An act relating to retention of records pertaining to sexually violent offenses.

Brief Description: Requiring the retention of records pertaining to sexually violent offenses.

Sponsors: Representatives O'Brien, Koster, Kagi, Ballasiotes, Cairnes, Lovick, Hurst, Tokuda, Dickerson, Kenney, Campbell, Ogden, Dunn, Santos, Conway, Esser, Lantz, Rockefeller and McIntire; by request of Department of Corrections.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/19/99, 2/24/99 [DPS];
Appropriations: 3/4/99, 3/6/99 [DP2S(w/o sub CJC)].

Brief Summary of Second Substitute Bill

- Prohibits investigative reports pertaining to sexually violent offenses from being destroyed or disposed.
- Requires all records to be transferred to the Washington Association of Sheriffs and Police Chiefs (WASPC) for permanent retention.
- Records may be destroyed by WASPC after the offender's death.
- Exempts all sexually violent predator records that are transferred to WASPC from public disclosure.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

Staff: Yvonne Walker (786-7841).

Background:

County, municipal, and other local government agencies must retain all public records for a minimum of six years before destruction. In addition, the department of origin must substantiate to the local and state records committees that the public records have no further administrative or legal value and are unnecessary, uneconomical, or have been officially reproduced by some other process such as photographic, photostatic, or microfilm.

Recommendations for the destruction or disposition of records must be submitted to the records committee. The committee will determine whether the records will be preserved. If the committee chooses to destroy particular records it may arrange for its destruction or disposition by the Division of Archives.

Many records relating to offenders committing sexually violent offenses are destroyed after six or more years if the record has been closed and is not currently being used in a law enforcement investigation or in a pending judicial proceeding.

Public records include such items as any paper, files, receipts, memoranda, maps, drawings, contracts, public records, film, sound recordings, and compact discs.

Summary of Substitute Bill:

Investigative reports pertaining to sexually violent offenses are prohibited from being destroyed or disposed. All investigative reports that are not required in the current operation of a law enforcement agency or a pending judicial proceeding must be transferred to the Washington Association of Sheriffs and Police Chiefs (WASPC) for permanent retention following the agency's record retention expiration date. WASPC may destroy the paper copy of the records if they have been retained electronically.

All sexually violent predator records that are transferred to WASPC are exempt from public disclosure. However, criminal justice agencies may review records for determining if a sex offender meets the criteria of a sexually violent predator.

Substitute Bill Compared to Original Bill:

A provision was added to authorize the Washington Association of Sheriffs and Police Chiefs to destroy the paper copy of records pertaining to sexually violent offenses if they have been retained electronically.

In addition, a provision was added to exempt all sexually violent predator records that are transferred to WASPC from public disclosure. However criminal justice agencies may review records for determining if a sex offender meets the criteria of a sexually violent predator.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: In order to fully evaluate a sex offender's risk or ultimately proceed with civil commitment, it is critical that the individuals reviewing the cases have the ability to access relevant information regarding the offender's criminal history. Due to the limited amount of time that criminal records are kept under current state law, it is not uncommon that the relevant and necessary information has been destroyed and is not available through other sources. Information pertaining to earlier criminal offenses, especially for repeat offenders, is vitally important to determining the future custody status of offenders committing sexually violent offenses. This results in some offenders who may have been considered or detained under civil commitment being released into the community.

Testimony Against: None.

Testified: (In support) Representative O'Brien, prime sponsor; Victoria Roberts, Department of Corrections; Larry Erickson, Washington Association of Sheriffs and Police Chiefs; and Suzanne Brown, Washington Coalition of Sexual Assault Programs.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Criminal Justice & Corrections. Signed by 31 members: Representatives Huff, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Alexander, Republican Vice Chair; Doumit, Democratic Vice Chair; D. Schmidt, Republican Vice Chair; Barlean; Benson; Boldt; Carlson; Clements; Cody; Crouse; Gombosky; Grant; Kagi; Keiser; Kenney; Lambert;

Linville; Lisk; Mastin; McIntire; McMorris; Mulliken; Parlette; Regala; Rockefeller; Ruderman; Sullivan; Tokuda and Wensman.

Staff: Dave Johnson (786-7154).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Criminal Justice & Corrections: A provision was added that would allow the records to be destroyed upon an offender's death.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (Substitute bill) This is a public safety issue. Retaining these records will help identify people who are sexually violent. The local government fiscal note is being revised now and will be lower. These records would be retained electronically and would not take up a lot of space.

Testimony Against: None.

Testified: Representative O'Brien, prime sponsor; and Larry Erickson, Washington Association of Sheriffs and Police Chiefs.