

HOUSE BILL REPORT

HB 2086

As Amended by the Senate

Title: An act relating to compliance with federal standards for lifetime registration for certain sex offenders.

Brief Description: Bringing state law into compliance with federal standards for lifetime registration for certain sex offenders.

Sponsors: By Representatives O'Brien, Ballasiotes, Lovick, Kenney and Conway; by request of Department of Community, Trade, and Economic Development.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/26/01 [DP].

Floor Activity:

Passed House: 3/13/01, 96-0.

Senate Amended.

Passed Senate: 4/10/01, 48-1.

Brief Summary of Bill

- Requires a person convicted of an aggravated sex offense to register for life.
- Requires a person classified as a sexually violent predator to register for life.
- Requires a person who is a recidivist sex offender to register for life.
- Brings the state's sex offender registration statute into compliance with federal statute.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Ahern, Republican Vice Chair; Lovick, Democratic Vice Chair; Cairnes, Kagi, Kirby and Morell.

Staff: Yvonne Walker (786-7841).

Background:

FEDERAL SEX OFFENDER REGISTRATION LAW:

In 1994 Congress passed the Jacob Wetterling Act, 42 U.S.C. Section 14071. The act contains a financial incentive to encourage states to adopt registration procedures for all persons convicted of sex offenses and kidnaping offenses where the victim is a minor. The act has been amended several times, imposing new requirements relating to sex offender registration. Those requirements include the following:

- requiring all offenders classified as sexually violent predators to register for life;
- requiring all offenders convicted of an aggravated sex offense to register for life; and
- requiring all sex offenders who have one prior conviction for a sexually violent offense or an offense against a minor in their criminal history and who are currently being convicted again for a new offense, to register for life.

An aggravated sex offense includes: (1) those sex offenses involving sexual intercourse with a victim through the use of force or threat of serious violence; and (2) those sex offenses involving sexual intercourse with a minor under 12 years of age.

Any time the sex offender registration requirements are changed, the state patrol notifies registered sex offenders who are currently living in the community of the changes in the law.

States were required to comply with the amended act by October 1999 or face an automatic 10 percent reduction in Federal Byrne Formula Grant funding. Washington received an extension in order to come into compliance. Washington receives approximately \$10 million in Byrne grants per year. Each year the Byrne grant received by Washington helps to provide funding to a number of various criminal justice programs throughout the state such as drug courts, narcotic task forces, and juvenile programs. Although Washington received an extension for making a good faith effort to come into compliance, a partial loss of funding due to being out of compliance with the federal statute could result in Washington losing approximately \$1 million in funding this fiscal year.

WASHINGTON SEX OFFENDER REGISTRATION LAW:

A sex offender convicted of a class A felony or a person who has one or more prior convictions for a sex offense may petition the court to be relieved of the duty to register as a sex offender if the person has spent 10 consecutive years in the community without being convicted of any new offenses. The petition must be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register or in the case of convictions that took place in a federal court or outside of Washington the petition must be made to the court in Thurston County.

Any offender that has been determined to be a sexually violent predator or has been

convicted of a class A felony sex offense that was committed with forcible compulsion must register for life. Sex offenses that are considered class A felonies include: 1st degree child molestation, 1st degree rape of an adult or child, and 2nd degree rape of an adult or child.

The duty to register for a sex offender convicted of a class B felony, who does not have any prior convictions for a sex offense, ends 15 years after his or her release from confinement, if any, or entry of judgement or sentence, if the person has spent 15 years in the community without being convicted of any new offenses. Sex offenses that are considered class B felonies include: 2nd degree child molestation, 1st degree incest, indecent liberties (with and without forcible compulsion) and sexual exploitation of a minor.

The duty to register for a sex offender convicted of a class C felony or 2nd degree sexual misconduct with a minor, who does not have any prior convictions for a sex offense, ends 10 years after his or her release from confinement if the person has spent 10 years in the community without being convicted of any new offenses. Sex offenses that are considered class C felonies include: 3rd degree child molestation, 1st degree custodial sexual misconduct, 2nd degree incest, 3rd degree rape of an adult or child, and 1st degree sexual misconduct with a minor.

Washington does not require all persons convicted of an aggravated sex offense to register for life. An aggravated sex offense consists of various class A, B, and C felony offenses that include: (1) those sex offenses involving sexual intercourse with a victim through the use of force or threat of serious violence; and (2) those sex offenses involving sexual intercourse with a minor under 12 years of age.

Summary of Bill:

A person is required to register for life if: (1) the person has been convicted of an aggravated sex offense; (2) the person has been determined to be a sexually violent predator under Washington statute, federal law, or the law of another state; or (3) the person has been convicted of one or more prior sexually violent offenses or criminal offenses against a victim who is a minor. However, a person may petition the court to be exempted from any community notification requirements as a sex offender if the person has spent 15 consecutive years in the community without being convicted of any new offenses. This act applies to sex offenses committed after the effective date of this act.

An Aggravated offense– is defined as the following:

- Any sex offense involving sexual intercourse or sexual contact where the victim is under 12 years old;
- 1st degree rape of a child or adult or 1st degree child molestation;

- Any of the following offenses when committed by forcible compulsion or by the offender administering, by threat or force or without the knowledge of that person, a substance that substantially impairs the ability of that person to control conduct: 2nd degree rape, indecent liberties, 1st degree custodial sexual misconduct, 1st and 2nd degree incest, or sexual exploitation of a minor;
- Any of the following offenses when committed by the offender administering, by threat or force or without the permission of that person, a substance that substantially impairs the ability of that person to control conduct, if the victim is between 12 and 15 years old and the offender is 18 years old or older and is more than 4 years older than the victim: 2nd degree rape of a child, 3rd rape of a child, 2nd degree child molestation, or 3rd degree child molestation;
- A felony with a finding of sexual motivation where the victim is under 12 years old or that is committed by forcible compulsion or by the offender administering, by threat or force or without the permission of that person, a substance that substantially impairs the ability of that person to control conduct;
- Any attempt or solicitation to commit one of the above listed crimes; or
- An offense defined by federal law or the laws of another state that is equivalent to one of the offenses listed above.

Sexually violent offense– means an adult conviction that includes the following:

- An aggravated offense;
- 2nd degree rape (without forcible compulsion) and indecent liberties (without forcible compulsion);
- A felony with a finding of sexual motivation where the victim is incapable of appraising the nature of the conduct or physically incapable of declining participation in, or communicating unwillingness to engage in the conduct;
- Any attempt to commit one of the above listed crimes; or
- An offense defined by federal law or the laws of another state that is equivalent to one of the offenses listed above.

Criminal offense against a victim who is a minor– includes the following offenses where the victim is under 18 years old:

- 3rd degree rape, incest, or 1st degree custodial sexual misconduct;
- 1st and 2nd degree kidnapping or unlawful imprisonment, where the victim is a minor and the offender is not the minor’s parent;
- Any of the following offenses where the offender was over 18 years old: 2nd and 3rd degree rape of a child, 2nd and 3rd degree child molestation, 1st and 2nd degree sexual misconduct with a minor, incest, sexual exploitation of a minor, communication with a minor for immoral purposes, or patronizing a juvenile prostitute;
- A felony with a finding of sexual motivation where the victim is a minor;
- Any attempt or solicitation to commit one of the above listed offenses; or
- An offense defined by federal law or the laws of another state that is equivalent to one of the offenses listed above.

EFFECT OF SENATE AMENDMENT(S):

Specifies that for purposes of determining whether a person has been convicted of more than one sex offense, the offense of failing to register as a sex offender or kidnapping offender is not an offense that can be used when determining whether a person has committed multiple sex offenses.

Clarifies the definition of criminal offense against a victim– to include adult convictions for a sex offense against a minor who is under the age of eighteen.

Makes technical amendments.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The Legislature saw this bill last year as an attempt to bring the state statute into compliance with federal statute. Although the House of Representatives passed the bill during last year’s session, the Senate removed pertinent sections of the original bill that are required under federal statute. The penalty for the state not coming into compliance would be a loss of \$1 million of Byrne grant funding to the state. This funding pays for undercover narcotic tasks forces, prosecutors, drug courts, youth violence prevention and intervention programs, and domestic violence programs. In addition, if this bill is not passed then local law enforcement agencies may also lose a large portion of their funding.

The changes in this version of the bill were not passed by the Senate last year. This bill includes provisions that requires lifetime registration for offenders that commit sex offenses with forcible compulsion and those sex offenders that are recidivists.

Testimony Against: None.

Testified: Paul Perz, Community Trade and Economic Development; and Tim Shellberg, Washington Association of Sheriffs and Police Chiefs.