

HOUSE BILL REPORT

SSB 6325

As Passed House - Amended:

March 3, 2006

Title: An act relating to establishing residence restrictions for sex offenders.

Brief Description: Establishing residence restrictions for sex offenders.

Sponsors: By Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Kline, Fairley, Stevens, Rasmussen and McAuliffe).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/17/06, 2/23/06 [DP].

Floor Activity:

Passed House - Amended: 3/3/06, 97-1.

Brief Summary of Substitute Bill (As Amended by House)

- Removes the expiration date for provisions that prohibit certain sex offenders from living in close proximity to schools.
- Preempts local ordinances on the same subject matter.
- Requires the Association of Washington Cities to adopt statewide standards regarding residency restrictions for sex offenders.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 4 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Kirby and Williams.

Minority Report: Do not pass. Signed by 3 members: Representatives Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member and Strow.

Staff: Jim Morishima (786-7191).

Background:

Offenders who commit a first "two-strikes" offense are subject to "determinate-plus" sentencing. A court must sentence such an offender to a minimum term and a maximum term. The minimum term is generally equal to the standard range sentence. The maximum

term is equal to the statutory maximum for the offense: life for class A felonies, 10 years for class B felonies, and five years for class C felonies.

The Indeterminate Sentence Review Board (ISRB) must evaluate the offender prior to the expiration of the minimum term. The ISRB must order the release of the offender upon expiration of the minimum term unless the offender is likelier than not to commit a sex offense if released. If the ISRB does not release the offender, it must re-evaluate the offender at least once every two years up to the offenders maximum term. If the ISRB releases the offender, the offender will be on community custody status for the remainder of his or her maximum term.

I. Community Protection Zones

An offender sentenced to a determinate-plus sentence for a two-strikes offense committed against a minor victim is prohibited from living within a "community protection zone" for the duration of his or her term of community custody. A community protection zone is the area within two blocks of a public or private school. The legislation creating these living restrictions terminates on July 1, 2006.

II. Local Restrictions

Recently, local governments have begun to enact ordinances that limit where a registered sex offender may live. For example, in August of 2005, the City of Issaquah enacted an ordinance that prohibited registered level II and III sex offenders from living near facilities such as schools and day-care centers. In November of 2005, the City of Monroe enacted a similar ordinance.

Summary of Amended Bill:

I. Community Protection Zones

The expiration date is repealed for the prohibition against "two-strikes" offenders residing within community protection zones.

II. Local Restrictions

Until one year after the effective date of the act, the provisions of law dealing with community protection zones supersede and preempt all rules, regulations, codes, statutes, and ordinances of all cities, counties, municipalities, and local agencies regarding the same subject matter. This state preemption applies to all rules, regulations, codes, statutes, and ordinances pertaining to residency restrictions for persons convicted of any sex offense at any time. The state preemption does not apply to rules, regulations, codes, statutes, and ordinances adopted prior to March 1, 2006.

The Association of Washington Cities (AWC), working with the cities and towns of Washington state, must develop statewide standards for cities and towns to consider when

determining whether to impose residency restrictions on sex offenders within their jurisdiction. The standards should consider the following elements:
an identification of areas in which sex offenders should not reside due to concerns regarding public safety and welfare;an identification of areas in which sex offenders may reside, taking into consideration factors such as: how many housing units must reasonably be available in order to accommodate registered sex offenders in a city or town, the average response time of emergency services, the proximity of risk potential activities, and the proximity of medical care, mental health care providers, and sex offender treatment providers;a prohibition against completely precluding sex offender residences within a city or town, implicating a sex offender's right to travel, or enacting a criminal regulatory measure;appropriate civil remedies for violations of a local ordinance; andunique local conditions that should be given due deference, such as proximity to state facilities that house or treat sex offenders.
When developing the standards, the AWC is encouraged to consult with the following agencies and organizations: the Attorney General of Washington, the Washington State Association of Counties, the Department of Community, Trade, and Economic Development, the Department of Corrections, the Washington Association of Sheriffs and Police Chiefs, and Any other agencies deemed appropriate by the AWC such as the Washington Association of Prosecuting Attorneys, the Juvenile Rehabilitation Administration of the Department of Social and Health Services, the Indeterminate Sentence Review Board, the Washington Association for the Treatment of Sexual Abusers, and the Washington Coalition of Sexual Assault Programs.

The AWC must present the standards, along with any recommendations and proposed legislation, to the Governor and the Legislature no later than December 31, 2006.

Appropriation: None.

Fiscal Note: Available on HB 2700.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (In support) It is not in the best interest of the state to have a patchwork quilt of regulations on where sex offenders may live. Jurisdictions may try to "one-up" each other, which may lead to offenders going underground, becoming homeless, or residing in areas where there is less access to jobs, law enforcement, treatment, and other support systems. Other states are finding that severely limiting where an offender may live actually makes communities less safe. This bill creates a statewide policy on this issue and takes away pressure on local officials.

(Concerns) This bill takes away the ability of local governments to enact their own ordinances, which represents a curtailment of their police powers. There is no race to the most restrictive ordinances; only two cities have enacted ordinances so far. Local governments face unique challenges that are best addressed on the local level. This bill does

not address the issue of where sex offenders should live and the issue of homeless offenders. The effectiveness of this legislation should be tracked.

Testimony Against: None.

Persons Testifying: (In support) Senator Regala, prime sponsor; Todd Bowers, Office of the Attorney General; Sophia Byrd-McSherry, Association of Counties; and Seth Dawson, Washington State Coalition for the Homeless and Washington State Association of Children's Advocacy Centers.

(In support with concerns) Christi Hurt, Washington Coalition of Sexual Assault Programs.

(Concerns) Tammy Fellin, Association of Washington Cities; and Jim Southworth, City of Monroe.

Persons Signed In To Testify But Not Testifying: None.