

# FINAL BILL REPORT

## HB 2409

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C 126L 06

Synopsis as Enacted

**Brief Description:** Changing the provisions relating to sex and kidnapping offender registration.

**Sponsors:** By Representatives O'Brien, Rodne, Ericks, Lovick, Anderson, Jarrett, Nixon, McDonald, Williams, Darneille, Buck, Conway, P. Sullivan, Tom, Takko, Lantz, Kilmer, Fromhold, B. Sullivan, Morrell, Simpson, Springer, Green, Miloscia, Sells and Ormsby.

**House Committee on Criminal Justice & Corrections**  
**Senate Committee on Human Services & Corrections**

### **Background:**

#### I. Sex and Kidnapping Offender Registration

In 1990, the Legislature enacted the Community Protection Act, which, among other things, created a sex offender registry in Washington. A sex or kidnapping offender must register with the county sheriff in the county in which he or she resides. The offender must also notify the sheriff when he or she enrolls in a public or private school or an institution of higher education. Law enforcement officials use the information in the registry to notify the public, within certain guidelines, of a sex offender's presence in the community.

#### *Information Provided upon Registration*

When an offender registers, he or she must provide a variety of information including his or her name, address (a homeless offender must provide a description of where he or she plans to stay), date and place of birth, place of employment, crime of conviction, date and place of conviction, aliases used, Social Security number, photograph, and fingerprints.

#### *Out-of-State Registrants*

An offender subject to the registration requirements who moves to Washington from another state, or who is a former Washington resident returning to this state, must register within 30 days of establishing a residence in Washington.

#### *Written Notices*

A registered sex or kidnapping offender who changes addresses within a county must send written notice to the county sheriff within 72 hours of moving. If the offender moves to a new county, he or she must provide written notice to the sheriff of the new county at least 14 days prior to moving and must provide written notice to the sheriff of the old county within 10 days of moving. An offender who becomes homeless must send written notice to the county sheriff within 48 hours of becoming homeless.

## *Criminal Penalties*

An offender who knowingly fails to register or notify the county sheriff, or who changes his or her name without notifying the county sheriff or the Washington State Patrol, is guilty of a crime. The offender is guilty of an "unranked" class C felony (zero-12 months in jail, a fine of up to \$10,000, or both) if the crime that caused the person to register was a felony. The person is guilty of a gross misdemeanor (zero-12 months in jail, a fine of up to \$5,000, or both) if the crime that caused the person to register was a misdemeanor or a gross misdemeanor.

## II. Criminal Trespass Against Children

An owner, employee, or agent of a public or private facility, whose primary purpose is to provide for the education, care, or recreation of children, may order a "covered offender" from the premises of the facility. When the facility orders a covered offender to leave the premises, it must provide written notice to the offender that: (1) he or she must leave the premises, and (2) he or she will be subject to criminal liability if he or she refuses to leave or returns.

"Covered offender" is defined as a person who is at least 18 years of age, who is not under the jurisdiction of the Juvenile Rehabilitation Administration of the Department of Social and Health Services or serving a Special Sex Offender Disposition Alternative, who has been assessed as being a risk level II or III, and who has been convicted of certain crimes.

A covered offender is guilty of criminal trespass against children if he or she receives written notice that he or she must leave a facility and remains within or reenters the facility without written permission. Criminal trespass against children is an unranked class C felony for a first offense. A second or subsequent offense is a class C felony with a seriousness level of IV.

A facility is immune from civil liability for damages arising from ejecting, or failing to eject, a covered offender.

### **Summary:**

#### I. Sex and Kidnapping Offender Registration

##### *Information Provided upon Registration*

Instead of requiring the offender to provide his or her "address" when registering, the offender is required to provide his or her "complete residential address."

##### *Out-of-State Registrants*

The amount of time an out-of-state registrant is given to register once he or she has established a residence in Washington is decreased to 72 hours (from 30 days).

##### *Written Notices*

The written notices that must be provided to the county sheriff when an offender moves or becomes homeless must be signed.

*Criminal Penalties*

A person is subject to criminal liability for any knowing non-compliance with the registration statute.

II. Criminal Trespass Against Children

The following changes are made to the crime of criminal trespass against children:

- The definition of "covered offender" is narrowed to include only offenders (1) who are registered sex offenders and (2) who meet all of the other criteria in the original definition.
- Language is added to clarify the circumstances in which a covered entity may give written permission to a covered offender to come back on the premises. The entity may give written permission of entry and use to a covered offender to enter and remain on the legal premises of the entity at particular times and for lawful purposes, including, but not limited to, conducting business, voting, or participating in recreational or educational activities.
- A person who is ejected from a covered entity may file a petition in district court alleging that he or she does not meet the definition of a covered offender. The district court must conduct a hearing on the petition within 30 days in which the person has the burden of proving that he or she is not a covered offender. If the court finds, by a preponderance of the evidence, that the person is not a covered offender, the court must order the covered entity to rescind the written notice that ejected the person and must order the covered entity to pay the person's costs and reasonable attorneys' fees.
- The crime of criminal trespass against children is changed to an "un-ranked" class C felony. This means that a person committing the crime will face a jail sentence of 0-12 months.

**Votes on Final Passage:**

House	96	0	
Senate	45	1	(Senate amended)
House			(House Refused to Concur)
Senate			(Senate receded)
Senate	47	0	(Senate amended)
House	98	0	(House concurred)

**Effective:** June 7, 2006  
 September 1, 2006 (Section 2)  
 March 20, 2006 (Sections 1 and 3-7)