
**Criminal Justice & Corrections
Committee**

SSB 6775

Brief Description: Creating the crime of criminal trespass against children.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens, Rasmussen and McAuliffe; by request of Attorney General).

Brief Summary of Substitute Bill

- Allows facilities that provide services to children to exclude certain sex offenders from the premises from the facilities.
- Imposes criminal liability on an offender who remains within, or returns to, a facility that has excluded him or her.

Hearing Date: 2/21/06

Staff: Jim Morishima (786-7191).

Background:

I. Post-Release Requirements for Sex Offenders

A sex offender can be subject to several types of requirements and restrictions upon release from incarceration. For example, a sex offender sentenced to a prison term must serve a mandatory term of community custody upon release. The conditions of the term of community custody must include a requirement that the offender obtain residence approval from the Department of Corrections (DOC). Also, the conditions may include a requirement that the offender stay out of certain geographic areas. For a sex offender convicted of a "two-strikes" offense committed on or after July 24, 2005, the conditions of community custody must include a prohibition against living within 880 feet of a public or private school (the statute imposing this requirement expires on July 1, 2006).

II. Criminal Trespass

A person who enters or remains unlawfully in the premises of another is guilty of Criminal Trespass. Criminal Trespass in the first degree occurs if the premises involved is a building. Criminal Trespass in the first degree is a gross misdemeanor. Criminal Trespass in the second

degree occurs if the premises involved is not a building. Criminal Trespass in the second degree is a misdemeanor.

It is a defense to Criminal Trespass that: (a) the building was abandoned, (b) the premises were open to the public and the defendant complied with all of the requirements for access to the premises, (c) the defendant reasonably believed that the owner would have given him or her permission to enter or remain, or (d) the defendant was attempting to serve legal process.

Summary of Bill:

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: (a) he or she must leave the premises, and (b) 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 risk level II or III, and who has been convicted of any of the following crimes:

- Rape of a Child in the first degree;
- Rape of a Child in the second degree;
- Rape of a Child in the third degree;
- Child Molestation in the first degree;
- Child Molestation in the second degree;
- Child Molestation in the third degree;
- Indecent Liberties against a child under 14;
- Indecent Liberties against a child under 15;
- Sexual Misconduct with a Minor in the first degree;
- Sexual Misconduct with a Minor in the second degree;
- Incest in the first degree;
- Incest in the second degree;
- Luring with sexual motivation;
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct;
- Dealing in Depictions of Minors Engaged in Sexually Explicit Conduct;
- Bringing into the State Depictions of Minors Engaged in Sexually Explicit Conduct;
- Sexual Exploitation of a Minor;
- Communicating with a Minor for Immoral Purposes;
- Patronizing a Juvenile Prostitute;
- "Statutory Rape" in the first degree;
- "Statutory Rape" in the second degree;
- "Carnal Knowledge;"
- Any other felony with a finding of sexual motivation if the victim was under 16 years of age at the time of the offense;
- Any attempt, solicitation, or conspiracy to commit any of the crimes listed above; and
- Any conviction from any jurisdiction that is comparable to one of the offenses listed above.

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. Criminal Trespass Against Children is a class C felony with a seriousness level of IV.

A facility that ejects an offender is immune from civil liability for damages arising from the ejection.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.