

SENATE BILL REPORT

2SHB 2714

As Reported By Senate Committee On:
Human Services & Corrections, February 28, 2008

Title: An act relating to making failure to register as a sex offender or kidnapping offender a class B felony.

Brief Description: Making failure to register as a sex offender a class B felony.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Loomis, Hurst, Lantz, Upthegrove, Conway, Simpson, VanDeWege and Kelley).

Brief History: Passed House: 2/12/08, 97-0.

Committee Activity: Human Services & Corrections: 2/22/08, 2/28/08 [DPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Marr and McAuliffe.

Staff: Shani Bauer (786-7468)

Background: Under the Community Protection Act of 1990, a sex offender must register with the county sheriff of the county in which the offender resides. An offender must provide a variety of information upon registration including name, complete residential address, date and place of birth, place of employment, crime of conviction, date and place of conviction, aliases, Social Security number, photograph, and fingerprints.

Registered sex offenders are subject to a variety of requirements after registration. For example, an offender must notify the county sheriff if the offender moves or changes any of the information in the registry. Level II and level III sex offenders must check in with the county sheriff every 90 days. Homeless offenders must check in with the county sheriff once a week.

A sex offender who knowingly violates the requirements of the registration statute is guilty of a gross misdemeanor if the offense that caused the duty to register was not a felony.

A sex offender who knowingly violates the requirements of the registration statute is guilty of a class C felony if the offense that caused the duty to register was a felony. The offense is "unranked" on the first offense and ranked as a seriousness level II for second and subsequent offenses. An offender guilty of a first offense for failure to register is subject to 0-12 months

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confinement and 36-48 months of community custody. An offender guilty of a second or subsequent offense for failure to register is subject to a term of confinement between 12 and 57 months (depending on the offender's criminal history score) and 36-48 months of community custody.

In Washington, felonies are divided into three classes: A, B, and C. The class of felony determines the statutory maximum for the offense. The term of confinement plus any term of community custody may not exceed this maximum. For example, if the court sentenced an offender guilty of a class C felony to a term of confinement for 50 months, the offender could only be subject to a term of community custody for ten months.

In general, the sentence for a juvenile offender is determined by the offender's criminal history and the "offense category" for the offense. The offense category for many felonies is determined in statute. For felonies that do not have a specific offense category assigned to them, the offense category is determined based on the class of the felony. Failure to Register as a Sex Offender, since it does not have a specific offense category assigned to it, has an offense category of C (D for attempts, bail jumps, conspiracies, or solicitations).

Summary of Bill (Recommended Amendments): The Sex Offender Policy Board is required to review statutory requirements relating to sex offender and kidnapping offender registration and notification and report to the Governor and the Legislature with recommendations no later than November 1, 2009.

The Board must review topics including, but not limited to:

- The appropriate class of felony and sentencing designations for the failure to register;
- The appropriate groups and classes of adult and juvenile offenders who should be required to register;
- When a sex offender should be relieved of the responsibility to register; and
- Simplification of the statutory language.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS (Recommended Amendments): Removes provisions changing the failure to register from a Class C felony to a Class B felony. Requires the Sex Offender Policy Board to review statutory requirements relating to sex offender and kidnapping offender registration and notification and report to the Governor and the Legislature with recommendations no later than November 1, 2009. Specifies topics for review.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Second Substitute Bill: PRO: This piece of legislation is the result of a great deal of work by crime victims' advocates and prosecutors. It is really about keeping communities safe and particularly our children by extending the amount of time that sex offenders are monitored in the community.

We don't need a lot of new sentencing laws on the books to address sex offenders, but we do need to make sure that the ones already on the books work. In 2006 the Legislature addressed issues with the failure to register by making second and subsequent offenses a felony with a seriousness level II, which maxes out at 57 months. On high recidivist cases, offenders are getting close to five years of confinement time and not getting any period of community custody because a C felony maxes out at five years. This bill would make the current process work better.

CON: The changes to penalties for the failure to register in 2006 have been well taken. There is now a good reason for law enforcement to go out and enforce the crime. A conviction for failure to register results in real prison time and is effecting a change in behavior for offenders. The Sentencing Guidelines Commission supports holding off for awhile in taking this second step. There may be a good reason to allow people to earn their way out of registration.

Persons Testifying: PRO: Representative Liz Loomis, prime sponsor; Tom McBride, Washington Association of Prosecuting Attorneys.

CON: Jean Soliz-Conklin, Sentencing Guidelines Commission.