

SENATE BILL REPORT

HB 2728

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

Title: An act relating to requiring sex offender registration for misdemeanor and gross misdemeanor-level indecent exposure when there has been a finding of sexual motivation.

Brief Description: Requiring sex offender registration for misdemeanor and gross misdemeanor-level indecent exposure when there has been a finding of sexual motivation.

Sponsors: Representatives Eddy, McDonald, Ericks, Warnick, Liias, Walsh, Schindler, Loomis, Hurst, Morrell, Kenney, Williams, Simpson, VanDeWege, O'Brien and Kelley.

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

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

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass.

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

Staff: Kevin Black (786-7747)

Background: A person commits Indecent Exposure if that person intentionally makes any open and obscene exposure of his or her person, or the person of another, knowing that the conduct is likely to cause reasonable affront or alarm. Indecent exposure is a class C felony if the perpetrator has a prior conviction for Indecent Exposure or a sex offense; a gross misdemeanor on the first offense if the perpetrator exposes himself or herself to a child under the age of 14; and a misdemeanor in all other circumstances.

A finding of sexual motivation in a criminal case requires the prosecutor to file a special allegation. The prosecutor must then prove the special allegation to the fact-finder beyond a reasonable doubt. Sexual motivation means that one of the purposes for which the defendant committed the crime was for the purpose of that person's sexual gratification. All felony level offenses which are found to be committed with a sexual motivation require registration as a sex offender, including felony Indecent Exposure committed with a sexual motivation.

Sex offender registration refers to the requirement that a person convicted of a specified sex offense must provide his or her 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 to the county sheriff of the county in which the

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person resides. Failure to register or maintain registration is a felony offense. Persons required to register as sex offenders are subject to a number of restrictions, including restrictions on licensure and employment.

Summary of Bill: Any person convicted of misdemeanor or gross misdemeanor Indecent Exposure with a finding of sexual motivation is required to register as a sex offender.

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: PRO: Victims of indecent exposure remember the effects for a long time. Sexual exposure is a crime of escalation. A perpetrator can volunteer to work with children and generally has no restrictions placed upon them. It should not require multiple convictions to register an exposer as a sexual offender. Some offenders manipulate the system and know just how far they can go. This is not designed to capture nude recreationalists or public urination cases.

OTHER: We support the intent of the bill. We are concerned that inappropriate persons would be charged. Persons lose their livelihood when they are labeled as sex offenders. We think that the trigger is too easy. The language could be misinterpreted by a prosecutor.

Persons Testifying: PRO: Representative Eddy, prime sponsor; Kim Brown, Paula Birchner, Washington Communities Against Sexual Predators.

OTHER: Steve Hubbard, Astrid King, American Association for Nude Recreation.