

SENATE BILL REPORT

SB 5203

As Reported by Senate Committee On:
Human Services & Corrections, February 17, 2011

Title: An act relating to improving the administration and efficiency of sex and kidnapping offender registration.

Brief Description: Improving the administration and efficiency of sex and kidnapping offender registration.

Sponsors: Senators Regala, Hargrove, Stevens and Shin.

Brief History:

Committee Activity: Human Services & Corrections: 1/25/11, 2/17/11 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5203 be substituted therefor, and the substitute bill do pass.

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

Staff: Shani Bauer (786-7468)

Background: In 2008 the Legislature created the Sex Offender Policy Board (Board) to promote a coordinated and integrated response to sex offender management. One of the first tasks assigned to the Board, through 2SHB 2714 (2008), was to review Washington's sex offender registration and notification laws. The Board came to several consensus recommendations and submitted a report to the Legislature in November 2009. After the 2009 report, the Board continued to work toward consensus on other items of discussion surrounding registration and notification.

In 2010 the Legislature passed SB 6414 adopting many of the Board's recommendations. Notably, the Legislature revamped the definition of an out-of-state offender who is required to register in Washington, standardized the timeframes for when a sex offender is required to register, specified criteria for the court to consider when reviewing a petition to relieve a sex offender from registration, and adopted a tiered approach in responding to an offender's failure to register. Separately, the Legislature addressed law enforcement verification of registered sex offenders. Sex offenders are no longer required to check-in with law

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enforcement at the law enforcement office. Rather, funding is provided for law enforcement to conduct periodic in-person address verifications to ensure the offender is residing at the reported address.

Special rules apply to offenders who lack a fixed residence. The person must provide notice to the sheriff of the county where he or she is registered within three days after ceasing to have a fixed residence and is thereafter required to report weekly, in person, to the sheriff. The person must keep an accurate accounting of where that person stays during the week and provide it to the county sheriff upon request. Fixed residence or lacking a fixed residence is not currently defined in statute.

A person who is required to register must give notice to the county sheriff within three days prior to arriving at a school or institution of higher education to attend classes, prior to starting work at an institution of higher education, and after any termination of enrollment or employment at a school or institution. The sheriff is in turn required to notify the school's principal or institution's department of public safety. If the student is a risk level II or III, the principal must provide information about the student to every teacher of the student and any other personnel who, in the judgment of the principal, supervises the student or for security purposes, and should be aware of the student's record. If the student is a risk level I, information may only be released to personnel who, in the judgment of the principal, should be aware of the student's record.

In May of 2010, a student in a Seattle school was sexually assaulted by another student who was a registered juvenile sex offender. In response to that incident, Senator Hargrove and Senator McAuliffe asked the Board to study existing laws regarding juvenile sex offenders and school notification. The Board came to several consensus recommendations, including requiring law enforcement to give notice regarding the student to both the principal and the school district, making clarifications to the information that must be provided to the school and the timing of those notifications, and reinforcing local policy and planning to address juvenile sex offenders in the school.

The Washington Association of Sheriffs and Police Chiefs (WASPC) operates an electronic statewide unified sex offender notification and registration program (SONAR) which contains a database of all registered sex offenders in the state of Washington. As required by law, WASPC creates and maintains a public website which posts all level II and level III sex offenders.

Summary of Bill (Recommended Substitute): Terminology currently used throughout the registration and notification provisions are defined for the first time. Fixed residence is defined generally as a building that a person lawfully and habitually uses as living quarters a majority of the week. Lacks a fixed residence means the person does not have a residence that falls into the fixed residence definition and specifically includes a shelter program, an outdoor sleeping location, or locations where the person does not have permission to stay.

For the purposes of registration in this state, a sex offense includes:

- any federal conviction classified as a sex offense under the federal Sex Offender Registration and Notification Act;
- any military conviction for a sex offense; and

- any conviction in a foreign country for a sex offense obtained with sufficient safeguards for due process.

A person with a federal or out-of-state conviction for a sex offense may request to be removed from the registry if the person was relieved of the duty to register in the person's state of conviction. The person must provide proof of relief from registration to the county sheriff. If the county sheriff determines the person should be removed from the registry, the sheriff will request the Washington State Patrol remove the person.

The information a person must provide when registering is clarified. A person may be required to update any of his or her registration information in conjunction with any address verification conducted by the sheriff or as part of any notice the person is required to provide.

Changes clarify that two or more prior felony convictions for failure to register will classify a new conviction for failure to register as a class B felony regardless if those convictions were in Washington or in another state. A person who is required to register in Washington for a crime committed in another state may petition for relief from registration in the county of the person's residence rather than being required to file in Thurston county.

The responsibility of law enforcement and a school in response to notification that a sex offender will attend the school is set out in a separate statute. Law enforcement must provide notice to the school principal and the school district. Information about the student that must be provided is specified to include the risk level classification.

Provisions are updated to reflect the current practices of WASPC utilizing the SONAR system.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): A new definition of fixed residence is adopted, to mean a building that a person lawfully and habitually uses as living quarters a majority of the week. The definition of a sex offense is clarified, specifically outlining federal, military, and foreign convictions. A process is instituted for a person from out-of-state to request removal from the registry if the person was relieved of the duty to register in the person's state of conviction.

Appropriation: None.

Fiscal Note: Not requested.

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 Original Bill: PRO: This bill does a quality job of identifying areas of technical adjustments from SB 6414 and makes other legal refinements reflecting recommendations of the Board. We can attest to the diligence of the Board in shaping these recommendations. Some of these issues were brought to the Board from WASPC's internal committee to address issues related to sex offender registration and

notification and they are in agreement as well. The fixed residency definition still needs some work and is still under discussion by the stakeholders. Law enforcement is looking for clarity to be able to advise offenders as to when they are required to register. The defense bar feels that including four or more days a week in the definition is an issue and some persons may inadvertently be labeled as homeless as a result of this definition.

Persons Testifying: PRO: Andrea Piper, Sex Offender Policy Board; Brad Meryhew, Washington Association of Criminal Defense Lawyers/WA Defenders Assoc.; Jo Arlow, WASPC.