

SENATE BILL REPORT

ESB 6180

As Amended by House, March 5, 2020

Title: An act relating to juvenile sex offense registration waivers under the special sexual offender disposition alternative.

Brief Description: Concerning juvenile sex offense registration waivers under the special sexual offender disposition alternative.

Sponsors: Senators Darneille, Nguyen, Das and Wilson, C.

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/15/20, 1/22/20 [DP].

Floor Activity:

Passed Senate: 2/12/20, 47-0.

Passed House: 3/05/20, 79-18.

Brief Summary of Engrossed Bill

- Allows a juvenile adjudicated for assault 4 with a sexual motivation to participate in a special sex offender disposition alternative (SSODA).
- Allows the court to terminate a juvenile's sexual offender registration requirement upon successful completion of a SSODA under certain conditions.
- Allows qualified professionals who are not certified sex offender treatment providers to provide a SSODA evaluation and treatment pursuant to a SSODA if the treatment is evidence-based.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: Do pass.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; Cleveland, O'Ban, Wilson, C. and Zeiger.

Staff: Kevin Black (786-7747)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background: A SSODA is a disposition alternative available to a juvenile when the juvenile is found to have committed a sex offense other than a serious violent offense and has no history of a prior sex offense. The court on its own motion or the motion of any party may order an examination to determine whether an eligible juvenile is amenable to sex offender treatment, to determine the relative risk posed to the community by the juvenile, and to propose a specific plan of treatment. A second examination may be ordered on the motion of any party. The court may order a SSODA if it determines the juvenile and community will benefit from the use of the SSODA after consideration of the victim's opinion.

To impose a SSODA, the court must order a determinate disposition within the standard range, or if it determines such a disposition would cause a manifest injustice, it may impose a disposition under Option D and suspend the execution of the disposition and place the juvenile on community supervision for at least two years. The court may impose conditions including up to 30 days of confinement, community supervision, and payment of legal financial obligations and restitution. The court must order the juvenile to not attend the school of the victim or the victim's siblings. The sex offender treatment provider must provide quarterly reports as to the juvenile's progress in treatment. The court may hold a revocation hearing if the juvenile violates the conditions of the SSODA or fails to make satisfactory progress in treatment.

Sex offender registration is a collateral consequence of conviction of a sex offense, requiring registration with the county sheriff, of the county of the offender's residence, for a specified period of time. For a juvenile adjudicated for a class A felony, the court may relieve the offender of the duty to register after 60 months following adjudication and completion of any term of confinement if the offender has not been adjudicated or convicted of any sex offenses, kidnaping offenses, or for failure to register, and the court finds there has been sufficient rehabilitation to remove the registration requirement. For a juvenile adjudicated for any other registration offense, the court may remove the registration requirement after 24 months if the other conditions apply.

The Washington State Institute for Public Policy (WSIPP) is a non-partisan public research group which researches public policy interventions and provides cost-benefit analyses of their effectiveness. WSIPP has evaluated Multisystemic Therapy-Problem Sexual Behavior for court-involved youth and found the intervention to be cost effective, returning net benefits of \$8,084 per application.

Licensed therapists under chapter 18.225 or 18.83 RCW include advanced social workers, independent clinical social workers, mental health counselors, marriage and family therapists, and psychologists. Washington licenses certified sex offender treatment providers under chapter 18.155 RCW. Only certified sex offender treatment providers are allowed to provide treatment to a juvenile under a SSODA, unless the juvenile has moved out of state or no such providers are available within a reasonable geographic distance from the juvenile's home.

Assault in the fourth degree is a gross misdemeanor. A sexual motivation means that one of the purposes for which the defendant committed the crime was for the purpose of sexual gratification. Assault 4 with a sexual motivation is not classified as a sex offense and does not trigger a requirement for sex offender registration.

Summary of Engrossed Bill: A juvenile found to have committed assault in the fourth degree with a sexual motivation and who has no history of a prior sex offense may participate in a SSODA.

If a juvenile is required to register as a sex offender and remains required to register at the end of the SSODA, the court may terminate the sex offender registration requirement if:

- the court finds the juvenile has met all the statutory requirements of the SSODA and terms of supervision;
- the SSODA was not revoked;
- the juvenile is at low risk to reoffend according to the juvenile's treatment evaluation; and
- by a preponderance of the evidence sufficient reason exists to remove the registration requirement after considering the circumstances of the case.

A qualified professional who is an advanced social worker, independent clinical social worker, mental health counselor, marriage and family therapist, or psychologist may provide a SSODA examination and provide sex offender treatment pursuant to a SSODA if the treatment employed is evidence-based. This professional may not be a certified sex offender treatment provider.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: What motivated this bill was the knowledge that some youth are sexualized and experimenting. They often have been victims of abuse themselves, but they can receive treatment and go on to lead normal, full lives. Our system does not allow the court to make a decision that is individually based, taking into consideration the youth's work at treatment and change. This bill recognizes that the system can work and people can learn new ways to travel through life.

CON: This was originally a prosecutor request bill looking for an alternative to charging a sex offense when a prosecutor wants to provide the treatment and structure that comes with a SSODA with the lesser charge of assault 4 with a sexual motivation. This allows treatment when there is a lot of family support for an individual and the situation is not egregious. Prosecutors are comfortable with lifting the registration requirement at the end of a successful SSODA, but we feel that in most cases registration should be in place during the pendency of the SSODA.

Persons Testifying: PRO: Senator Jeannie Darneille, Prime Sponsor.

CON: Russell Brown, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S):

- Changes the discretion of a judge to relieve a juvenile of their duty to register as a sex offender after successful completion of a SSODA if the juvenile is evaluated as low risk to reoffend to a presumption that the offender is sufficiently rehabilitated to warrant removal from the sex offender registry unless the court finds that the offender is not sufficiently rehabilitated, including permission for the court to consider of twelve enumerated factors and any other factors the court may consider relevant.
- Specifies that for a qualified professional who is not a certified sex offender treatment provider to provide evidence-based treatment to a juvenile under a SSODA, the treatment must be evidence-based for sex offenders.