

SENATE BILL REPORT

SSB 5081

As Amended by House, April 5, 2023

Title: An act relating to victim notification.

Brief Description: Concerning victim notification.

Sponsors: Senate Committee on Human Services (originally sponsored by Senators Nobles, Trudeau, Dhingra, Frame, Hasegawa, Keiser, Lovick, Nguyen, Saldaña, Salomon, Shewmake, Stanford, Wagoner, Warnick, Wellman, Wilson, C. and Wilson, J.; by request of Department of Corrections).

Brief History:

Committee Activity: Human Services: 1/12/23, 1/17/23 [DPS].

Floor Activity: Passed Senate: 2/1/23, 48-0.

Passed House: 4/5/23, 98-0.

Brief Summary of First Substitute Bill

- Exempts information and records related to the Department of Corrections' (DOC) Victim and Witness Notification Program from the Public Records Act.
- Expands the list of offenses for which DOC must provide a statement of the rights of victims and witnesses to request and receive notification.

SENATE COMMITTEE ON HUMAN SERVICES

Majority Report: That Substitute Senate Bill No. 5081 be substituted therefor, and the substitute bill do pass.

Signed by Senators Wilson, C., Chair; Kauffman, Vice Chair; Boehnke, Ranking Member; Frame, Nguyen, Warnick and Wilson, J..

Staff: Kelsey-anne Fung (786-7479)

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

Background: Victim and Witness Notification Program. The Washington State Department of Corrections (DOC) must send written notice to certain persons regarding the parole, release, community custody, work release placement, furlough, or escape of a specific inmate convicted of a violent offense, a sex offense, a domestic violence court order violation, or a felony harassment offense. Legislation from the 2022 session added the following five additional offenses: domestic violence offenses, assault in the third degree, unlawful imprisonment, vehicular homicide by disregard for the safety of others, and controlled substance homicide. Except in the event of escape or emergency furloughs, the notice must be sent at the earliest possible date and no later than 30 days before release. The persons to whom the notice must be sent include:

- the chief of police of the city in which the inmate will reside or in which placement will be made in a work release program;
- the sheriff of the county in which the inmate will reside or in which placement will be made in a work release program;
- the sheriff of a county where the offender was convicted if DOC does not know where the offender will reside;
- Washington State Patrol for the release of all sex offenders; and
- to the following persons if the notice was requested in writing:
 1. the victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide;
 2. any witnesses who testified against the inmate in any court proceedings involving the violent offense;
 3. any person specified in writing by the prosecuting attorney; and
 4. any person who requests such notice about a specific inmate convicted of a sex offense at least 60 days prior to the expected release date of the offender.

The following information is confidential and must not be made available to the inmate:

- information regarding victims, next of kin, or witnesses requesting the notice;
- information regarding any other person specified in writing by the prosecuting attorney to receive the notice; and
- the notice itself.

If an inmate convicted of one of the specified nine offenses escapes from a correctional facility, DOC must immediately notify the chief of police of the city and sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, DOC must also notify the witnesses and the victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide. If the inmate is recaptured, DOC must send notice to such persons as soon as possible, but no later than two working days after DOC learns of the recapture.

DOC must send the notice to the last address provided to DOC by the requesting party. DOC must keep for a minimum of two years following the release of an inmate a document signed by the individual as proof that the person is registered in the victim or witness notification program and a receipt showing that the individual registered in the program was

mailed a notice at the individual's last known address upon the release or movement of an inmate.

Serious Drug Offenses. DOC must send written notice to certain persons regarding the parole, community custody, work release placement, furlough, or escape of a specific inmate convicted of a serious drug offense. Except in the event of escape or emergency furlough, the notice must be sent at the earliest possible date and no later than ten days before release. If requested in writing, notice must be sent to:

- any witness who testified against the inmate in any court proceedings involving the serious drug offense; and
- any person specified in writing by the prosecuting attorney.

Information regarding witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice itself are confidential and shall not be available to the inmate.

Statement of Rights. DOC must provide a statement of the rights of victims and witnesses to request and receive notification to victims, witnesses, and next of kin in the case of a homicide, and victims and witnesses involved in violent offense cases, sex offenses, a domestic violence court order violation, or a felony harassment offense.

Public Records Act. Washington's Public Records Act (PRA) requires state and local agencies to make their written records available to the public for inspection and copying, unless a specific exemption applies or disclosure is prohibited. Over 500 specific references in the PRA or other statutes remove certain information from application of the PRA, provide exceptions to the public disclosure and copying of certain information, or designate certain information as confidential. The provisions requiring public records disclosure must be interpreted liberally, while the exemptions are interpreted narrowly to effectuate the general policy favoring disclosure.

Jail Booking and Reporting System and Victim Information and Notification System. The Washington Association of Sheriffs and Police Chiefs (WASPC) operates the Jail Booking and Reporting System (JBRS), which is a central repository and information source for statewide city and county jail booking and release data. WASPC also maintains the statewide automated Victim Information and Notification system (VINE) as a part of JBRS. The VINE system automatically notifies a registered victim when various changes occur such as when an incarcerated person is transferred to another facility, discharged, changes custody or supervision levels, escapes, becomes noncompliant in certain instances, or has an upcoming court date.

Legislation from 2022 exempted information and records prepared, owned, used, or retained by WASPC revealing the existence of a notification or registration to be notified pursuant to the JBRS or VINE systems, or any other program used for such notification purposes, from the PRA.

Summary of First Substitute Bill: Victim and Witness Notification Program. Information and records prepared, owned, used or retained by DOC that reveal any victim or witness notification or request for notification regarding any specific individual, including the identity, location of, or any information submitted by a person who requests or is invited to enroll for notification, are exempt from public inspection and copying under the PRA.

Statement of Rights. The following five additional crimes are added to the list of offenses for which DOC must provide a statement of the rights of victims and witnesses to request and receive notification: domestic violence offenses, assault in the third degree, unlawful imprisonment, vehicular homicide by disregard for the safety of others, and controlled substance homicide.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: There was an increase in domestic violence cases over the pandemic. Healing is hard when survivors are worried about their safety, or are at risk of being harmed. Right now, survivors and witnesses can request to be notified when an inmate is released, and this gives them peace of mind. However, requests for notification are currently not exempt from the PRA, putting victims and survivors at risk of harm. This bill furthers good governance and prevents further traumatization of victims and survivors.

WASPC manages a separate victim notification system called VINE with information from jails and prisons. Legislation last year exempted WASPC's records related to VINE from the PRA, and it sounded the alarm on the lack of protections for victim information and victim safety. This bill extends the same PRA protections to DOC's victim and notification program. Since crime victims often enroll in both notification programs, this bill will protect the information at DOC. The bill also makes technical changes to align with current law.

Persons Testifying: PRO: Senator T'wina Nobles, Prime Sponsor; Mac Pevey, Washington State Department of Corrections; Autumn Witten, Washington State Department of Corrections.

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

EFFECT OF HOUSE AMENDMENT(S):

- Adds the following six felonies to the list of offenses eligible for notification by DOC: custodial interference, luring of a minor or individual with a developmental disability, coercion into involuntary servitude, criminal gang intimidation, intimidating a public servant, and intimidation or harassment with an explosives.
- Clarifies that information or records that reveal the identity, location of, or information submitted by a person requesting victim notification from DOC are exempt from the PRA.