

SENATE BILL REPORT

SB 6315

As Reported By Senate Committee On:
Human Services & Corrections, February 1, 2006

Title: An act relating to sex offenders.

Brief Description: Modifying sex offender provisions.

Sponsors: Senators Carrell, Benton, Roach, Mulliken, Oke, Schoesler, Schmidt, Regala, Delvin, Stevens, Benson, Sheldon and Esser.

Brief History:

Committee Activity: Human Services & Corrections: 1/19/06, 2/1/06 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6315 be substituted therefor, and the substitute bill do pass.

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

Staff: Kiki Keizer (786-7430)

Background: Mandatory Registration

In 1990, the Legislature enacted the Community Protection Act, which created one of the first sex offender registration laws in the country. A person convicted of a sex or kidnapping offense must register with the county sheriff of the county in which he or she lives. The person subject to the registration requirements must provide such information as his or her name, address, date and place of birth, place of employment, crime of conviction, date and place of conviction, aliases, Social Security number, photograph, and fingerprints. He or she must also notify the county sheriff if he or she is enrolled in public or private school or in an institution of higher education.

A person subject to the registration requirements, who is either a new Washington resident or who is a former Washington resident whose crime of conviction was in Washington, must register within 30 days of establishing residence in Washington.

Registered persons who are not sexually violent predators must respond annually to a mailing to verify their address, and persons classified as sexually violent predators must do this every 90 days.

A person who knowingly fails to register or to notify the sheriff, or who changes his or her name without notifying the sheriff or the Washington State Patrol, is guilty of the crime of failure to register.

If the crime requiring registration was a felony, failure to meet the registration requirements is a class C felony. The seriousness of this offense is not ranked for purposes of sentencing and may include up to 12 months in jail, a fine of up to \$10,000, or both. If the crime requiring registration was a misdemeanor or a gross misdemeanor, failure to register is a gross misdemeanor, punishable by up to 12 months in jail, a fine of \$5,000, or both.

Electronic Monitoring

A court is authorized to impose electronic monitoring as part of an offender's sentence. The Department of Corrections (DOC) may also impose electronic monitoring as part of an offender's terms of supervision, as long as the monitoring does not contravene one of the conditions imposed by the court.

In 2003, the Legislature directed the Washington Association of Sheriffs and Police Chiefs (WASPC), along with the Department of Corrections (DOC) and the Department of Social and Health Services (DSHS), to conduct a pilot program, using the global positioning system (GPS) to electronically monitor a group of offenders. The pilot program was designed, in part, to examine the feasibility of electronically monitoring homeless or transient Level III sex offenders and kidnapping offenders.

In 2004, the WASPC, the DOC, and the DSHS issued a report to the Legislature, based upon the findings and conclusions that those agencies reached as a result of the pilot project. Among other things, the report stated that the technology used in the pilot project proved problematic when used to track homeless populations. Limited battery life and lack of access to phone lines interfered with homeless persons' abilities to use the monitoring devices effectively. In addition, tall buildings, bad weather, dense vegetation, and other obstacles sometimes interfered with the electronic monitoring devices' connections to the satellites necessary to transmit the subjects' whereabouts.

Earned Early Release

Earned early release from prison is linked to such factors as inmate behavior and participation in work and education programs. An inmate may lose earned early release time under certain circumstances.

Sexually Violent Predators

A sexually violent predator is a person who (1) has been convicted of, found not guilty by reason of insanity of, or found to be incompetent to stand trial for, a crime of sexual violence and (2) suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence if not confined to a secure facility. Under the Community Protection Act of 1990, Washington became one of the first states to establish a civil commitment program for sexually violent predators.

Summary of Substitute Bill: Landlords who rent to sex offenders are immune from civil liability from damages caused by their tenants.

Substitute Bill Compared to Original Bill: All provisions are eliminated except civil liability protection for landlords who rent to registered sex offenders. The title is amended.

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.

Testimony For: The penalties for failure to register should reflect that it is a serious offense and needs to be taken seriously. Under the current statute, a person who fails to register can't be sent to prison no matter how many prior failure to register convictions he has. "Ranking" the seriousness level of this offense puts the offense on the sentencing grid. For sex offenses, the criminal history score on the grid triples with each re-offense for this reason, the seriousness level for the first offense can be set at a low level.

Potential lawsuits against landlords for housing offenders is a barrier to finding housing for offenders. Public safety and law enforcement concerns both suggest that it is important to know where offenders are and to supervise them properly.

Electronic monitoring is a valuable tool for supervising offenders but not an absolute preventer of crime. It's important to target the use of electronic monitoring so that the most appropriate technology is used, given an offender's particular circumstances. Use of active GPS might trigger law enforcement's duty to respond immediately, whenever a transmission signal is lost, for example. A first offense of failure to register might be best addressed by a year on supervision with electronic monitoring.

Testimony Against: Electronic monitoring does not prevent future crime. Effective management of sex offenders in the community merits further study to determine when GPS is a strategy that works, how to make this kind of supervision cost-effective, and whether active or passive GPS makes the most sense. Because the technology currently requires recharging a battery for 4-6 hours, it is not effective to track homeless or transient offenders. Transmission may also be blocked by clothing or other obstacles

Who Testified: PRO: Tom McBride, Washington Association of Prosecuting Attorneys; Seth Dawson, Washington State Coalition for the Homeless; Don Pierce, Washington Association of Sheriffs and Police Chiefs.

CON: Ted Vosk, Washington Association of Criminal Defense Attorneys.