

Legislative Analysis



SEX OFFENDERS: REQUIRE DOC TO NOTIFY LOCAL LAW ENFORCEMENT BEFORE RELEASING PRISONER

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House Bill 5193 (Substitute H-1)
House Bill 5194 (Substitute H-3)
House Bill 6135 with committee amendment
Sponsor: Rep. Rick Baxter
Committee: Judiciary

First Analysis (6-15-06)

BRIEF SUMMARY: The bills would require registered sex offenders to provide the Department of Corrections with the location of their intended residence prior to release from incarceration and require the DOC to notify the local law enforcement agency of that address prior to releasing a registered sex offender from prison.

FISCAL IMPACT: House Bills 5193 and 5194 would appear to have no significant impact on the state or local units of government. House Bill 6135 would have no direct fiscal implications.

THE APPARENT PROBLEM:

When a person who is required to be registered as a sex offender is released from prison, whether on parole or because the sentence has been completed, he or she is required to notify either the state police or the local law enforcement agency in the city or town to which he or she moves. This notification must be done in person and within 10 days of the release from prison. Thereafter, the person must follow the reporting requirements of the Sex Offenders Registration Act. However, there are many that use release from prison as an opportunity to slip away. Some feel that requiring a prisoner to provide the Department of Corrections with the location of a proposed residence prior to his or her release from incarceration, and requiring the DOC to make the initial notification to the local law enforcement agency or state police in that locale, could be a significant step in increasing compliance with the registry requirements.

THE CONTENT OF THE BILLS:

Currently, when an individual is convicted of a crime that requires registration as a sex offender, he or she must register before sentencing, before entry of the order of disposition (juveniles), or assignment to youthful trainee status (persons 17-21 years old sentenced under the Holmes Youthful Trainee Act). When an individual who had been sentenced to a state correctional facility is released on parole or at the completion of his or her maximum term of imprisonment, he or she has 10 days in which to notify in person the local law enforcement agency or sheriff's department with jurisdiction where the new residence or domicile is located or to notify the Michigan State Police post where the new residence or domicile is located.

The bills would instead shift the responsibility for the notification to the Department of Corrections. House Bill 6135 is tie-barred to House Bill 5194, and House Bills 5193 and

5194 are tie-barred to each other. All of the bills would take effect 90 days after enactment. Specifically, the bills would do the following.

House Bill 5193 would amend the Sex Offenders Registration Act (MCL 28.725). The bill would delete the requirement that an individual notify the required authorities within 10 days of being paroled or upon final release from the jurisdiction of the Department of Corrections (DOC). Instead, the bill would require the DOC, before releasing the individual, to provide notice of the location of the individual's proposed place of residence or domicile to the sheriff's department having jurisdiction over that location or to the appropriate Department of State Police post. The bill would apply to an individual incarcerated in a state correctional facility who is required to be registered under the act and who has been granted parole or is due to be released after serving his or her maximum sentence.

House Bill 5194 would add new language to the Corrections Code (MCL 791.236) to require a prisoner who is required to be registered under the Sex Offenders Registration Act to provide to the Department of Corrections (DOC) notice of the location of his or her proposed place of residence or domicile. This would have to be done prior to the prisoners release on parole or being released upon completion of his or her maximum sentence. The DOC would then have to forward the notice of location to the appropriate law enforcement agency as required under the provision added by House Bill 5193.

A prisoner who refused to provide notice of the location of his or her proposed place of residence or domicile, or knowingly provided an incorrect notice, would be guilty of a felony punishable by imprisonment for not more than four years and/or a fine of not more than \$2,000.

House Bill 6135 would amend the Code of Criminal Procedure (MCL 777.17f) to specify that failure to provide a correct notice of a proposed domicile by a sex offender would be a Class F felony against the public trust with a maximum term of imprisonment of four years.

ARGUMENTS:

For:

Persons convicted of some of the more serious sex crimes must report quarterly to their local law enforcement agencies to update information on the Sex Offenders Registry (SOR); others report yearly. And prisoners required to register with the SOR are supposed to report to the closest law enforcement agency where they move after their release from prison within 10 days of their release. But, if a recently released prisoner doesn't notify the local police or sheriff as required, it may be months (not until one or more of the quarterly reporting dates has passed) before it becomes apparent that the state has lost track of that person. Some believe that part of the solution lies in having prisoners provide prison officials with the address of where they intend to live after their release. The DOC then would have the responsibility to forward that information to the appropriate law enforcement agency. That agency would then know to be expecting the person at the next quarterly reporting period. Absconders would be more quickly identified, and police would have a starting point to begin to search for the missing sex offender. In addition, the felony penalty added by House Bill 5194 for providing a false address, as well as other recently enacted legislation that increased penalties for reporting violations, should act as a strong deterrent for those considering ways to avoid reporting.

For:

In order to register on the Sex Offender Registry, a person must have a valid state ID or driver's license. But, in order to obtain a valid state ID or driver's license, a person must present identifying documents and proof of residency (i.e., utility bill, lease agreement, or bank statement). Reportedly, some newly released offenders have great difficulty in obtaining the necessary documents in order to get the ID in time to meet the current 10-day reporting requirement. Rather than be busted for not complying with reporting requirements, they simply disappear.

By requiring the DOC to make the initial notification prior to the person's release from custody, the bills would provide a longer window for sex offenders to obtain the documentation necessary to get an ID so that they can register at the next quarterly reporting period.

Against:

Some feel that people should be able to use their prison I.D. for the initial state ID for purposes of registering on the Sex Offenders Registry. However, the Secretary of State does not accept prison IDs as proof of identification or residency. Though the bills will provide a longer time for a newly released prisoner to obtain documentation that the SOS will accept, some may still need a longer time if they are released close to one of the quarterly reporting periods. For example, many of the inmates who are released because they have served the maximum term of their sentence may have been incarcerated for two or three decades. They very often have no birth certificates, or living relatives who might have a copy. Some have no idea where they were born. Therefore, they might not have enough time to obtain copies of their birth certificates, especially if they were born out-of-state, before the next reporting period. So, they still may have an incentive to run or slip away. There should be some way that those who are trying to comply could still report, even without a state ID or driver's license, if they can show other documentation of where they are living and that they are in the process of obtaining a state ID or driver's license.

POSITIONS:

The Deputy Sheriff's Association of Michigan indicated support for the bills. (5-31-06)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.