

Risk-based Sex Offender Registration

Idaho Sexual Offender Management Board

1

Introduction

- ☞ In 1998 Idaho implemented the Violent Sexual Predator designation as a second "level" of registration
- ☞ 2009 Smith v. Idaho found procedural due process violations with VSP designation procedures
- ☞ Risk-based registration levels preferable over crime-based Sex Offender Registration and Notification Act (SORNA)

2

Public Safety

- ☞ How does this legislation serve the people of Idaho?
 - ☞ Enhances public safety by accurately assessing the risk of sexual re-offense
 - ☞ Identifies the highest risk sex offender population
 - ☞ Motivating factor - reduce level or registration period
 - ☞ 78% of Idaho's registered sex offenders are not under IDOC supervision
 - ☞ Conviction-only risk determination not accurate

3

Concept



- ☞ Current (within 1 year) psychosexual evaluation required
- ☞ Offender to obtain required information for review or remain at default Level 4
- ☞ Levels 2, 3, 4 and some Level 5 registrants may petition for a one-time reduction in assigned level
- ☞ Denied reduction petition - may resubmit once per year thereafter until reduced

7

Concept



- ☞ Three types of risk-based registration level reviews:
 - ☞ Initial review - The first SOMB review of a default Level 4 registration level
 - ☞ Level designation reduction - A petition to reduce a registration designation subsequent to the initial level designation
 - ☞ Level designation modification - A request for SOMB review that is submitted by the sheriff, prosecuting attorney, Department of Correction or the Commission of Pardons and Parole

8

Level 5 Designees



- ☞ Default Level 5 registrants register for life
- ☞ Level 5 registrants designated by SOMB may petition for one-time reduction after 20 years
- ☞ Current SOCB-designated VSP's will be Level 5 until automatic review for appropriate level placement

9

How it works



10

Matrix Scoring



- ☞ Offense categories aid in scoring matrix
- ☞ Consider static, dynamic and risk reduction factors
 - ☞ Number of risk factors combined with offense category determines registration level
- ☞ Static factors = historical behaviors
- ☞ Dynamic factors = current behaviors
- ☞ Risk reduction factors = stability and pro-social behaviors

11

Reassignment and Recidivist



- ☞ New non-sexual criminal conviction reverts to default Level 4. Review process starts over
- ☞ Subsequent sex offense conviction = recidivist and default Level 5 designation
 - ☞ Won't be eligible for level reduction or relief from duty to register

12

Relief from Duty to Register



- Decision-making responsibility for relief from duty to register will be turned over to SOMB
- SOMB will factor same risk reduction considerations as utilized for level designation petitions
- Prosecuting attorney and ISP Central Registry may submit evidence to SOMB in relief from duty to register petitions

13

Statutory Modifications



- Please refer to your handout

14

Points for Consideration



- Supported by the ICJC and Governor's office
- Fiscal needs included in Governor's budget request
- Transparent and accessible to offenders being reviewed

15

Registration Level Requirements Comparison

Current		Proposed	
	Annual in-person registration; picture/info on ISP/sheriff websites; address verification card every 4 months; law enforcement address check once a year	Level 1	Annual in-person registration; no picture/info on ISP/sheriff websites (available to LE, schools, daycares); address verification card every 4 months; law enforcement address check if verification card is undeliverable.
	Lifetime registration; may petition for relief from registration after 10 years unless identified as an "aggravated offender"	Level 2	Annual in-person registration; picture/info on ISP/sheriff websites; address verification card every 4 months; law enforcement address check if verification card is undeliverable.
"Regular" sex offenders		Level 3	Annual in-person registration; picture/info on ISP/sheriff websites; address verification card every 4 months; one law enforcement address check per year.
		Level 4	Bi-annual in-person registration; picture/info on ISP/sheriff websites; address verification card every 3 months between registrations; one law enforcement address check per year.
	Quarterly in-person registration; picture/info on ISP/sheriff websites; monthly address verification cards between registrations; law enforcement address check twice per year; electronic monitoring for offenders under IDOC supervision	Level 5/VSP/ Recidivists	Quarterly in-person registration; picture/info on ISP/sheriff websites; monthly address verification cards between registrations; law enforcement address checks twice per year; electronic monitoring for offenders under IDOC supervision.
			10 years registration May petition for relief after 5 years minimum
			20 years registration May petition for relief after 10 years minimum
			30 years registration May petition for relief after 15 years minimum
			40 years registration May petition for relief after 20 years minimum
			Lifetime registration

SOMB Tiered Sex Offender Registration Legislation
Fiscal Impact

Ongoing Purpose	Qty	Amount	Total	One-time Purpose	Amount	Total
SOMB						
Staff (1 Tech Records Spec, 2 Clinicians, 1 Hearing Officer)	4	\$242,700		Office set-up	\$12,000	
OE		\$55,000	\$297,700			\$12,000
ISP						
Staff (3 Tech Records Spec, 1 Office Specialist)	4	\$185,428		Software needs	\$500,000	
OE		\$60,000		Office set-up	\$16,000	\$516,000
Legal Services		\$30,000	\$275,428			
IDOC						
Staff (4.5 Tech Records Spec)	4.5	\$204,300		Office set-up	\$28,100	
OE & Electronic monitoring unit rental		\$135,836	\$340,136			\$28,100
Ongoing General Funds:			\$913,264	One-time General Funds:		\$556,100
Initial Implementation General Funds:			\$1,469,364			

S1095
Statutory Modifications

- 9-340B Records Exempt from Disclosure
 - Exempts SOMB's records on risk-based registration reviews from public records requests unless otherwise provided by law or court order
- 18-8303 Definitions
 - Eliminates Aggravated Offense definition – will no longer be applicable
 - Housekeeping definitions for certified polygraph examiner and certified treatment provider
 - Continuous time in the community for registration reduction petitions or removal from the registry eligibility
 - Default level 4 and level 5 registration levels
 - Eligible party – agencies authorized to request a registration level modification review
 - Recidivist definition is being modified
- New section 18-8306A Determination of Risk-Based Registration Level
 - Procedures related to determination of 5 registration levels shall be developed by rule
 - Allows for petitions for review of default level 4 placement and reduction in risk-based level determinations
 - Affords due process considerations for offenders being reviewed by the SOMB
 - Existing VSP's living in Idaho will be reviewed by the SOMB automatically for level placement
 - Offender notification procedures
- 18-8307 Registration
 - Increases annual registration fee by \$8
 - Identifies frequency of in-person registration and the term of registration for each level
- 18-8308 Verification of Address and Electronic Monitoring
 - Cooperative agreements allowed between Sheriff and other law enforcement agencies for offender address verifications
 - Frequency of by-mail and in-person address verifications by ISP and Sheriff for each level
 - Level 5 offenders under IDOC supervision may be placed on electronic monitoring for duration of supervision
- 18-8310 Release from Registration Requirements - Expungement
 - Modifies eligibility timeframe for offenders to petition for expungement to after ½ the full registration period with continuous time living in the community, except level 5 offenders
 - Requires a new psychosexual evaluation for consideration and notification of SOMB
 - Initial changes effective in July 2016, but process would be transferred from courts to SOMB in July 2017 with an appeal to district court provision
- 18-8314 Powers and Duties of the Sexual Offender Management Board
 - Establish qualifications and certification procedures for professionals conducting post-conviction sex offender polygraphs for the Department of Juvenile Corrections (housekeeping)
 - Provides for SOMB to set forth and administer risk-based registration level determinations and release from registration determinations
 - Grants authority for SOMB to obtain & review IDOC & IDJC offender records to carry out its duties

- Authorizes the transfer of SOCB records to the SOMB for retention and to carry out its duties
- 18-8318 Payment for Psychosexual Evaluation
 - Continues county payments for pre-sentence post-conviction psychosexual evaluations for indigent offenders but requires offenders or requesting party to pay costs of psychosexual evaluations conducted for risk-based registration reviews and release from registration petitions
- 18-8323 Public Access to Registry Information/18-8324 Dissemination of Registry Information
 - Level 1 offender information will not be disseminated to the public or available on ISP/Sheriffs' websites but will be made available to law enforcement, schools, and licensed day cares, group daycare facilities and family day care homes
- New section 18-8332 Authorization for Criminal History Checks by the Board
 - Provides the SOMB with authorization to obtain criminal history check information on offenders being reviewed for registration level determinations or release from registration petitions
- 20-219 Probation and Parole Supervision and Training
 - Level 5 offenders who are under supervision may be placed on electronic monitoring
 - The Board of Correction shall establish procedures to determine when such electronic monitoring is appropriate
- 16-1602 Definitions and 16-2005 Conditions Under Which Termination may be Granted
 - Pertain to the Child Protective Act. Replaces references to an "aggravated offense" with delineation of crimes that were previously included in this to-be eliminated definition

Idaho State Police Impact of S1095

The Idaho State Police (ISP) maintains the Central Sex Offender registry for the state of Idaho, as outlined in I.C. Section 18-8305. Currently the Central Registry, which is maintained by the ISP Bureau of Criminal Identification (BCI), receives funding from general fund for one position, but no general fund dollars for the OE or capital expenditures to maintain the Registry. The remaining staff and all of the OE and Capital expenses are funded from other revenues within the department. The current annual cost of the Registry is approximately \$555,000. However, this cost does not include the administration costs. Plus all major capital expenses have been funded from federal grants thus far.

The proposed changes to the "Sexual Offender Registration Notification and Community Right-to-Know Act" would impact both the BCI Registry Unit and Applicant Unit resulting in the following additional costs. The department has no way of absorbing these additional costs, therefore requests general funds in the following amounts.

- On-going (\$275,428 annually)
 - Four (4) FTE positions. (\$185,428)
 - Three (3) for Sex Offender Registry (1 technical records specialist 2 and 2 technical records specialist 1) The positions are responsible for maintaining accurate and complete records on all registered sex offenders in the state.
 - They process all registrations, doing the appropriate amount of research to ensure the accuracy and completeness of the database used in the tracking of offenders.
 - They track non-compliant sex offenders using various search techniques.
 - They work with other local, state and federal law enforcement agencies to compile the research needed to equate out of state offenses to Idaho offenses. In doing so, they maintain and monitor a tracking system of offenses from other states.
 - They do the research needed for administration to do affidavits regarding removal of offenders from the system.
 - They maintain a public website of all Idaho sex offenders including photos, list of non-compliant and violent sexual predators.
 - One (1) for the Applicant Unit (office specialist 2) The position in the Applicant Unit will be responsible for processing the background checks that will be required in the new review process in the law.
 - Operating Expenses. (\$90,000)
 - Additional overhead costs regarding the new positions, mailing costs, training and maintenance for the enhanced Repository. The legal expenses are for the services provided by the Attorney General's office to the Registry.
- Capital Expenses. (\$516,000 annually)
 - Desks, chairs, computers, and other equipment for the new positions. (\$16,000)
 - Programming for changes to the client software to accommodate the new registry changes, changes to the state switch, database changes, workflow changes for the new reporting requirements of the different tiers, and web-site changes. (\$500,000)