

**CONFIDENTIAL**  
**LEGISLATIVE BILL REVIEW FORM: 2015**

Bill Number: S.13 Name of Bill: An act relating to the Vermont Sex Offender Registry

Agency/Dept: DPS/VCIC Author of Bill Review: Jeffrey Wallin

Date of Bill Review: 1/28/2015 Related Bills and Key Players: \_\_\_\_\_

Status of Bill: (check one)

       Upon Introduction        X   As passed by 1<sup>st</sup> body             As passed by both bodies

Recommended Position:

  X   Support             Oppose             Remain Neutral             Support with modifications identified in # 8 below

**Analysis of Bill**

**1. Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*

This bill proposes a number of changes to the Sex Offender Registry (SOR), primarily in relation to determination of placement on the SOR. Currently this process is being completed in an administrative manner by the Vermont Crime Information Center (VCIC) while the bill proposes to have this process completed by the court for Vermont based convictions. The bill also creates a process for individuals to petition the court with regards to potential erroneous inclusion on the registry.

This bill will also require the Department of Public Safety (DPS) and Department of Corrections (DOC) to develop a process to evaluate non-Vermont convictions for qualification on the registry.

Additionally this bill (as approved by the Senate) would remove the audit requirement for placing addresses of certain offenders on the internet and replace this with a DPS certification of error rates. As amended by the house this bill would also require the Department to statistically certify the error rate (as defined) along with all recommendations provided by the most recent audit report.

Language relating to length of registration for certain offenders is also clarified and standardized.

**2. Is there a need for this bill?** *Please explain why or why not.*

There is a strong need for the bill, given the consequences for an offender being placed on the registry. Whereas currently this process is being undertaken as an under-staffed administrative process (in DPS) the bill proposes to place this process (for Vermont based convictions) within the larger legal framework. Through this process defendants will gain representation in relation to registry qualification and strengthen the avenues which provide information concerning the SOR to offenders.

Language around prerequisites to posting of address information for certain offenders (on the publically available website) was unclear after two previous audits. Updated language (as approved by the Senate) would provide clarity to the Department with regards to this issue.

The technical and language changes proposed within the bill in relation to length of registration (specifically for non-Vermont convictions equivalent to Sexual Assault and Aggravated Sexual Assault) will remove a significant area of disparity between how Vermont and non-Vermont convictions are managed.

**3. What are likely to be the fiscal and programmatic implications of this bill for this Department?**

Programmatically this bill will require DPS to modify internal processes and procedures to intake court orders detailing individual registry requirements. The Department will be required to develop closer coordination with the Department of Corrections with regards to non-Vermont convictions (including information transmittal and coordinating policy positions / decisions). As the majority of qualifying convictions for registration are Vermont based (86%) this bill will also significantly reduce exposure of the Department to claims relating to registry qualification and information posting.

Please return this bill review as a Microsoft Word or PDF document to [laura.gray@state.vt.us](mailto:laura.gray@state.vt.us) and [Jessica.mishaan@state.vt.us](mailto:Jessica.mishaan@state.vt.us)

Depending on applicability language in any adopting act, the Department may also be required to review previously classified non-Vermont convictions for Sexual Assault and Aggravated Sexual Assault to determine if updated registration requirements now exist.

Additionally, it is somewhat unlikely that the Department may be able to meet the 'zero percent' error rate as described in the bill due to the number of registrants (currently at 2,298), the various avenues that provide data to the Department (DOC, the courts, other state registries, and offenders), and the limited staffing resources supporting the program (1 FTE).

As noted above, the house proposal of amendment adds additional requirements relating to the posting of addresses on the publically available website; a statistical requirement to be utilized within the error rate calculation and all recommendations contained within the most recent auditor's report be implemented. Additionally, the bill as written would require that before any individual address is posted that the department verify that all information contained within is accurate. Taken together these would essentially prohibit the department from posting address information on the internet due to inability to verify accuracy past information provided directly by offenders.

**4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**

The two most significantly affected departments would be the Vermont court system (including the State's Attorney's) and the Department of Corrections. Both agencies have been involved in crafting and review of the bill and are attempting to minimize increased legal proceedings (relating to inclusion on the registry) while still providing potential registrants the full benefit provided by the legal process (including council). Additionally the Defender General's Office has gone on the record as supporting the bill for the reasons stated above.

**5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)**

There are limited additional fiscal or programmatic implications of this bill on external agencies as the process is primarily contained within the state governmental apparatus.

**6. Other Stakeholders:**

**6.1 Who else is likely to support the proposal and why?**

Law Enforcement, Victim Advocates, Offender Advocates, Defense Attorneys. It is expected that the more open nature of the process will be generally well received by stakeholders and the public at large.

**6.2 Who else is likely to oppose the proposal and why?**

Civil Liberty Advocates. Several concerns have been raised about any mechanism that would ultimately allow address information to be posted on the internet, including privacy and misidentification perspective.

**7. Rationale for recommendation:** *Justify recommendation stated above.*

This bill will move a significant collateral consequence from an administrative to judicial process and provide greater clarity to the Department with regards to individuals qualifying for the registry.

**8. Specific modifications that would be needed to recommend support of this bill:** *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

**9. Gubernatorial appointments to board or commission?**

Secretary/Commissioner has reviewed this document



Date: 4/15/15