

SENATE FILE NO. SF0067

Sex offender registry-process.

Sponsored by: Senator(s) Burns and Massie and
Representative(s) Berger and Warren

A BILL

for

1 AN ACT relating to the sex offender registry; requiring sex
2 offenders to undergo a psychological evaluation as
3 specified; conforming provisions; providing a penalty;
4 repealing provisions; providing for immunity for specified
5 persons implementing the psychological evaluations program;
6 providing that no independent cause of action is created
7 against persons implementing the sex offender psychological
8 evaluations program as specified; requiring a report;
9 providing an appropriation; authorizing positions; and
10 providing for an effective date.

11

12 *Be It Enacted by the Legislature of the State of Wyoming:*

13

14 **Section 1.** W.S. 1-39-103(a)(iv)(B) and by creating a
15 new subparagraph (F), 1-41-103(c) by creating a new
16 paragraph (vi), 7-13-402 by creating a new subsection (j),

1 7-19-302 by creating new subsections (k) and (m),
2 7-19-303(c)(intro) and (d)(intro) and 7-19-307 by creating
3 a new subsection (e) are amended to read:

4
5 **1-39-103. Definitions.**

6
7 (a) As used in this act:

8
9 (iv) "Public employee":
10

11 (B) Does not include an independent
12 contractor, except as provided in subparagraph
13 subparagraphs (C) and (F) of this paragraph, or a judicial
14 officer exercising the authority vested in him;

15
16 (F) Includes any licensed professional or
17 entity conducting psychological evaluations of sex
18 offenders under W.S. 7-19-302(k) pursuant to a contract
19 with the state board of parole.
20

21 **1-41-103. Self-insurance account; creation;**
22 **authorized payments.**
23

1 (c) Expenditures shall be made out of the self-
2 insurance account for the following claims which have been
3 settled or reduced to final judgment:
4

5 (vi) Claims against licensed professionals or
6 entities conducting psychological evaluations of sex
7 offenders under W.S. 7-19-302(k) pursuant to a contract
8 with the state board of parole, provided:
9

10 (A) The liability of the state shall not
11 exceed the limits specified in W.S. 1-39-118(a) except as
12 the limitation may be increased by W.S. 1-39-110(b) both
13 reduced by the amount of the licensed professional's or
14 entity's malpractice insurance coverage applicable to such
15 claim; and
16

17 (B) The claim arises from services
18 performed by the licensed professional or entity pursuant
19 to a contract with the state board of parole under W.S.
20 7-19-302(k).
21

22 **7-13-402. General powers and duties of board;**
23 **eligibility for parole; immunity.**
24

1 (j) The board shall implement a program to perform
2 psychological evaluations of sex offenders as required
3 under W.S. 7-19-302(k). The board may contract with
4 licensed professionals or entities qualified to conduct
5 psychological evaluations necessary to assess the risk
6 level of offenders for purposes of sex offender
7 registration under W.S. 7-19-301 et seq. The board shall
8 provide a copy of the report to the offender, the district
9 attorney and the district court as specified in W.S.
10 7-19-303(c).

11
12 **7-19-302. Registration of offenders; procedure;**
13 **verification; immunity.**

14
15 (k) Offenders in the custody of the department, local
16 jail or a public or private agency, pursuant to a court
17 order as a result of an offense subjecting them to
18 registration shall undergo a psychological evaluation prior
19 to release in compliance with procedures established by the
20 state board of parole. Offenders convicted of an offense
21 subjecting them to registration who are not in the custody
22 of the department, local jail or a public or private agency
23 as a result of that conviction shall undergo a
24 psychological evaluation conducted by the state board of

1 parole prior to the hearing required under W.S.
2 7-19-303(c). Offenders required to undergo psychological
3 evaluations pursuant to this subsection shall execute any
4 required releases of juvenile, criminal, medical and mental
5 health records as necessary for completion of the
6 psychological evaluations. Criminal justice agencies and
7 medical and mental health service providers within the
8 state shall provide records pursuant to the releases upon
9 the request of persons conducting the psychological
10 evaluations unless release of the records is otherwise
11 prohibited by law. The board of parole may contract with
12 licensed professionals or entities qualified to conduct
13 psychological evaluations necessary to assess the risk
14 level of offenders. As part of the psychological evaluation
15 and assessment, the person conducting the psychological
16 evaluation and assessment shall consider and report to the
17 board of parole:

18
19 (i) Conditions of release that minimize risk of
20 reoffense, including whether the offender is under
21 supervision of probation or parole, receiving counseling,
22 therapy or treatment, or residing in a home situation that
23 provides guidance and supervision;

24

1 (ii) Physical conditions that minimize the risk
2 of reoffense, including advanced age or debilitating
3 illness;

4
5 (iii) Criminal history factors indicative of
6 high risk of reoffense, including:

7
8 (A) Whether the offender's conduct was
9 found to be characterized by repetitive and compulsive
10 behavior;

11
12 (B) Whether the offender served the maximum
13 term under the court order;

14
15 (C) Whether the offender committed the
16 sexual offense against a child;

17
18 (D) Whether psychological, substance abuse
19 or psychiatric profiles indicate a risk of recidivism;

20
21 (E) The offender's response to treatment;

22
23 (F) Recent behavior, including behavior
24 while confined or while under supervision in the community

1 as well as behavior in the community following service of
2 sentence;

3

4 (G) Recent threats against persons or
5 expressions of intent to commit additional crimes; and

6

7 (H) Other criminal history factors,
8 including:

9

10 (I) The relationship between the
11 offender and the victim;

12

13 (II) Whether the offense involved the
14 use of a weapon, violence or infliction of serious bodily
15 harm;

16

17 (III) The number, date and nature of
18 prior offenses.

19

20 (m) Any licensed professional or entity conducting
21 psychological evaluations of sex offenders under contract
22 with the board of parole under subsection (k) of this
23 section shall be covered under W.S. 1-39-101 through
24 1-39-421. The psychological evaluations, reports and

1 recommendations made pursuant to subsection (k) of this act
2 shall not create grounds for an independent cause of action
3 against any licensed professional or entity conducting the
4 evaluation, or against the state board of parole or its
5 employees in the performance of their duties under
6 subsection (k) of this act.

7
8 **7-19-303. Offenders central registry; dissemination**
9 **of information.**

10
11 (c) The division shall provide notification of
12 registration under this act, including all registration
13 information, to the district attorney of the county where
14 the registered offender is residing at the time of
15 registration or to which the offender moves. Upon receipt
16 of notification, the district attorney shall request the
17 board of parole to provide a psychological evaluation if
18 one has not previously been performed pursuant to W.S.
19 7-19-302(k) and shall file an application for hearing under
20 this subsection if the offender is an aggravated sex
21 offender or a recidivist. For other offenders registered
22 under this act, the district attorney shall ~~file an~~
23 ~~application for hearing under this section if, based upon a~~
24 request the board of parole to provide a psychological

1 evaluation if one has not previously been performed
2 pursuant to W.S. 7-19-302(k). After review of the ~~risk of~~
3 ~~reoffense factors specified in W.S. 7-19-303(d),~~
4 psychological evaluation of the sex offender, the district
5 attorney shall, utilizing a preponderance of the evidence
6 standard, file an application for hearing under this
7 subsection if it appears that public protection requires
8 notification be provided to persons in addition to those
9 authorized to receive criminal history record information
10 under W.S. 7-19-106. Prior to any application for hearing
11 under this subsection, the district attorney may apply to
12 the court, with notice to the offender, for an order
13 requiring the offender to obtain a psychological or other
14 evaluation report at the offender's expense. The court may
15 enter any order it deems appropriate after an in-camera
16 hearing unless waived by the offender. Upon application of
17 the district attorney, and following notice to the offender
18 and an in-camera hearing, the district court shall make a
19 finding by a preponderance of the evidence of the risk of
20 reoffense by the offender, and based on that finding
21 authorize the county sheriff, police chief or their
22 designee to release information regarding an offender who
23 has been convicted of an offense that requires registration
24 under this act, as follows:

1

2 (d) In determining an offender's risk of reoffense
3 under subsection (c) of this section, the court shall
4 consider+ the psychological evaluation conducted by the
5 state board of parole required under W.S. 7-19-302(k).

6

7 **7-19-307. Penalties.**

8

9 (e) Any person who knowingly and willfully fails to
10 undergo and complete a psychological evaluation as required
11 under W.S. 7-19-302(k) is guilty of a misdemeanor
12 punishable by a fine of not more than seven hundred fifty
13 dollars (\$750.00), imprisonment for not more than one (1)
14 year, or both.

15

16 **Section 2.** W.S. 7-19-303(d)(i) through (iii) is
17 repealed.

18

19 **Section 3.** The state board of parole shall report to
20 the joint judiciary interim committee no later than July 1,
21 2007, with respect to the number of sex offenders evaluated
22 under the program created by this act, the cost for the
23 psychological evaluations, the numbers of sex offenders
24 classified under each of the categories listed under W.S.

1 7-19-302(c) and any other information the board believes
2 may help the joint judiciary interim committee assess the
3 success of the psychological evaluation program created by
4 this act.

5
6 **Section 4.**

7
8 (a) There is appropriated to the state board of
9 parole one million three hundred sixty-eight thousand four
10 hundred sixty-four dollars (\$1,368,464.00) from the general
11 fund for the biennium beginning July 1, 2006, to implement
12 the program to provide psychological evaluations of sex
13 offenders as required under section 1 of this act.

14
15 (b) The state board of parole is authorized five (5)
16 full-time equivalent positions to implement the program to
17 provide psychological evaluations of sex offenders as
18 required under section 1 of this act.

19
20 **Section 5.** This act is effective July 1, 2006.

21
22 (END)