

**Fact Sheet for House Bill No. 335**  
**Introduced By J. Eck**  
**By Request of the Department of Justice**

**Background**

In Montana, anyone convicted of a "sexual offense" is required to register as a sex offender. Montana's registered sex offenders are supposed to be designated as a tier level 1, 2 or 3. This "tier" designation informs the public of the perceived risk of the offender to reoffend, with tier level 1 being the lowest risk and tier level 3 being the highest risk. The tier designation also places restrictions on the offender proportional to the offender's risk level, including, the frequency with which the offender must verify his address. Failure to comply with some of these restrictions is a felony offense.

Many registered sex offenders in Montana do not have a designated tier level. As of February 2013, Montana's Sexual or Violent Offender Registry reported that Montana currently has 2,219 registered sex offenders. Approximately 1,415 of these registered sex offenders do not have a designated tier level. There are a number of reasons for this. Some sex offenders were convicted prior to the enactment of the Sexual or Violent Offender Act in 1997; others were convicted of a sexual offense outside of the Montana legal system; in other cases the sentencing Court may have failed to include a tier level designation in the sentence and judgment after a conviction for a sexual offense.

Montana law requires that undesignated sex offenders register, but they will not have a tier level to inform the public of their risk to reoffend. Furthermore, law enforcement can only hold non-designated offenders accountable for those requirements that would apply to low risk (level 1) offenders. There is no clear authority for courts to assign tier levels to offenders outside of sentencing for a sex offense. Thus, without a process for post-sentencing tier designation, there are likely to be offenders in Montana that should be regulated under the more stringent requirements of a level 2 or 3 designation, but who instead are operating under level 1 restrictions and with no notice to the public of their risk to reoffend relative to other sex offenders.

**Overview**

HB 335 would accomplish the following:

- Provide authority for prosecutors to file a petition in district court to designate sex offenders who have no enforceable tier level.
- Gives courts the authority to allocate costs of the designation process to the prosecution to help ensure that the process is used to designate those offenders who are likely to be a tier level II or III.

**Purpose**

This Bill will ensure that prosecutors have the discretion and authority to identify and designate those undesignated offenders who present the greatest risk to reoffend.