
SENATE BILL 6414

State of Washington

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By Senator Regala

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1 AN ACT Relating to sex offender registration concerning consistency
2 in registration deadlines, criteria for which a court may relieve a
3 person of the duty to register, the class of felony for a failure to
4 register, when a failure to register will be considered a sex offense,
5 and community custody terms for a failure to register; amending RCW
6 9A.44.130, 9A.44.140, 9.94A.030, and 9.94A.701; adding new sections to
7 chapter 9A.44 RCW; and prescribing penalties.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 **Sec. 1.** RCW 9A.44.130 and 2008 c 230 s 1 are each amended to read
10 as follows:

11 (1)(a) Any adult or juvenile residing whether or not the person has
12 a fixed residence, or who is a student, is employed, or carries on a
13 vocation in this state who has been found to have committed or has been
14 convicted of any sex offense or kidnapping offense, or who has been
15 found not guilty by reason of insanity under chapter 10.77 RCW of
16 committing any sex offense or kidnapping offense, shall register with
17 the county sheriff for the county of the person's residence, or if the
18 person is not a resident of Washington, the county of the person's
19 school, or place of employment or vocation, or as otherwise specified

1 in this section. Where a person required to register under this
2 section is in custody of the state department of corrections, the state
3 department of social and health services, a local division of youth
4 services, or a local jail or juvenile detention facility as a result of
5 a sex offense or kidnapping offense, the person shall also register
6 (~~at the time~~) within three business days of release from custody with
7 an official designated by the agency that has jurisdiction over the
8 person.

9 (b) Any adult or juvenile who is required to register under (a) of
10 this subsection:

11 (i) Who is attending, or planning to attend, a public or private
12 school regulated under Title 28A RCW or chapter 72.40 RCW shall, within
13 (~~ten~~) three business days of enrolling or prior to arriving at the
14 school to attend classes, whichever is earlier, notify the sheriff for
15 the county of the person's residence of the person's intent to attend
16 the school, and the sheriff shall promptly notify the principal of the
17 school;

18 (ii) Who is admitted to a public or private institution of higher
19 education shall, within (~~ten days of enrolling or by the first~~) three
20 business days after arriving at the institution, whichever is earlier,
21 notify the sheriff for the county of the person's residence of the
22 person's intent to attend the institution;

23 (iii) Who gains employment at a public or private institution of
24 higher education shall, within (~~ten days of accepting employment or by~~
25 ~~the first~~) three business days after commencing work at the
26 institution, (~~whichever is earlier,~~) notify the sheriff for the
27 county of the person's residence of the person's employment by the
28 institution; or

29 (iv) Whose enrollment or employment at a public or private
30 institution of higher education is terminated shall, within (~~ten~~)
31 three business days of such termination, notify the sheriff for the
32 county of the person's residence of the person's termination of
33 enrollment or employment at the institution.

34 (c) Persons required to register under this section who are
35 enrolled in a public or private institution of higher education on June
36 11, 1998, or a public or private school regulated under Title 28A RCW
37 or chapter 72.40 RCW on September 1, 2006, must notify the county
38 sheriff (~~immediately~~) within three business days.

1 (d) The sheriff shall notify the school's principal or
2 institution's department of public safety and shall provide that
3 department with the same information provided to a county sheriff under
4 subsection (3) of this section.

5 (e)(i) A principal receiving notice under this subsection must
6 disclose the information received from the sheriff under (b) of this
7 subsection as follows:

8 (A) If the student who is required to register as a sex offender is
9 classified as a risk level II or III, the principal shall provide the
10 information received to every teacher of any student required to
11 register under (a) of this subsection and to any other personnel who,
12 in the judgment of the principal, supervises the student or for
13 security purposes should be aware of the student's record;

14 (B) If the student who is required to register as a sex offender is
15 classified as a risk level I, the principal shall provide the
16 information received only to personnel who, in the judgment of the
17 principal, for security purposes should be aware of the student's
18 record.

19 (ii) Any information received by a principal or school personnel
20 under this subsection is confidential and may not be further
21 disseminated except as provided in RCW 28A.225.330, other statutes or
22 case law, and the family and educational and privacy rights act of
23 1994, 20 U.S.C. Sec. 1232g et seq.

24 (2) This section may not be construed to confer any powers pursuant
25 to RCW 4.24.550 upon the public safety department of any public or
26 private school or institution of higher education.

27 (3)(a) The person shall provide the following information when
28 registering: (i) Name; (ii) complete residential address; (iii) date
29 and place of birth; (iv) place of employment; (v) crime for which
30 convicted; (vi) date and place of conviction; (vii) aliases used;
31 (viii) social security number; (ix) photograph; and (x) fingerprints.

32 (b) Any person who lacks a fixed residence shall provide the
33 following information when registering: (i) Name; (ii) date and place
34 of birth; (iii) place of employment; (iv) crime for which convicted;
35 (v) date and place of conviction; (vi) aliases used; (vii) social
36 security number; (viii) photograph; (ix) fingerprints; and (x) where he
37 or she plans to stay.

1 (4)(a) Offenders shall register with the county sheriff within the
2 following deadlines. For purposes of this section the term
3 "conviction" refers to adult convictions and juvenile adjudications for
4 sex offenses or kidnapping offenses:

5 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
6 offense on, before, or after February 28, 1990, and who, on or after
7 July 28, 1991, are in custody, as a result of that offense, of the
8 state department of corrections, the state department of social and
9 health services, a local division of youth services, or a local jail or
10 juvenile detention facility, and (B) kidnapping offenders who on or
11 after July 27, 1997, are in custody of the state department of
12 corrections, the state department of social and health services, a
13 local division of youth services, or a local jail or juvenile detention
14 facility, must register at the time of release from custody with an
15 official designated by the agency that has jurisdiction over the
16 offender. The agency shall within three days forward the registration
17 information to the county sheriff for the county of the offender's
18 anticipated residence. The offender must also register within
19 (~~twenty-four hours~~) three business days from the time of release with
20 the county sheriff for the county of the person's residence, or if the
21 person is not a resident of Washington, the county of the person's
22 school, or place of employment or vocation. The agency that has
23 jurisdiction over the offender shall provide notice to the offender of
24 the duty to register. Failure to register (~~at the time of release and~~
25 ~~within twenty-four hours of release~~) as provided in this subsection
26 constitutes a violation of this section and is punishable as provided
27 in (~~subsection (11) of this~~) section 2 of this act.

28 When the agency with jurisdiction intends to release an offender
29 with a duty to register under this section, and the agency has
30 knowledge that the offender is eligible for developmental disability
31 services from the department of social and health services, the agency
32 shall notify the division of developmental disabilities of the release.
33 Notice shall occur not more than thirty days before the offender is to
34 be released. The agency and the division shall assist the offender in
35 meeting the initial registration requirement under this section.
36 Failure to provide such assistance shall not constitute a defense for
37 any violation of this section.

1 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
2 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
3 but are under the jurisdiction of the indeterminate sentence review
4 board or under the department of corrections' active supervision, as
5 defined by the department of corrections, the state department of
6 social and health services, or a local division of youth services, for
7 sex offenses committed before, on, or after February 28, 1990, must
8 register within ten days of July 28, 1991. Kidnapping offenders who,
9 on July 27, 1997, are not in custody but are under the jurisdiction of
10 the indeterminate sentence review board or under the department of
11 corrections' active supervision, as defined by the department of
12 corrections, the state department of social and health services, or a
13 local division of youth services, for kidnapping offenses committed
14 before, on, or after July 27, 1997, must register within ten days of
15 July 27, 1997. A change in supervision status of a sex offender who
16 was required to register under this subsection (4)(a)(ii) as of July
17 28, 1991, or a kidnapping offender required to register as of July 27,
18 1997, shall not relieve the offender of the duty to register or to
19 reregister following a change in residence. The obligation to register
20 shall only cease pursuant to RCW 9A.44.140.

21 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
22 or after July 23, 1995, and kidnapping offenders who, on or after July
23 27, 1997, as a result of that offense are in the custody of the United
24 States bureau of prisons or other federal or military correctional
25 agency for sex offenses committed before, on, or after February 28,
26 1990, or kidnapping offenses committed on, before, or after July 27,
27 1997, must register within (~~twenty-four hours~~) three business days
28 from the time of release with the county sheriff for the county of the
29 person's residence, or if the person is not a resident of Washington,
30 the county of the person's school, or place of employment or vocation.
31 Sex offenders who, on July 23, 1995, are not in custody but are under
32 the jurisdiction of the United States bureau of prisons, United States
33 courts, United States parole commission, or military parole board for
34 sex offenses committed before, on, or after February 28, 1990, must
35 register within ten days of July 23, 1995. Kidnapping offenders who,
36 on July 27, 1997, are not in custody but are under the jurisdiction of
37 the United States bureau of prisons, United States courts, United
38 States parole commission, or military parole board for kidnapping

1 offenses committed before, on, or after July 27, 1997, must register
2 within ten days of July 27, 1997. A change in supervision status of a
3 sex offender who was required to register under this subsection
4 (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to
5 register as of July 27, 1997 shall not relieve the offender of the duty
6 to register or to reregister following a change in residence, or if the
7 person is not a resident of Washington, the county of the person's
8 school, or place of employment or vocation. The obligation to register
9 shall only cease pursuant to RCW 9A.44.140.

10 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
11 who are convicted of a sex offense on or after July 28, 1991, for a sex
12 offense that was committed on or after February 28, 1990, and
13 kidnapping offenders who are convicted on or after July 27, 1997, for
14 a kidnapping offense that was committed on or after July 27, 1997, but
15 who are not sentenced to serve a term of confinement immediately upon
16 sentencing, shall report to the county sheriff to register
17 (~~immediately upon completion~~) within three business days of being
18 sentenced.

19 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
20 RESIDENTS. Sex offenders and kidnapping offenders who move to
21 Washington state from another state or a foreign country that are not
22 under the jurisdiction of the state department of corrections, the
23 indeterminate sentence review board, or the state department of social
24 and health services at the time of moving to Washington, must register
25 within three business days of establishing residence or reestablishing
26 residence if the person is a former Washington resident. The duty to
27 register under this subsection applies to sex offenders convicted under
28 the laws of another state or a foreign country, federal or military
29 statutes for offenses committed before, on, or after February 28, 1990,
30 or Washington state for offenses committed before, on, or after
31 February 28, 1990, and to kidnapping offenders convicted under the laws
32 of another state or a foreign country, federal or military statutes, or
33 Washington state for offenses committed before, on, or after July 27,
34 1997. Sex offenders and kidnapping offenders from other states or a
35 foreign country who, when they move to Washington, are under the
36 jurisdiction of the department of corrections, the indeterminate
37 sentence review board, or the department of social and health services
38 must register within twenty-four hours of moving to Washington. The

1 agency that has jurisdiction over the offender shall notify the
2 offender of the registration requirements before the offender moves to
3 Washington.

4 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
5 or juvenile who has been found not guilty by reason of insanity under
6 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
7 February 28, 1990, and who, on or after July 23, 1995, is in custody,
8 as a result of that finding, of the state department of social and
9 health services, or (B) committing a kidnapping offense on, before, or
10 after July 27, 1997, and who on or after July 27, 1997, is in custody,
11 as a result of that finding, of the state department of social and
12 health services, must register within (~~twenty-four hours~~) three
13 business days from the time of release with the county sheriff for the
14 county of the person's residence. The state department of social and
15 health services shall provide notice to the adult or juvenile in its
16 custody of the duty to register. Any adult or juvenile who has been
17 found not guilty by reason of insanity of committing a sex offense on,
18 before, or after February 28, 1990, but who was released before July
19 23, 1995, or any adult or juvenile who has been found not guilty by
20 reason of insanity of committing a kidnapping offense but who was
21 released before July 27, 1997, shall be required to register within
22 (~~twenty-four hours~~) three business days of receiving notice of this
23 registration requirement. The state department of social and health
24 services shall make reasonable attempts within available resources to
25 notify sex offenders who were released before July 23, 1995, and
26 kidnapping offenders who were released before July 27, 1997. Failure
27 to register within (~~twenty-four hours~~) three business days of
28 release, or of receiving notice, constitutes a violation of this
29 section and is punishable as provided in (~~subsection (11) of this~~)
30 section 2 of this act.

31 (vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks
32 a fixed residence and leaves the county in which he or she is
33 registered and enters and remains within a new county for twenty-four
34 hours is required to register with the county sheriff not more than
35 (~~twenty-four hours~~) three business days after entering the county and
36 provide the information required in subsection (3)(b) of this section.

37 (viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER

1 SUPERVISION. Offenders who lack a fixed residence and who are under
2 the supervision of the department shall register in the county of their
3 supervision.

4 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND
5 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,
6 who move to another state, or who work, carry on a vocation, or attend
7 school in another state shall register a new address, fingerprints, and
8 photograph with the new state within (~~ten~~) three business days after
9 establishing residence, or after beginning to work, carry on a
10 vocation, or attend school in the new state. The person must also send
11 written notice within (~~ten~~) three business days of moving to the new
12 state or to a foreign country to the county sheriff with whom the
13 person last registered in Washington state. The county sheriff shall
14 promptly forward this information to the Washington state patrol.

15 (b) Failure to register within the time required under this section
16 constitutes a per se violation of this section and is punishable as
17 provided in (~~subsection (11) of this~~) section 2 of this act. The
18 county sheriff shall not be required to determine whether the person is
19 living within the county.

20 (c) An arrest on charges of failure to register, service of an
21 information, or a complaint for a violation of this section, or
22 arraignment on charges for a violation of this section, constitutes
23 actual notice of the duty to register. Any person charged with the
24 crime of failure to register under this section who asserts as a
25 defense the lack of notice of the duty to register shall register
26 (~~immediately~~) within three business days following actual notice of
27 the duty through arrest, service, or arraignment. Failure to register
28 as required under this subsection (4)(c) constitutes grounds for filing
29 another charge of failing to register. Registering following arrest,
30 service, or arraignment on charges shall not relieve the offender from
31 criminal liability for failure to register prior to the filing of the
32 original charge.

33 (d) The deadlines for the duty to register under this section do
34 not relieve any sex offender of the duty to register under this section
35 as it existed prior to July 28, 1991.

36 (5)(a) If any person required to register pursuant to this section
37 changes his or her residence address within the same county, the person
38 must send signed written notice of the change of address to the county

1 sheriff within (~~seventy-two hours~~) within three business days of
2 moving. If any person required to register pursuant to this section
3 moves to a new county, the person must send signed written notice of
4 the change of address at least fourteen days before moving to the
5 county sheriff in the new county of residence and must register with
6 that county sheriff within (~~twenty-four hours~~) three business days of
7 moving. The person must also send signed written notice within (~~ten~~)
8 three business days of the change of address in the new county to the
9 county sheriff with whom the person last registered. The county
10 sheriff with whom the person last registered shall promptly forward the
11 information concerning the change of address to the county sheriff for
12 the county of the person's new residence. Upon receipt of notice of
13 change of address to a new state, the county sheriff shall promptly
14 forward the information regarding the change of address to the agency
15 designated by the new state as the state's offender registration
16 agency.

17 (b) It is an affirmative defense to a charge that the person failed
18 to send a notice at least (~~fourteen~~) three business days in advance
19 of moving as required under (a) of this subsection that the person did
20 not know the location of his or her new residence at least (~~fourteen~~)
21 three business days before moving. The defendant must establish the
22 defense by a preponderance of the evidence and, to prevail on the
23 defense, must also prove by a preponderance that the defendant sent the
24 required notice within (~~twenty-four hours~~) three business days of
25 determining the new address.

26 (6)(a) Any person required to register under this section who lacks
27 a fixed residence shall provide signed written notice to the sheriff of
28 the county where he or she last registered within (~~forty-eight hours~~
29 ~~excluding weekends and holidays~~) three business days after ceasing to
30 have a fixed residence. The notice shall include the information
31 required by subsection (3)(b) of this section, except the photograph
32 and fingerprints. The county sheriff may, for reasonable cause,
33 require the offender to provide a photograph and fingerprints. The
34 sheriff shall forward this information to the sheriff of the county in
35 which the person intends to reside, if the person intends to reside in
36 another county.

37 (b) A person who lacks a fixed residence must report weekly, in
38 person, to the sheriff of the county where he or she is registered.

1 The weekly report shall be on a day specified by the county sheriff's
2 office, and shall occur during normal business hours. The county
3 sheriff's office may require the person to list the locations where the
4 person has stayed during the last seven days. The lack of a fixed
5 residence is a factor that may be considered in determining an
6 offender's risk level and shall make the offender subject to disclosure
7 of information to the public at large pursuant to RCW 4.24.550.

8 (c) If any person required to register pursuant to this section
9 does not have a fixed residence, it is an affirmative defense to the
10 charge of failure to register, that he or she provided written notice
11 to the sheriff of the county where he or she last registered within
12 ~~((forty eight hours excluding weekends and holidays after))~~ three
13 business days of ceasing to have a fixed residence and has subsequently
14 complied with the requirements of subsections (4)(a)(vii) or (viii) and
15 (6) of this section. To prevail, the person must prove the defense by
16 a preponderance of the evidence.

17 (7) All offenders who are required to register pursuant to this
18 section who have a fixed residence and who are designated as a risk
19 level II or III must report, in person, every ninety days to the
20 sheriff of the county where he or she is registered. Reporting shall
21 be on a day specified by the county sheriff's office, and shall occur
22 during normal business hours. An offender who complies with the
23 ninety-day reporting requirement with no violations for a period of at
24 least five years in the community may petition the superior court to be
25 relieved of the duty to report every ninety days. The petition shall
26 be made to the superior court in the county where the offender resides
27 or reports under this section. The prosecuting attorney of the county
28 shall be named and served as respondent in any such petition. The
29 court shall relieve the petitioner of the duty to report if the
30 petitioner shows, by a preponderance of the evidence, that the
31 petitioner has complied with the reporting requirement for a period of
32 at least five years and that the offender has not been convicted of a
33 criminal violation of this section for a period of at least five years,
34 and the court determines that the reporting no longer serves a public
35 safety purpose. Failure to report, as specified, constitutes a
36 violation of this section and is punishable as provided in ~~((subsection~~
37 ~~(11) of this))~~ section 2 of this act.

1 (8) A sex offender subject to registration requirements under this
2 section who applies to change his or her name under RCW 4.24.130 or any
3 other law shall submit a copy of the application to the county sheriff
4 of the county of the person's residence and to the state patrol not
5 fewer than five days before the entry of an order granting the name
6 change. No sex offender under the requirement to register under this
7 section at the time of application shall be granted an order changing
8 his or her name if the court finds that doing so will interfere with
9 legitimate law enforcement interests, except that no order shall be
10 denied when the name change is requested for religious or legitimate
11 cultural reasons or in recognition of marriage or dissolution of
12 marriage. A sex offender under the requirement to register under this
13 section who receives an order changing his or her name shall submit a
14 copy of the order to the county sheriff of the county of the person's
15 residence and to the state patrol within five days of the entry of the
16 order.

17 (9) The county sheriff shall obtain a photograph of the individual
18 and shall obtain a copy of the individual's fingerprints. A photograph
19 may be taken at any time to update an individual's file.

20 (10) For the purpose of RCW 9A.44.130 through 9A.44.145, 10.01.200,
21 43.43.540, 70.48.470, and 72.09.330:

22 (a) "Sex offense" means:

23 (i) Any offense defined as a sex offense by RCW 9.94A.030;

24 (ii) Any violation under RCW 9A.44.096 (sexual misconduct with a
25 minor in the second degree);

26 (iii) Any violation under RCW 9.68A.090 (communication with a minor
27 for immoral purposes);

28 (iv) Any federal or out-of-state conviction for an offense that
29 under the laws of this state would be classified as a sex offense under
30 this subsection; and

31 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
32 criminal attempt, criminal solicitation, or criminal conspiracy to
33 commit an offense that is classified as a sex offense under RCW
34 9.94A.030 or this subsection.

35 (b) "Kidnapping offense" means: (i) The crimes of kidnapping in
36 the first degree, kidnapping in the second degree, and unlawful
37 imprisonment, as defined in chapter 9A.40 RCW, where the victim is a
38 minor and the offender is not the minor's parent; (ii) any offense that

1 is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation,
2 or criminal conspiracy to commit an offense that is classified as a
3 kidnapping offense under this subsection (10)(b); and (iii) any federal
4 or out-of-state conviction for an offense that under the laws of this
5 state would be classified as a kidnapping offense under this subsection
6 (10)(b).

7 (c) "Employed" or "carries on a vocation" means employment that is
8 full-time or part-time for a period of time exceeding fourteen days, or
9 for an aggregate period of time exceeding thirty days during any
10 calendar year. A person is employed or carries on a vocation whether
11 the person's employment is financially compensated, volunteered, or for
12 the purpose of government or educational benefit.

13 (d) "Student" means a person who is enrolled, on a full-time or
14 part-time basis, in any public or private educational institution. An
15 educational institution includes any secondary school, trade or
16 professional institution, or institution of higher education.

17 ~~(11)((a) A person who knowingly fails to comply with any of the~~
18 ~~requirements of this section is guilty of a class B felony if the crime~~
19 ~~for which the individual was convicted was a felony sex offense as~~
20 ~~defined in subsection (10)(a) of this section or a federal or out-of-~~
21 ~~state conviction for an offense that under the laws of this state would~~
22 ~~be a felony sex offense as defined in subsection (10)(a) of this~~
23 ~~section.~~

24 ~~(b) If the crime for which the individual was convicted was other~~
25 ~~than a felony or a federal or out-of-state conviction for an offense~~
26 ~~that under the laws of this state would be other than a felony,~~
27 ~~violation of this section is a gross misdemeanor.~~

28 ~~(12)(a) A person who knowingly fails to comply with any of the~~
29 ~~requirements of this section is guilty of a class C felony if the crime~~
30 ~~for which the individual was convicted was a felony kidnapping offense~~
31 ~~as defined in subsection (10)(b) of this section or a federal or out-~~
32 ~~of-state conviction for an offense that under the laws of this state~~
33 ~~would be a felony kidnapping offense as defined in subsection (10)(b)~~
34 ~~of this section.~~

35 ~~(b) If the crime for which the individual was convicted was other~~
36 ~~than a felony or a federal or out-of-state conviction for an offense~~
37 ~~that under the laws of this state would be other than a felony,~~
38 ~~violation of this section is a gross misdemeanor.~~

1 ~~(13)~~) Except as may otherwise be provided by law, nothing in this
2 section shall impose any liability upon a peace officer, including a
3 county sheriff, or law enforcement agency, for failing to release
4 information authorized under this section.

5 NEW SECTION. **Sec. 2.** (1) A person who has a duty to register
6 under RCW 9A.44.130 for a felony sex offense as defined in that section
7 or a federal or out-of-state conviction that under the laws of this
8 state would be a felony sex offense and who knowingly fails to comply
9 with any of the requirements of RCW 9A.44.130:

10 (a) Is guilty of a class C felony if the person has been convicted
11 in this state of a failure to register on no more than one prior
12 occasion; or

13 (b) Is guilty of a class B felony if the person has been convicted
14 in this state of a failure to register on two or more prior occasions.

15 (2) A person who has a duty to register under RCW 9A.44.130 for a
16 sex offense other than a felony or a federal or out-of-state conviction
17 for a sex offender that under the laws of this state would be other
18 than a felony and who knowingly fails to comply with any of the
19 requirements of RCW 9A.44.130 is guilty of a gross misdemeanor.

20 (3)(a) A person who knowingly fails to comply with any of the
21 requirements of RCW 9A.44.130 is guilty of a class C felony if the
22 crime for which the individual was convicted was a felony kidnapping
23 offense as defined in that section or a federal or out-of-state
24 conviction for an offense that under the laws of this state would be a
25 felony kidnapping offense.

26 (b) If the crime for which the individual was convicted was other
27 than a felony or a federal or out-of-state conviction for an offense
28 that under the laws of this state would be other than a felony,
29 violation of RCW 9A.44.130 is a gross misdemeanor.

30 **Sec. 3.** RCW 9A.44.140 and 2002 c 25 s 1 are each amended to read
31 as follows:

32 (1) The duty to register under RCW 9A.44.130 shall end:

33 (a) For a person convicted of a class A felony or an offense listed
34 in subsection (5) of this section, or a person convicted of any sex
35 offense or kidnapping offense who has one or more prior convictions for

1 a sex offense or kidnapping offense: Such person may only be relieved
2 of the duty to register under subsection (3) (~~(or (4))~~) of this section
3 or as provided in section 4 of this act.

4 (b) For a person convicted of a class B felony (~~(, and the person)~~)
5 who does not have one or more prior convictions for a sex offense or
6 kidnapping offense and (~~(the person's)~~) whose current offense is not
7 listed in subsection (5) of this section: Fifteen years after the last
8 date of release from confinement, if any, (including full-time
9 residential treatment) pursuant to the conviction, or entry of the
10 judgment and sentence, if the person has spent fifteen consecutive
11 years in the community without being convicted of any new offenses.

12 (c) For a person convicted of a class C felony, a violation of RCW
13 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to
14 commit a class C felony, and the person does not have one or more prior
15 convictions for a sex offense or kidnapping offense and the person's
16 current offense is not listed in subsection (5) of this section: Ten
17 years after the last date of release from confinement, if any,
18 (including full-time residential treatment) pursuant to the conviction,
19 or entry of the judgment and sentence, if the person has spent ten
20 consecutive years in the community without being convicted of any new
21 offenses.

22 (2) The provisions of subsection (1) of this section shall apply
23 equally to a person who has been found not guilty by reason of insanity
24 under chapter 10.77 RCW of a sex offense or kidnapping offense.

25 (3)(a) Except as provided in (~~(b) of this~~) subsection (4)(a) of
26 this section, any person having a duty to register under RCW 9A.44.130
27 may petition the superior court to be relieved of that duty, if the
28 person has spent ten consecutive years in the community without being
29 convicted of any new offenses. The petition shall be made to the court
30 in which the petitioner was convicted of the offense that subjects him
31 or her to the duty to register, or, in the case of convictions in other
32 states, a foreign country, or a federal or military court, to the court
33 in Thurston county. The prosecuting attorney of the county shall be
34 named and served as the respondent in any such petition. The court
35 shall consider the nature of the registrable offense committed, and the
36 criminal and relevant noncriminal behavior of the petitioner both
37 before and after conviction, and may consider other factors. Except as
38 provided in (~~(subsection (4) of this)~~) section 4 of this act, the court

1 may relieve the petitioner of the duty to register only if the
2 petitioner shows(~~(, with)~~) by clear and convincing evidence(~~(,)~~) that
3 (~~(future registration of the petitioner will not serve the purposes of~~
4 ~~RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and~~
5 ~~72.09.330)~~) the petitioner is sufficiently rehabilitated to warrant
6 removal from the sex offender registry.

7 (b)(~~(+)~~) In determining whether the petitioner is sufficiently
8 rehabilitated to warrant removal from the sex offender registry, the
9 court shall consider the following factors:

10 (i) The nature of the registrable offense committed including the
11 number of victims and the length of the offense history;

12 (ii) Any subsequent criminal history;

13 (iii) The petitioner's compliance with supervision requirements;

14 (iv) The length of time since the charged incident(s) occurred;

15 (v) Any input from corrections officers, law enforcement, or
16 treatment providers;

17 (vi) Participation in sex offender treatment;

18 (vii) Participation in other treatment and rehabilitative programs;

19 (viii) The offender's stability in employment and housing;

20 (ix) The offender's community and personal support system;

21 (x) Any risk assessments or evaluations prepared by a qualified
22 professional;

23 (xi) Any updated polygraph examination;

24 (xii) Any input of the victim;

25 (xiii) Any other factors the court may consider relevant.

26 (4)(a) The court may not relieve a person of the duty to register
27 if the person has been:

28 (i) Determined to be a sexually violent predator as defined in RCW
29 71.09.020(~~(, or has been)~~);

30 (ii) Convicted as an adult of a sex offense or kidnapping offense
31 that is a class A felony and that was committed with forcible
32 compulsion on or after June 8, 2000(~~(-~~

33 ~~(ii) The court may not relieve a person of the duty to register if~~
34 ~~the person has been);~~ or

35 (iii) Until July 1, 2012, convicted of one aggravated offense or
36 more than one sexually violent offense, as defined in subsection (5) of
37 this section, and the offense or offenses were committed on or after
38 March 12, 2002.

1 ~~((c))~~ (b) Any person ~~((subject to (b) of this subsection or~~
2 ~~subsection (5) of this section))~~ who may not be relieved of the duty to
3 register may petition the court to be exempted from any community
4 notification requirements that the person may be subject to fifteen
5 years after the later of the entry of the judgment and sentence or the
6 last date of release from confinement, including full-time residential
7 treatment, pursuant to the conviction, if the person has spent the time
8 in the community without being convicted of any new offense.

9 ~~((4) An offender having a duty to register under RCW 9A.44.130 for~~
10 ~~a sex offense or kidnapping offense committed when the offender was a~~
11 ~~juvenile may petition the superior court to be relieved of that duty.~~
12 ~~The court shall consider the nature of the registrable offense~~
13 ~~committed, and the criminal and relevant noncriminal behavior of the~~
14 ~~petitioner both before and after adjudication, and may consider other~~
15 ~~factors.~~

16 ~~(a) The court may relieve the petitioner of the duty to register~~
17 ~~for a sex offense or kidnapping offense that was committed while the~~
18 ~~petitioner was fifteen years of age or older only if the petitioner~~
19 ~~shows, with clear and convincing evidence, that future registration of~~
20 ~~the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,~~
21 ~~43.43.540, 46.20.187, 70.48.470, and 72.09.330.~~

22 ~~(b) The court may relieve the petitioner of the duty to register~~
23 ~~for a sex offense or kidnapping offense that was committed while the~~
24 ~~petitioner was under the age of fifteen if the petitioner (i) has not~~
25 ~~been adjudicated of any additional sex offenses or kidnapping offenses~~
26 ~~during the twenty four months following the adjudication for the~~
27 ~~offense giving rise to the duty to register, and (ii) proves by a~~
28 ~~preponderance of the evidence that future registration of the~~
29 ~~petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,~~
30 ~~43.43.540, 46.20.187, 70.48.470, and 72.09.330.~~

31 ~~This subsection shall not apply to juveniles prosecuted as~~
32 ~~adults.)~~

33 (5)(a) A person who has been convicted of an aggravated offense, or
34 has been convicted of one or more prior sexually violent offenses or
35 criminal offenses against a victim who is a minor, as defined in (b) of
36 this subsection may only be relieved of the duty to register under
37 subsection ~~((3)(b))~~ (4)(a) of this section. This provision shall
38 apply to convictions for crimes committed on or after July 22, 2001.

1 (b) Unless the context clearly requires otherwise, the following
2 definitions apply only to the federal lifetime registration
3 requirements under this subsection:

4 (i) "Aggravated offense" means an adult conviction that meets the
5 definition of 18 U.S.C. Sec. 2241, which is limited to the following:

6 (A) Any sex offense involving sexual intercourse or sexual contact
7 where the victim is under twelve years of age;

8 (B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape
9 of a child in the first degree), or RCW 9A.44.083 (child molestation in
10 the first degree);

11 (C) Any of the following offenses when committed by forcible
12 compulsion or by the offender administering, by threat or force or
13 without the knowledge or permission of that person, a drug, intoxicant,
14 or other similar substance that substantially impairs the ability of
15 that person to appraise or control conduct: RCW 9A.44.050 (rape in the
16 second degree), RCW 9A.44.100 (indecent liberties), RCW 9A.44.160
17 (custodial sexual misconduct in the first degree), RCW 9A.64.020
18 (incest), or RCW 9.68A.040 (sexual exploitation of a minor);

19 (D) Any of the following offenses when committed by forcible
20 compulsion or by the offender administering, by threat or force or
21 without the knowledge or permission of that person, a drug, intoxicant,
22 or other similar substance that substantially impairs the ability of
23 that person to appraise or control conduct, if the victim is twelve
24 years of age or over but under sixteen years of age and the offender is
25 eighteen years of age or over and is more than forty-eight months older
26 than the victim: RCW 9A.44.076 (rape of a child in the second degree),
27 RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086
28 (child molestation in the second degree), or RCW 9A.44.089 (child
29 molestation in the third degree);

30 (E) A felony with a finding of sexual motivation under RCW
31 9.94A.835 where the victim is under twelve years of age or that is
32 committed by forcible compulsion or by the offender administering, by
33 threat or force or without the knowledge or permission of that person,
34 a drug, intoxicant, or other similar substance that substantially
35 impairs the ability of that person to appraise or control conduct;

36 (F) An offense that is, under chapter 9A.28 RCW, an attempt or
37 solicitation to commit such an offense; or

1 (G) An offense defined by federal law or the laws of another state
2 that is equivalent to the offenses listed in (b)(i)(A) through (F) of
3 this subsection.

4 (ii) "Sexually violent offense" means an adult conviction that
5 meets the definition of 42 U.S.C. Sec. 14071(a)(1)(A), which is limited
6 to the following:

7 (A) An aggravated offense;

8 (B) An offense that is not an aggravated offense but meets the
9 definition of 18 U.S.C. Sec. 2242, which is limited to RCW 9A.44.050(1)
10 (b) through (f) (rape in the second degree) and RCW 9A.44.100(1) (b)
11 through (f) (indecent liberties);

12 (C) A felony with a finding of sexual motivation under RCW
13 9.94A.835 where the victim is incapable of appraising the nature of the
14 conduct or physically incapable of declining participation in, or
15 communicating unwillingness to engage in, the conduct;

16 (D) An offense that is, under chapter 9A.28 RCW, an attempt or
17 solicitation to commit such an offense; or

18 (E) An offense defined by federal law or the laws of another state
19 that is equivalent to the offenses listed in (b)(ii)(A) through (D) of
20 this subsection.

21 (iii) "Criminal offense against a victim who is a minor" means, in
22 addition to any aggravated offense or sexually violent offense where
23 the victim was under eighteen years of age, an adult conviction for the
24 following offenses where the victim is under eighteen years of age:

25 (A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape
26 of a child in the second degree), RCW 9A.44.079 (rape of a child in the
27 third degree), RCW 9A.44.086 (child molestation in the second degree),
28 RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093
29 (sexual misconduct with a minor in the first degree), RCW 9A.44.096
30 (sexual misconduct with a minor in the second degree), RCW 9A.44.160
31 (custodial sexual misconduct in the first degree), RCW 9A.64.020
32 (incest), RCW 9.68A.040 (sexual exploitation of a minor), RCW 9.68A.090
33 (communication with a minor for immoral purposes), or RCW 9.68A.100
34 (~~(patronizing a juvenile prostitute)~~) (commercial sexual abuse of a
35 minor);

36 (B) RCW 9A.40.020 (kidnapping in the first degree), RCW 9A.40.030
37 (kidnapping in the second degree), or RCW 9A.40.040 (unlawful

1 imprisonment), where the victim is a minor and the offender is not the
2 minor's parent;

3 (C) A felony with a finding of sexual motivation under RCW
4 9.94A.835 where the victim is a minor;

5 (D) An offense that is, under chapter 9A.28 RCW, an attempt or
6 solicitation to commit such an offense; or

7 (E) An offense defined by federal law or the laws of another state
8 that is equivalent to the offenses listed in (b)(iii)(A) through (D) of
9 this subsection.

10 (6) Unless relieved of the duty to register pursuant to this
11 section, a violation of RCW 9A.44.130 is an ongoing offense for
12 purposes of the statute of limitations under RCW 9A.04.080.

13 (7) Nothing in RCW 9.94A.637 relating to discharge of an offender
14 shall be construed as operating to relieve the offender of his or her
15 duty to register pursuant to RCW 9A.44.130.

16 (8) For purposes of determining whether a person has been convicted
17 of more than one sex offense, failure to register as a sex offender or
18 kidnapping offender is not a sex or kidnapping offense.

19 NEW SECTION. **Sec. 4.** (1) An offender having a duty to register
20 under RCW 9A.44.130 for a sex offense or kidnapping offense committed
21 when the offender was a juvenile may petition the superior court to be
22 relieved of that duty as provided in this section.

23 (2) The court may relieve the petitioner of the duty to register
24 if:

25 (a) At least twenty-four months have passed since the adjudication
26 for the offense giving rise to the duty to register and the petitioner
27 has not been adjudicated of any additional sex offenses or kidnapping
28 offenses;

29 (b) The petitioner has not been adjudicated or convicted of a
30 failure to comply with RCW 9A.44.130 during the twenty-four months
31 prior to filing the petition; and

32 (c)(i) The petitioner was fifteen years of age or older at the time
33 the sex offense or kidnapping offense was committed and the petitioner
34 shows by clear and convincing evidence that the petitioner is
35 sufficiently rehabilitated to warrant removal from the sex offender
36 registry; or

1 (ii) The petitioner was under the age of fifteen at the time the
2 sex offense or kidnapping offense was committed and the petitioner
3 shows by a preponderance of the evidence that the petitioner is
4 sufficiently rehabilitated to warrant removal from the sex offender
5 registry.

6 (3) In determining whether the petitioner is sufficiently
7 rehabilitated to warrant removal from the sex offender registry, the
8 court shall consider the following factors:

9 (a) The nature of the registrable offense committed including the
10 number of victims and the length of the offense history;

11 (b) Any subsequent criminal history;

12 (c) The petitioner's compliance with supervision requirements;

13 (d) The length of time since the charged incident(s) occurred;

14 (e) Any input from corrections officers, law enforcement, or
15 treatment providers;

16 (f) Participation in sex offender treatment;

17 (g) Participation in other treatment and rehabilitative programs;

18 (h) The offender's stability in employment and housing;

19 (i) The offender's community and personal support system;

20 (j) Any risk assessments or evaluations prepared by a qualified
21 professional;

22 (k) Any updated polygraph examination;

23 (l) Any input of the victim;

24 (m) Any other factors the court may consider relevant.

25 (4) A juvenile prosecuted and convicted of a sex offense or
26 kidnapping offense as an adult may not petition to the superior court
27 under this section.

28 **Sec. 5.** RCW 9.94A.030 and 2009 c 375 s 4 are each amended to read
29 as follows:

30 Unless the context clearly requires otherwise, the definitions in
31 this section apply throughout this chapter.

32 (1) "Board" means the indeterminate sentence review board created
33 under chapter 9.95 RCW.

34 (2) "Collect," or any derivative thereof, "collect and remit," or
35 "collect and deliver," when used with reference to the department,
36 means that the department, either directly or through a collection
37 agreement authorized by RCW 9.94A.760, is responsible for monitoring

1 and enforcing the offender's sentence with regard to the legal
2 financial obligation, receiving payment thereof from the offender, and,
3 consistent with current law, delivering daily the entire payment to the
4 superior court clerk without depositing it in a departmental account.

5 (3) "Commission" means the sentencing guidelines commission.

6 (4) "Community corrections officer" means an employee of the
7 department who is responsible for carrying out specific duties in
8 supervision of sentenced offenders and monitoring of sentence
9 conditions.

10 (5) "Community custody" means that portion of an offender's
11 sentence of confinement in lieu of earned release time or imposed as
12 part of a sentence under this chapter and served in the community
13 subject to controls placed on the offender's movement and activities by
14 the department.

15 (6) "Community protection zone" means the area within eight hundred
16 eighty feet of the facilities and grounds of a public or private
17 school.

18 (7) "Community restitution" means compulsory service, without
19 compensation, performed for the benefit of the community by the
20 offender.

21 (8) "Confinement" means total or partial confinement.

22 (9) "Conviction" means an adjudication of guilt pursuant to Title
23 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
24 acceptance of a plea of guilty.

25 (10) "Crime-related prohibition" means an order of a court
26 prohibiting conduct that directly relates to the circumstances of the
27 crime for which the offender has been convicted, and shall not be
28 construed to mean orders directing an offender affirmatively to
29 participate in rehabilitative programs or to otherwise perform
30 affirmative conduct. However, affirmative acts necessary to monitor
31 compliance with the order of a court may be required by the department.

32 (11) "Criminal history" means the list of a defendant's prior
33 convictions and juvenile adjudications, whether in this state, in
34 federal court, or elsewhere.

35 (a) The history shall include, where known, for each conviction (i)
36 whether the defendant has been placed on probation and the length and
37 terms thereof; and (ii) whether the defendant has been incarcerated and
38 the length of incarceration.

1 (b) A conviction may be removed from a defendant's criminal history
2 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or
3 a similar out-of-state statute, or if the conviction has been vacated
4 pursuant to a governor's pardon.

5 (c) The determination of a defendant's criminal history is distinct
6 from the determination of an offender score. A prior conviction that
7 was not included in an offender score calculated pursuant to a former
8 version of the sentencing reform act remains part of the defendant's
9 criminal history.

10 (12) "Criminal street gang" means any ongoing organization,
11 association, or group of three or more persons, whether formal or
12 informal, having a common name or common identifying sign or symbol,
13 having as one of its primary activities the commission of criminal
14 acts, and whose members or associates individually or collectively
15 engage in or have engaged in a pattern of criminal street gang
16 activity. This definition does not apply to employees engaged in
17 concerted activities for their mutual aid and protection, or to the
18 activities of labor and bona fide nonprofit organizations or their
19 members or agents.

20 (13) "Criminal street gang associate or member" means any person
21 who actively participates in any criminal street gang and who
22 intentionally promotes, furthers, or assists in any criminal act by the
23 criminal street gang.

24 (14) "Criminal street gang-related offense" means any felony or
25 misdemeanor offense, whether in this state or elsewhere, that is
26 committed for the benefit of, at the direction of, or in association
27 with any criminal street gang, or is committed with the intent to
28 promote, further, or assist in any criminal conduct by the gang, or is
29 committed for one or more of the following reasons:

30 (a) To gain admission, prestige, or promotion within the gang;

31 (b) To increase or maintain the gang's size, membership, prestige,
32 dominance, or control in any geographical area;

33 (c) To exact revenge or retribution for the gang or any member of
34 the gang;

35 (d) To obstruct justice, or intimidate or eliminate any witness
36 against the gang or any member of the gang;

37 (e) To directly or indirectly cause any benefit, aggrandizement,

1 gain, profit, or other advantage for the gang, its reputation,
2 influence, or membership; or

3 (f) To provide the gang with any advantage in, or any control or
4 dominance over any criminal market sector, including, but not limited
5 to, manufacturing, delivering, or selling any controlled substance
6 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
7 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
8 RCW); human trafficking (RCW 9A.40.100); or promoting pornography
9 (chapter 9.68 RCW).

10 (15) "Day fine" means a fine imposed by the sentencing court that
11 equals the difference between the offender's net daily income and the
12 reasonable obligations that the offender has for the support of the
13 offender and any dependents.

14 (16) "Day reporting" means a program of enhanced supervision
15 designed to monitor the offender's daily activities and compliance with
16 sentence conditions, and in which the offender is required to report
17 daily to a specific location designated by the department or the
18 sentencing court.

19 (17) "Department" means the department of corrections.

20 (18) "Determinate sentence" means a sentence that states with
21 exactitude the number of actual years, months, or days of total
22 confinement, of partial confinement, of community custody, the number
23 of actual hours or days of community restitution work, or dollars or
24 terms of a legal financial obligation. The fact that an offender
25 through earned release can reduce the actual period of confinement
26 shall not affect the classification of the sentence as a determinate
27 sentence.

28 (19) "Disposable earnings" means that part of the earnings of an
29 offender remaining after the deduction from those earnings of any
30 amount required by law to be withheld. For the purposes of this
31 definition, "earnings" means compensation paid or payable for personal
32 services, whether denominated as wages, salary, commission, bonuses, or
33 otherwise, and, notwithstanding any other provision of law making the
34 payments exempt from garnishment, attachment, or other process to
35 satisfy a court-ordered legal financial obligation, specifically
36 includes periodic payments pursuant to pension or retirement programs,
37 or insurance policies of any type, but does not include payments made

1 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
2 or Title 74 RCW.

3 (20) "Drug offender sentencing alternative" is a sentencing option
4 available to persons convicted of a felony offense other than a violent
5 offense or a sex offense and who are eligible for the option under RCW
6 9.94A.660.

7 (21) "Drug offense" means:

8 (a) Any felony violation of chapter 69.50 RCW except possession of
9 a controlled substance (RCW 69.50.4013) or forged prescription for a
10 controlled substance (RCW 69.50.403);

11 (b) Any offense defined as a felony under federal law that relates
12 to the possession, manufacture, distribution, or transportation of a
13 controlled substance; or

14 (c) Any out-of-state conviction for an offense that under the laws
15 of this state would be a felony classified as a drug offense under (a)
16 of this subsection.

17 (22) "Earned release" means earned release from confinement as
18 provided in RCW 9.94A.728.

19 (23) "Escape" means:

20 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
21 first degree (RCW 9A.76.110), escape in the second degree (RCW
22 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
23 willful failure to return from work release (RCW 72.65.070), or willful
24 failure to be available for supervision by the department while in
25 community custody (RCW 72.09.310); or

26 (b) Any federal or out-of-state conviction for an offense that
27 under the laws of this state would be a felony classified as an escape
28 under (a) of this subsection.

29 (24) "Felony traffic offense" means:

30 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
31 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
32 run injury-accident (RCW 46.52.020(4)), felony driving while under the
33 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or
34 felony physical control of a vehicle while under the influence of
35 intoxicating liquor or any drug (RCW 46.61.504(6)); or

36 (b) Any federal or out-of-state conviction for an offense that
37 under the laws of this state would be a felony classified as a felony
38 traffic offense under (a) of this subsection.

1 (25) "Fine" means a specific sum of money ordered by the sentencing
2 court to be paid by the offender to the court over a specific period of
3 time.

4 (26) "First-time offender" means any person who has no prior
5 convictions for a felony and is eligible for the first-time offender
6 waiver under RCW 9.94A.650.

7 (27) "Home detention" means a program of partial confinement
8 available to offenders wherein the offender is confined in a private
9 residence subject to electronic surveillance.

10 (28) "Legal financial obligation" means a sum of money that is
11 ordered by a superior court of the state of Washington for legal
12 financial obligations which may include restitution to the victim,
13 statutorily imposed crime victims' compensation fees as assessed
14 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
15 court-appointed attorneys' fees, and costs of defense, fines, and any
16 other financial obligation that is assessed to the offender as a result
17 of a felony conviction. Upon conviction for vehicular assault while
18 under the influence of intoxicating liquor or any drug, RCW
19 46.61.522(1)(b), or vehicular homicide while under the influence of
20 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
21 obligations may also include payment to a public agency of the expense
22 of an emergency response to the incident resulting in the conviction,
23 subject to RCW 38.52.430.

24 (29) "Most serious offense" means any of the following felonies or
25 a felony attempt to commit any of the following felonies:

26 (a) Any felony defined under any law as a class A felony or
27 criminal solicitation of or criminal conspiracy to commit a class A
28 felony;

29 (b) Assault in the second degree;

30 (c) Assault of a child in the second degree;

31 (d) Child molestation in the second degree;

32 (e) Controlled substance homicide;

33 (f) Extortion in the first degree;

34 (g) Incest when committed against a child under age fourteen;

35 (h) Indecent liberties;

36 (i) Kidnapping in the second degree;

37 (j) Leading organized crime;

38 (k) Manslaughter in the first degree;

- 1 (l) Manslaughter in the second degree;
- 2 (m) Promoting prostitution in the first degree;
- 3 (n) Rape in the third degree;
- 4 (o) Robbery in the second degree;
- 5 (p) Sexual exploitation;
- 6 (q) Vehicular assault, when caused by the operation or driving of
7 a vehicle by a person while under the influence of intoxicating liquor
8 or any drug or by the operation or driving of a vehicle in a reckless
9 manner;
- 10 (r) Vehicular homicide, when proximately caused by the driving of
11 any vehicle by any person while under the influence of intoxicating
12 liquor or any drug as defined by RCW 46.61.502, or by the operation of
13 any vehicle in a reckless manner;
- 14 (s) Any other class B felony offense with a finding of sexual
15 motivation;
- 16 (t) Any other felony with a deadly weapon verdict under RCW
17 9.94A.825;
- 18 (u) Any felony offense in effect at any time prior to December 2,
19 1993, that is comparable to a most serious offense under this
20 subsection, or any federal or out-of-state conviction for an offense
21 that under the laws of this state would be a felony classified as a
22 most serious offense under this subsection;
- 23 (v)(i) A prior conviction for indecent liberties under RCW
24 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
25 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
26 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
27 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
- 28 (ii) A prior conviction for indecent liberties under RCW
29 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
30 if: (A) The crime was committed against a child under the age of
31 fourteen; or (B) the relationship between the victim and perpetrator is
32 included in the definition of indecent liberties under RCW
33 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
34 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
35 through July 27, 1997;
- 36 (w) Any out-of-state conviction for a felony offense with a finding
37 of sexual motivation if the minimum sentence imposed was ten years or
38 more; provided that the out-of-state felony offense must be comparable

1 to a felony offense under Title 9 or 9A RCW and the out-of-state
2 definition of sexual motivation must be comparable to the definition of
3 sexual motivation contained in this section.

4 (30) "Nonviolent offense" means an offense which is not a violent
5 offense.

6 (31) "Offender" means a person who has committed a felony
7 established by state law and is eighteen years of age or older or is
8 less than eighteen years of age but whose case is under superior court
9 jurisdiction under RCW 13.04.030 or has been transferred by the
10 appropriate juvenile court to a criminal court pursuant to RCW
11 13.40.110. In addition, for the purpose of community custody
12 requirements under this chapter, "offender" also means a misdemeanor or
13 gross misdemeanor probationer convicted of an offense included in RCW
14 9.94A.501(1) and ordered by a superior court to probation under the
15 supervision of the department pursuant to RCW 9.92.060, 9.95.204, or
16 9.95.210. Throughout this chapter, the terms "offender" and
17 "defendant" are used interchangeably.

18 (32) "Partial confinement" means confinement for no more than one
19 year in a facility or institution operated or utilized under contract
20 by the state or any other unit of government, or, if home detention or
21 work crew has been ordered by the court, in an approved residence, for
22 a substantial portion of each day with the balance of the day spent in
23 the community. Partial confinement includes work release, home
24 detention, work crew, and a combination of work crew and home
25 detention.

26 (33) "Pattern of criminal street gang activity" means:

27 (a) The commission, attempt, conspiracy, or solicitation of, or any
28 prior juvenile adjudication of or adult conviction of, two or more of
29 the following criminal street gang-related offenses:

30 (i) Any "serious violent" felony offense as defined in this
31 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
32 Child 1 (RCW 9A.36.120);

33 (ii) Any "violent" offense as defined by this section, excluding
34 Assault of a Child 2 (RCW 9A.36.130);

35 (iii) Deliver or Possession with Intent to Deliver a Controlled
36 Substance (chapter 69.50 RCW);

37 (iv) Any violation of the firearms and dangerous weapon act
38 (chapter 9.41 RCW);

1 (v) Theft of a Firearm (RCW 9A.56.300);
2 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);
3 (vii) Malicious Harassment (RCW 9A.36.080);
4 (viii) Harassment where a subsequent violation or deadly threat is
5 made (RCW 9A.46.020(2)(b));
6 (ix) Criminal Gang Intimidation (RCW 9A.46.120);
7 (x) Any felony conviction by a person eighteen years of age or
8 older with a special finding of involving a juvenile in a felony
9 offense under RCW 9.94A.833;
10 (xi) Residential Burglary (RCW 9A.52.025);
11 (xii) Burglary 2 (RCW 9A.52.030);
12 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
13 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
14 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
15 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
16 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);
17 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
18 9A.56.075);
19 (xix) Extortion 1 (RCW 9A.56.120);
20 (xx) Extortion 2 (RCW 9A.56.130);
21 (xxi) Intimidating a Witness (RCW 9A.72.110);
22 (xxii) Tampering with a Witness (RCW 9A.72.120);
23 (xxiii) Reckless Endangerment (RCW 9A.36.050);
24 (xxiv) Coercion (RCW 9A.36.070);
25 (xxv) Harassment (RCW 9A.46.020); or
26 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
27 (b) That at least one of the offenses listed in (a) of this
28 subsection shall have occurred after July 1, 2008;
29 (c) That the most recent committed offense listed in (a) of this
30 subsection occurred within three years of a prior offense listed in (a)
31 of this subsection; and
32 (d) Of the offenses that were committed in (a) of this subsection,
33 the offenses occurred on separate occasions or were committed by two or
34 more persons.
35 (34) "Persistent offender" is an offender who:
36 (a)(i) Has been convicted in this state of any felony considered a
37 most serious offense; and

1 (ii) Has, before the commission of the offense under (a) of this
2 subsection, been convicted as an offender on at least two separate
3 occasions, whether in this state or elsewhere, of felonies that under
4 the laws of this state would be considered most serious offenses and
5 would be included in the offender score under RCW 9.94A.525; provided
6 that of the two or more previous convictions, at least one conviction
7 must have occurred before the commission of any of the other most
8 serious offenses for which the offender was previously convicted; or

9 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
10 of a child in the first degree, child molestation in the first degree,
11 rape in the second degree, rape of a child in the second degree, or
12 indecent liberties by forcible compulsion; (B) any of the following
13 offenses with a finding of sexual motivation: Murder in the first
14 degree, murder in the second degree, homicide by abuse, kidnapping in
15 the first degree, kidnapping in the second degree, assault in the first
16 degree, assault in the second degree, assault of a child in the first
17 degree, assault of a child in the second degree, or burglary in the
18 first degree; or (C) an attempt to commit any crime listed in this
19 subsection (34)(b)(i); and

20 (ii) Has, before the commission of the offense under (b)(i) of this
21 subsection, been convicted as an offender on at least one occasion,
22 whether in this state or elsewhere, of an offense listed in (b)(i) of
23 this subsection or any federal or out-of-state offense or offense under
24 prior Washington law that is comparable to the offenses listed in
25 (b)(i) of this subsection. A conviction for rape of a child in the
26 first degree constitutes a conviction under (b)(i) of this subsection
27 only when the offender was sixteen years of age or older when the
28 offender committed the offense. A conviction for rape of a child in
29 the second degree constitutes a conviction under (b)(i) of this
30 subsection only when the offender was eighteen years of age or older
31 when the offender committed the offense.

32 (35) "Predatory" means: (a) The perpetrator of the crime was a
33 stranger to the victim, as defined in this section; (b) the perpetrator
34 established or promoted a relationship with the victim prior to the
35 offense and the victimization of the victim was a significant reason
36 the perpetrator established or promoted the relationship; or (c) the
37 perpetrator was: (i) A teacher, counselor, volunteer, or other person
38 in authority in any public or private school and the victim was a

1 student of the school under his or her authority or supervision. For
2 purposes of this subsection, "school" does not include home-based
3 instruction as defined in RCW 28A.225.010; (ii) a coach, trainer,
4 volunteer, or other person in authority in any recreational activity
5 and the victim was a participant in the activity under his or her
6 authority or supervision; or (iii) a pastor, elder, volunteer, or other
7 person in authority in any church or religious organization, and the
8 victim was a member or participant of the organization under his or her
9 authority.

10 (36) "Private school" means a school regulated under chapter
11 28A.195 or 28A.205 RCW.

12 (37) "Public school" has the same meaning as in RCW 28A.150.010.

13 (38) "Restitution" means a specific sum of money ordered by the
14 sentencing court to be paid by the offender to the court over a
15 specified period of time as payment of damages. The sum may include
16 both public and private costs.

17 (39) "Risk assessment" means the application of the risk instrument
18 recommended to the department by the Washington state institute for
19 public policy as having the highest degree of predictive accuracy for
20 assessing an offender's risk of reoffense.

21 (40) "Serious traffic offense" means:

22 (a) Nonfelony driving while under the influence of intoxicating
23 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
24 while under the influence of intoxicating liquor or any drug (RCW
25 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
26 attended vehicle (RCW 46.52.020(5)); or

27 (b) Any federal, out-of-state, county, or municipal conviction for
28 an offense that under the laws of this state would be classified as a
29 serious traffic offense under (a) of this subsection.

30 (41) "Serious violent offense" is a subcategory of violent offense
31 and means:

- 32 (a)(i) Murder in the first degree;
33 (ii) Homicide by abuse;
34 (iii) Murder in the second degree;
35 (iv) Manslaughter in the first degree;
36 (v) Assault in the first degree;
37 (vi) Kidnapping in the first degree;
38 (vii) Rape in the first degree;

1 (viii) Assault of a child in the first degree; or
2 (ix) An attempt, criminal solicitation, or criminal conspiracy to
3 commit one of these felonies; or
4 (b) Any federal or out-of-state conviction for an offense that
5 under the laws of this state would be a felony classified as a serious
6 violent offense under (a) of this subsection.
7 (42) "Sex offense" means:
8 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
9 RCW 9A.44.130(~~(+12)~~);
10 (ii) A violation of RCW 9A.64.020;
11 (iii) A felony that is a violation of chapter 9.68A RCW other than
12 RCW 9.68A.080; (~~(or)~~)
13 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
14 criminal solicitation, or criminal conspiracy to commit such crimes; or
15 (v) A felony violation pursuant to section 2(1) of this act if the
16 person has been convicted on at least one prior occasion;
17 (b) Any conviction for a felony offense in effect at any time prior
18 to July 1, 1976, that is comparable to a felony classified as a sex
19 offense in (a) of this subsection;
20 (c) A felony with a finding of sexual motivation under RCW
21 9.94A.835 or 13.40.135; or
22 (d) Any federal or out-of-state conviction for an offense that
23 under the laws of this state would be a felony classified as a sex
24 offense under (a) of this subsection.
25 (43) "Sexual motivation" means that one of the purposes for which
26 the defendant committed the crime was for the purpose of his or her
27 sexual gratification.
28 (44) "Standard sentence range" means the sentencing court's
29 discretionary range in imposing a nonappealable sentence.
30 (45) "Statutory maximum sentence" means the maximum length of time
31 for which an offender may be confined as punishment for a crime as
32 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
33 crime, or other statute defining the maximum penalty for a crime.
34 (46) "Stranger" means that the victim did not know the offender
35 twenty-four hours before the offense.
36 (47) "Total confinement" means confinement inside the physical
37 boundaries of a facility or institution operated or utilized under

1 contract by the state or any other unit of government for twenty-four
2 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

3 (48) "Transition training" means written and verbal instructions
4 and assistance provided by the department to the offender during the
5 two weeks prior to the offender's successful completion of the work
6 ethic camp program. The transition training shall include instructions
7 in the offender's requirements and obligations during the offender's
8 period of community custody.

9 (49) "Victim" means any person who has sustained emotional,
10 psychological, physical, or financial injury to person or property as
11 a direct result of the crime charged.

12 (50) "Violent offense" means:

13 (a) Any of the following felonies:

14 (i) Any felony defined under any law as a class A felony or an
15 attempt to commit a class A felony;

16 (ii) Criminal solicitation of or criminal conspiracy to commit a
17 class A felony;

18 (iii) Manslaughter in the first degree;

19 (iv) Manslaughter in the second degree;

20 (v) Indecent liberties if committed by forcible compulsion;

21 (vi) Kidnapping in the second degree;

22 (vii) Arson in the second degree;

23 (viii) Assault in the second degree;

24 (ix) Assault of a child in the second degree;

25 (x) Extortion in the first degree;

26 (xi) Robbery in the second degree;

27 (xii) Drive-by shooting;

28 (xiii) Vehicular assault, when caused by the operation or driving
29 of a vehicle by a person while under the influence of intoxicating
30 liquor or any drug or by the operation or driving of a vehicle in a
31 reckless manner; and

32 (xiv) Vehicular homicide, when proximately caused by the driving of
33 any vehicle by any person while under the influence of intoxicating
34 liquor or any drug as defined by RCW 46.61.502, or by the operation of
35 any vehicle in a reckless manner;

36 (b) Any conviction for a felony offense in effect at any time prior
37 to July 1, 1976, that is comparable to a felony classified as a violent
38 offense in (a) of this subsection; and

1 (c) Any federal or out-of-state conviction for an offense that
2 under the laws of this state would be a felony classified as a violent
3 offense under (a) or (b) of this subsection.

4 (51) "Work crew" means a program of partial confinement consisting
5 of civic improvement tasks for the benefit of the community that
6 complies with RCW 9.94A.725.

7 (52) "Work ethic camp" means an alternative incarceration program
8 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
9 the cost of corrections by requiring offenders to complete a
10 comprehensive array of real-world job and vocational experiences,
11 character-building work ethics training, life management skills
12 development, substance abuse rehabilitation, counseling, literacy
13 training, and basic adult education.

14 (53) "Work release" means a program of partial confinement
15 available to offenders who are employed or engaged as a student in a
16 regular course of study at school.

17 **Sec. 6.** RCW 9.94A.701 and 2009 c 375 s 5 are each amended to read
18 as follows:

19 (1) If an offender is sentenced to the custody of the department
20 for one of the following crimes, the court shall, in addition to the
21 other terms of the sentence, sentence the offender to community custody
22 for three years:

23 (a) A sex offense not sentenced under RCW 9.94A.507;

24 (b) A serious violent offense; or

25 (c) A violation (~~of RCW 9A.44.130(1)(a)~~) under section 2(1) of
26 this act committed on or after June 7, 2006, when a court sentences the
27 person to a term of confinement of one year or less and the offender
28 has committed a violation of section 2(1) of this act on at least one
29 other occasion.

30 (2) A court shall, in addition to the other terms of the sentence,
31 sentence an offender to community custody for eighteen months when the
32 court sentences the person to the custody of the department for a
33 violent offense that is not considered a serious violent offense.

34 (3) A court shall, in addition to the other terms of the sentence,
35 sentence an offender to community custody for one year when the court
36 sentences the person to the custody of the department for:

37 (a) Any crime against persons under RCW 9.94A.411(2);

1 (b) An offense involving the unlawful possession of a firearm under
2 RCW 9.41.040, where the offender is a criminal street gang member or
3 associate; ((or))

4 (c) A felony offense under chapter 69.50 or 69.52 RCW, committed on
5 or after July 1, 2000; or

6 (d) A felony violation under section 2(1) of this act that is the
7 offender's first violation.

8 (4) If an offender is sentenced under the drug offender sentencing
9 alternative, the court shall impose community custody as provided in
10 RCW 9.94A.660.

11 (5) If an offender is sentenced under the special ((sexual-[sex]))
12 sex offender sentencing alternative, the court shall impose community
13 custody as provided in RCW 9.94A.670.

14 (6) If an offender is sentenced to a work ethic camp, the court
15 shall impose community custody as provided in RCW 9.94A.690.

16 (7) If a sex offender is sentenced as a nonpersistent offender
17 pursuant to RCW 9.94A.507, the court shall impose community custody as
18 provided in that section.

19 (8) The term of community custody specified by this section shall
20 be reduced by the court whenever an offender's standard range term of
21 confinement in combination with the term of community custody exceeds
22 the statutory maximum for the crime as provided in RCW 9A.20.021.

23 NEW SECTION. Sec. 7. Sections 2 and 4 of this act are each added
24 to chapter 9A.44 RCW.

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