
SUBSTITUTE HOUSE BILL 2540

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By House Committee on Corrections (originally sponsored by Representatives Long, Appelwick, Morris, Johanson, Padden, Brough, Sheahan, B. Thomas, Dyer, Brumsickle, Kremen, Forner, Springer and Reams)

Read first time 01/31/94.

1 AN ACT Relating to the release of information concerning sex
2 offenders; amending RCW 4.24.550, 10.77.163, 10.77.205, 13.40.215,
3 43.43.745, 71.05.325, and 71.05.425; reenacting and amending RCW
4 9.94A.155; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that members of the
7 public may be alarmed when law enforcement officers notify them that a
8 sex offender who is about to be released from custody will live in or
9 near their neighborhood. The legislature also finds that if the public
10 is provided adequate notice and information, the community can develop
11 constructive plans to prepare themselves and their children for the
12 offender's release. A sufficient time period allows communities to
13 meet with law enforcement to discuss and prepare for the release, to
14 establish block watches, to obtain information about the rights and
15 responsibilities of the community and the offender, and to provide
16 education and counseling to their children. Therefore, the legislature
17 intends that when law enforcement officials decide to notify the public
18 about a sex offender's pending release that notice be given at least
19 fourteen days before the offender's release whenever possible.

1 **Sec. 2.** RCW 4.24.550 and 1990 c 3 s 117 are each amended to read
2 as follows:

3 (1) Public agencies are authorized to release relevant and
4 necessary information regarding sex offenders to the public when the
5 release of the information is necessary for public protection.

6 (2) Local law enforcement agencies and officials who decide to
7 release information pursuant to this section shall make a good faith
8 effort to notify the public and residents at least fourteen days before
9 the sex offender is released. If a change occurs in the release plan,
10 this notification provision will not require an extension of the
11 release date. The department of corrections and the department of
12 social and health services shall provide local law enforcement
13 officials with all relevant information on sex offenders about to be
14 released or placed into the community in a timely manner.

15 (3) An elected public official, public employee, or public agency
16 as defined in RCW 4.24.470 is immune from civil liability for damages
17 for any discretionary decision to release relevant and necessary
18 information, unless it is shown that the official, employee, or agency
19 acted with gross negligence or in bad faith. The authorization and
20 immunity in this section applies to information regarding: (a) A
21 person convicted of, or juvenile found to have committed, a sex offense
22 as defined by RCW 9.94A.030; (b) a person found not guilty of a sex
23 offense by reason of insanity under chapter 10.77 RCW; (c) a person
24 found incompetent to stand trial for a sex offense and subsequently
25 committed under chapter 71.05 or 71.34 RCW; (d) a person committed as
26 a sexual psychopath under chapter 71.06 RCW; or (e) a person committed
27 as a sexually violent predator under chapter 71.09 RCW. The immunity
28 provided under this section applies to the release of relevant
29 information to other employees or officials or to the general public.

30 (~~(3)~~) (4) Except as otherwise provided by statute, nothing in
31 this section shall impose any liability upon a public official, public
32 employee, or public agency for failing to release information as
33 provided in subsections (2) and (3) of this section.

34 (~~(4)~~) (5) Nothing in this section implies that information
35 regarding persons designated in subsections (2) and (3) of this section
36 is confidential except as otherwise provided by statute.

37 **Sec. 3.** RCW 9.94A.155 and 1992 c 186 s 7 and 1992 c 45 s 2 are
38 each reenacted and amended to read as follows:

1 (1) At the earliest possible date, and in no event later than
2 (~~ten~~) thirty days before release except in the event of escape or
3 emergency furloughs as defined in RCW 72.66.010, the department of
4 corrections shall send written notice of parole, release, community
5 placement, work release placement, furlough, or escape about a specific
6 inmate convicted of a violent offense, a sex offense as defined by RCW
7 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060
8 or 9A.46.110, to the following:

9 (a) The chief of police of the city, if any, in which the inmate
10 will reside or in which placement will be made in a work release
11 program; and

12 (b) The sheriff of the county in which the inmate will reside or in
13 which placement will be made in a work release program.

14 The sheriff of the county where the offender was convicted shall be
15 notified if the department does not know where the offender will
16 reside. The department shall notify the state patrol of the release of
17 all sex offenders, and that information shall be placed in the
18 Washington crime information center for dissemination to all law
19 enforcement.

20 (2) The same notice as required by subsection (1) of this section
21 shall be sent to the following if such notice has been requested in
22 writing about a specific inmate convicted of a violent offense, a sex
23 offense as defined by RCW 9.94A.030, or a felony harassment offense as
24 defined by RCW 9A.46.060 or 9A.46.110:

25 (a) The victim of the crime for which the inmate was convicted or
26 the victim's next of kin if the crime was a homicide;

27 (b) Any witnesses who testified against the inmate in any court
28 proceedings involving the violent offense; and

29 (c) Any person specified in writing by the prosecuting attorney.
30 Information regarding victims, next of kin, or witnesses requesting the
31 notice, information regarding any other person specified in writing by
32 the prosecuting attorney to receive the notice, and the notice are
33 confidential and shall not be available to the inmate.

34 (3) The existence of the notice requirements contained in
35 subsections (1) and (2) of this section shall not require an extension
36 of the release date in the event that the release plan changes after
37 notification.

38 (4) If an inmate convicted of a violent offense, a sex offense as
39 defined by RCW 9.94A.030, or a felony harassment offense as defined by

1 RCW 9A.46.060 or 9A.46.110, escapes from a correctional facility, the
2 department of corrections shall immediately notify, by the most
3 reasonable and expedient means available, the chief of police of the
4 city and the sheriff of the county in which the inmate resided
5 immediately before the inmate's arrest and conviction. If previously
6 requested, the department shall also notify the witnesses and the
7 victim of the crime for which the inmate was convicted or the victim's
8 next of kin if the crime was a homicide. If the inmate is recaptured,
9 the department shall send notice to the persons designated in this
10 subsection as soon as possible but in no event later than two working
11 days after the department learns of such recapture.

12 ~~((+4))~~ (5) If the victim, the victim's next of kin, or any witness
13 is under the age of sixteen, the notice required by this section shall
14 be sent to the parents or legal guardian of the child.

15 ~~((+5))~~ (6) The department of corrections shall send the notices
16 required by this chapter to the last address provided to the department
17 by the requesting party. The requesting party shall furnish the
18 department with a current address.

19 ~~((+6))~~ (7) For purposes of this section the following terms have
20 the following meanings:

- 21 (a) "Violent offense" means a violent offense under RCW 9.94A.030;
22 (b) "Next of kin" means a person's spouse, parents, siblings and
23 children.

24 ~~((+7))~~ (8) Nothing in this section shall impose any liability upon
25 a chief of police of a city or sheriff of a county for failing to
26 request in writing a notice as provided in subsection (1) of this
27 section.

28 **Sec. 4.** RCW 10.77.163 and 1990 c 3 s 106 are each amended to read
29 as follows:

30 (1) Before a person committed under this chapter is permitted
31 temporarily to leave a treatment facility for any period of time
32 without constant accompaniment by facility staff, the superintendent,
33 professional person in charge of a treatment facility, or his or her
34 professional designee shall in writing notify the prosecuting attorney
35 of any county to which the person is released and the prosecuting
36 attorney of the county in which the criminal charges against the
37 committed person were dismissed, of the decision conditionally to
38 release the person. The notice shall be provided at least ~~((thirty))~~

1 forty-five days before the anticipated release and shall describe the
2 conditions under which the release is to occur.

3 (2) In addition to the notice required by subsection (1) of this
4 section, the superintendent of each state institution designated for
5 the custody, care, and treatment of persons committed under this
6 chapter shall notify appropriate law enforcement agencies through the
7 state patrol communications network of the furloughs of persons
8 committed under RCW 10.77.090 or 10.77.110. Notification shall be made
9 at least (~~forty-eight hours~~) thirty days before the furlough, and
10 shall include the name of the person, the place to which the person has
11 permission to go, and the dates and times during which the person will
12 be on furlough.

13 (3) Upon receiving notice that a person committed under this
14 chapter is being temporarily released under subsection (1) of this
15 section, the prosecuting attorney may seek a temporary restraining
16 order to prevent the release of the person on the grounds that the
17 person is dangerous to self or others.

18 (4) The notice requirements contained in this section shall not
19 apply to emergency medical furloughs.

20 (5) The existence of the notice requirements contained in this
21 section shall not require any extension of the release date in the
22 event the release plan changes after notification.

23 (6) The notice provisions of this section are in addition to those
24 provided in RCW 10.77.205.

25 **Sec. 5.** RCW 10.77.205 and 1992 c 186 s 8 are each amended to read
26 as follows:

27 (1)(a) At the earliest possible date, and in no event later than
28 (~~ten~~) thirty days before conditional release, final discharge,
29 authorized furlough pursuant to RCW 10.77.163, or transfer to a less-
30 restrictive facility than a state mental hospital, the superintendent
31 shall send written notice of the conditional release, final discharge,
32 authorized furlough, or transfer of a person who has been found not
33 guilty of a sex, violent, or felony harassment offense by reason of
34 insanity and who is now in the custody of the department pursuant to
35 this chapter, to the following:

36 (i) The chief of police of the city, if any, in which the person
37 will reside; and

38 (ii) The sheriff of the county in which the person will reside.

1 (b) The same notice as required by (a) of this subsection shall be
2 sent to the following, if such notice has been requested in writing
3 about a specific person committed under this chapter:

4 (i) The victim of the crime for which the person was committed or
5 the victim's next of kin if the crime was a homicide;

6 (ii) Any witnesses who testified against the person in any court
7 proceedings; and

8 (iii) Any person specified in writing by the prosecuting attorney.
9 Information regarding victims, next of kin, or witnesses requesting the
10 notice, information regarding any other person specified in writing by
11 the prosecuting attorney to receive the notice, and the notice are
12 confidential and shall not be available to the person committed under
13 this chapter.

14 (c) In addition to the notice requirements of (a) and (b) of this
15 subsection, the superintendent shall comply with RCW 10.77.163.

16 (d) The thirty-day notice requirement contained in (a) and (b) of
17 this subsection shall not apply to emergency medical furloughs.

18 (e) The existence of the notice requirements in (a) and (b) of this
19 subsection shall not require any extension of the release date in the
20 event the release plan changes after notification.

21 (2) If a person who has been found not guilty of a sex, violent, or
22 felony harassment offense by reason of insanity and who is committed
23 under this chapter escapes, the superintendent shall immediately
24 notify, by the most reasonable and expedient means available, the chief
25 of police of the city and the sheriff of the county in which the person
26 resided immediately before the person's arrest. If previously
27 requested, the superintendent shall also notify the witnesses and the
28 victim, if any, of the crime for which the person was committed or the
29 victim's next of kin if the crime was a homicide. The superintendent
30 shall also notify appropriate persons pursuant to RCW 10.77.165. If
31 the person is recaptured, the secretary shall send notice to the
32 persons designated in this subsection as soon as possible but in no
33 event later than two working days after the department learns of such
34 recapture.

35 (3) If the victim, the victim's next of kin, or any witness is
36 under the age of sixteen, the notice required by this section shall be
37 sent to the parents or legal guardian of the child.

38 (4) The department shall send the notices required by this chapter
39 to the last address provided to the department by the requesting party.

1 The requesting party shall furnish the department with a current
2 address.

3 (5) For purposes of this section the following terms have the
4 following meanings:

5 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

6 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

7 (c) "Next of kin" means a person's spouse, parents, siblings, and
8 children;

9 (d) "Authorized furlough" means a furlough granted after compliance
10 with RCW 10.77.163;

11 (e) "Felony harassment offense" means a crime of harassment as
12 defined in RCW 9A.46.060 that is a felony.

13 **Sec. 6.** RCW 13.40.215 and 1993 c 27 s 1 are each amended to read
14 as follows:

15 (1)(a) Except as provided in subsection (2) of this section, at the
16 earliest possible date, and in no event later than (~~ten~~) thirty days
17 before discharge, parole, or any other authorized leave or release, or
18 before transfer to a community residential facility, the secretary
19 shall send written notice of the discharge, parole, authorized leave or
20 release, or transfer of a juvenile found to have committed a violent
21 offense, a sex offense, or stalking, to the following:

22 (i) The chief of police of the city, if any, in which the juvenile
23 will reside; and

24 (ii) The sheriff of the county in which the juvenile will reside.

25 (b) The same notice as required by (a) of this subsection shall be
26 sent to the following, if such notice has been requested in writing
27 about a specific juvenile:

28 (i) The victim of the offense for which the juvenile was found to
29 have committed or the victim's next of kin if the crime was a homicide;

30 (ii) Any witnesses who testified against the juvenile in any court
31 proceedings involving the offense; and

32 (iii) Any person specified in writing by the prosecuting attorney.
33 Information regarding victims, next of kin, or witnesses requesting the
34 notice, information regarding any other person specified in writing by
35 the prosecuting attorney to receive the notice, and the notice are
36 confidential and shall not be available to the juvenile. The notice to
37 the chief of police or the sheriff shall include the identity of the
38 juvenile, the residence where the juvenile will reside, the identity of

1 the person, if any, responsible for supervising the juvenile, and the
2 time period of any authorized leave.

3 (c) The thirty-day notice requirements contained in this subsection
4 shall not apply to emergency medical furloughs.

5 (d) The existence of the notice requirements in this subsection
6 will not require any extension of the release date in the event the
7 release plan changes after notification.

8 (2)(a) If a juvenile found to have committed a violent offense, a
9 sex offense, or stalking escapes from a facility of the department, the
10 secretary shall immediately notify, by the most reasonable and
11 expedient means available, the chief of police of the city and the
12 sheriff of the county in which the juvenile resided immediately before
13 the juvenile's arrest. If previously requested, the secretary shall
14 also notify the witnesses and the victim of the offense which the
15 juvenile was found to have committed or the victim's next of kin if the
16 crime was a homicide. If the juvenile is recaptured, the secretary
17 shall send notice to the persons designated in this subsection as soon
18 as possible but in no event later than two working days after the
19 department learns of such recapture.

20 (b) The secretary may authorize a leave, for a juvenile found to
21 have committed a violent offense, a sex offense, or stalking, which
22 shall not exceed forty-eight hours plus travel time, to meet an
23 emergency situation such as a death or critical illness of a member of
24 the juvenile's family. The secretary may authorize a leave, which
25 shall not exceed the time medically necessary, to obtain medical care
26 not available in a juvenile facility maintained by the department.
27 Prior to the commencement of an emergency or medical leave, the
28 secretary shall give notice of the leave to the appropriate law
29 enforcement agency in the jurisdiction in which the juvenile will be
30 during the leave period. The notice shall include the identity of the
31 juvenile, the time period of the leave, the residence of the juvenile
32 during the leave, and the identity of the person responsible for
33 supervising the juvenile during the leave. If previously requested,
34 the department shall also notify the witnesses and victim of the
35 offense which the juvenile was found to have committed or the victim's
36 next of kin if the offense was a homicide.

37 In case of an emergency or medical leave the secretary may waive
38 all or any portion of the requirements for leaves pursuant to RCW
39 13.40.205 (2)(a), (3), (4), and (5).

1 (3) If the victim, the victim's next of kin, or any witness is
2 under the age of sixteen, the notice required by this section shall be
3 sent to the parents or legal guardian of the child.

4 (4) The secretary shall send the notices required by this chapter
5 to the last address provided to the department by the requesting party.
6 The requesting party shall furnish the department with a current
7 address.

8 (5) For purposes of this section the following terms have the
9 following meanings:

10 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

11 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

12 (c) "Stalking" means the crime of stalking as defined in RCW
13 9A.46.110;

14 (d) "Next of kin" means a person's spouse, parents, siblings, and
15 children.

16 **Sec. 7.** RCW 43.43.745 and 1993 c 24 s 1 are each amended to read
17 as follows:

18 (1) It shall be the duty of the sheriff or director of public
19 safety of every county, of the chief of police of each city or town, or
20 of every chief officer of other law enforcement agencies operating
21 within this state, to record the fingerprints of all persons held in or
22 remanded to their custody when convicted of any crime as provided for
23 in RCW 43.43.735 for which the penalty of imprisonment might be imposed
24 and to disseminate and file such fingerprints in the same manner as
25 those recorded upon arrest pursuant to RCW 43.43.735 and 43.43.740.

26 (2) Every time the secretary authorizes a furlough as provided for
27 in RCW 72.66.012 the department of corrections shall notify, (~~forty-~~
28 ~~eight hours~~) thirty days prior to the beginning of such furlough, the
29 sheriff or director of public safety of the county to which the
30 prisoner is being furloughed, the nearest Washington state patrol
31 district facility in the county wherein the furloughed prisoner is to
32 be residing, and other similar criminal justice agencies that the named
33 prisoner has been granted a furlough, the place to which furloughed,
34 and the dates and times during which the prisoner will be on furlough
35 status. In the case of an emergency furlough the (~~forty-eight hour~~)
36 thirty-day time period shall not be required but notification shall be
37 made as promptly as possible and before the prisoner is released on
38 furlough.

1 (3) Disposition of the charge for which the arrest was made shall
2 be reported to the section at whatever stage in the proceedings a final
3 disposition occurs by the arresting law enforcement agency, county
4 prosecutor, city attorney, or court having jurisdiction over the
5 offense: PROVIDED, That the chief shall promulgate rules pursuant to
6 chapter 34.05 RCW to carry out the provisions of this subsection.

7 (4) Whenever a person serving a sentence for a term of confinement
8 in a state correctional facility for convicted felons, pursuant to
9 court commitment, is released on an order of the state indeterminate
10 sentence review board, or is discharged from custody on expiration of
11 sentence, the department of corrections shall promptly notify the
12 sheriff or director of public safety, the nearest Washington state
13 patrol district facility, and other similar criminal justice agencies
14 that the named person has been released or discharged, the place to
15 which such person has been released or discharged, and the conditions
16 of his or her release or discharge.

17 Local law enforcement agencies ((may)) shall require persons
18 convicted of sex offenses to register pursuant to RCW 9A.44.130. In
19 addition, nothing in this section shall be construed to prevent any
20 local law enforcement authority from recording the residency and other
21 information concerning any convicted felon or other person convicted of
22 a criminal offense when such information is obtained from a source
23 other than from registration pursuant to RCW 9A.44.130 which source may
24 include any officer or other agency or subdivision of the state.

25 (5) The existence of the notice requirement in subsection (2) of
26 this section will not require any extension of the release date in the
27 event the release plan changes after notification.

28 **Sec. 8.** RCW 71.05.325 and 1990 c 3 s 111 are each amended to read
29 as follows:

30 (1) Before a person committed under grounds set forth in RCW
31 71.05.280(3) is released from involuntary treatment because a new
32 petition for involuntary treatment has not been filed under RCW
33 71.05.320(2), the superintendent, professional person, or designated
34 mental health professional responsible for the decision whether to file
35 a new petition shall in writing notify the prosecuting attorney of the
36 county in which the criminal charges against the committed person were
37 dismissed, of the decision not to file a new petition for involuntary

1 treatment. Notice shall be provided at least (~~thirty~~) forty-five
2 days before the period of commitment expires.

3 (2)(a) Before a person committed under grounds set forth in RCW
4 71.05.280(3) is permitted temporarily to leave a treatment facility
5 pursuant to RCW 71.05.270 for any period of time without constant
6 accompaniment by facility staff, the superintendent, professional
7 person in charge of a treatment facility, or his or her professional
8 designee shall in writing notify the prosecuting attorney of any county
9 to which the person is to be released and the prosecuting attorney of
10 the county in which the criminal charges against the committed person
11 were dismissed, of the decision conditionally to release the person.
12 The notice shall be provided at least (~~thirty~~) forty-five days before
13 the anticipated release and shall describe the conditions under which
14 the release is to occur.

15 (b) The provisions of RCW 71.05.330(2) apply to proposed temporary
16 releases, and either or both prosecuting attorneys receiving notice
17 under this subsection may petition the court under RCW 71.05.330(2).

18 (3) Nothing in this section shall be construed to authorize
19 detention of a person unless a valid order of commitment is in effect.

20 (4) The existence of the notice requirements in this section will
21 not require any extension of the release date in the event the release
22 plan changes after notification.

23 (5) The notice requirements contained in this section shall not
24 apply to emergency medical furloughs.

25 (6) The notice provisions of this section are in addition to those
26 provided in RCW 71.05.425.

27 **Sec. 9.** RCW 71.05.425 and 1992 c 186 s 9 are each amended to read
28 as follows:

29 (1)(a) Except as provided in subsection (2) of this section, at the
30 earliest possible date, and in no event later than (~~ten~~) thirty days
31 before conditional release, final discharge, authorized leave under RCW
32 71.05.325(2), or transfer to a less-restrictive facility than a state
33 mental hospital, the superintendent shall send written notice of
34 conditional release, final discharge, authorized leave, or transfer of
35 a person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following
36 dismissal of a sex, violent, or felony harassment offense pursuant to
37 RCW 10.77.090(3) to the following:

1 (i) The chief of police of the city, if any, in which the person
2 will reside; and

3 (ii) The sheriff of the county in which the person will reside.

4 (b) The same notice as required by (a) of this subsection shall be
5 sent to the following, if such notice has been requested in writing
6 about a specific person committed under RCW 71.05.280(3) or
7 71.05.320(2)(c) following dismissal of a sex, violent, or felony
8 harassment offense pursuant to RCW 10.77.090(3):

9 (i) The victim of the sex, violent, or felony harassment offense
10 that was dismissed pursuant to RCW 10.77.090(3) preceding commitment
11 under RCW 71.05.280(3) or 71.05.320(2)(c) or the victim's next of kin
12 if the crime was a homicide;

13 (ii) Any witnesses who testified against the person in any court
14 proceedings; and

15 (iii) Any person specified in writing by the prosecuting attorney.
16 Information regarding victims, next of kin, or witnesses requesting the
17 notice, information regarding any other person specified in writing by
18 the prosecuting attorney to receive the notice, and the notice are
19 confidential and shall not be available to the person committed under
20 this chapter.

21 (c) The thirty-day notice requirements contained in this subsection
22 shall not apply to emergency medical furloughs.

23 (d) The existence of the notice requirements in this subsection
24 will not require any extension of the release date in the event the
25 release plan changes after notification.

26 (2) If a person committed under RCW 71.05.280(3) or 71.05.320(2)(c)
27 following dismissal of a sex, violent, or felony harassment offense
28 pursuant to RCW 10.77.090(3) escapes, the superintendent shall
29 immediately notify, by the most reasonable and expedient means
30 available, the chief of police of the city and the sheriff of the
31 county in which the person resided immediately before the person's
32 arrest. If previously requested, the superintendent shall also notify
33 the witnesses and the victim of the sex, violent, or felony harassment
34 offense that was dismissed pursuant to RCW 10.77.090(3) preceding
35 commitment under RCW 71.05.280(3) or 71.05.320(2) or the victim's next
36 of kin if the crime was a homicide. In addition, the secretary shall
37 also notify appropriate parties pursuant to RCW 71.05.410. If the
38 person is recaptured, the superintendent shall send notice to the
39 persons designated in this subsection as soon as possible but in no

1 event later than two working days after the department learns of such
2 recapture.

3 (3) If the victim, the victim's next of kin, or any witness is
4 under the age of sixteen, the notice required by this section shall be
5 sent to the parent or legal guardian of the child.

6 (4) The superintendent shall send the notices required by this
7 chapter to the last address provided to the department by the
8 requesting party. The requesting party shall furnish the department
9 with a current address.

10 (5) For purposes of this section the following terms have the
11 following meanings:

12 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

13 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

14 (c) "Next of kin" means a person's spouse, parents, siblings, and
15 children;

16 (d) "Felony harassment offense" means a crime of harassment as
17 defined in RCW 9A.46.060 that is a felony.

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