

2 **SSB 5326** - H COMM AMD **ADOPTED 4/11/95**

3 By Committee on Corrections

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5 Strike everything after the enacting clause and insert the
6 following:

7 "**Sec. 1.** RCW 9A.44.130 and 1994 c 84 s 2 are each amended to read
8 as follows:

9 (1) Any adult or juvenile residing in this state who has been found
10 to have committed or has been convicted of any sex offense, or who has
11 been found not guilty by reason of insanity under chapter 10.77 RCW of
12 committing any sex offense, shall register with the county sheriff for
13 the county of the person's residence.

14 (2) The person shall provide the county sheriff with the following
15 information when registering: (a) Name; (b) address; (c) date and
16 place of birth; (d) place of employment; (e) crime for which convicted;
17 (f) date and place of conviction; (g) aliases used; and (h) social
18 security number.

19 (3)(a) Sex offenders shall register within the following deadlines.
20 For purposes of this section the term "conviction" refers to adult
21 convictions and juvenile adjudications for sex offenses:

22 (i) SEX OFFENDERS IN CUSTODY. Sex offenders who committed a sex
23 offense on, before, or after February 28, 1990, and who, on or after
24 July 28, 1991, are in custody, as a result of that offense, of the
25 state department of corrections, the state department of social and
26 health services, a local division of youth services, or a local jail or
27 juvenile detention facility, must register within twenty-four hours
28 from the time of release with the county sheriff for the county of the
29 person's residence. The agency that has jurisdiction over the offender
30 shall provide notice to the sex offender of the duty to register.
31 Failure to register within twenty-four hours of release constitutes a
32 violation of this section and is punishable as provided in subsection
33 (7) of this section.

34 (ii) SEX OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
35 JURISDICTION. Sex offenders, who, on July 28, 1991, are not in custody
36 but are under the jurisdiction of the indeterminate sentence review

1 board or under the department of correction's active supervision, as
2 defined by the department of corrections, the state department of
3 social and health services, or a local division of youth services, for
4 sex offenses committed before, on, or after February 28, 1990, must
5 register within ten days of July 28, 1991. A change in supervision
6 status of a sex offender who was required to register under this
7 subsection (3)(a)(ii) as of July 28, 1991, shall not relieve the
8 offender of the duty to register or to reregister following a change in
9 residence. The obligation to register shall only cease pursuant to RCW
10 9A.44.140.

11 (iii) SEX OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who,
12 on or after July 23, 1995, as a result of that offense are in the
13 custody of the United States bureau of prisons or other federal or
14 military correctional agency for sex offenses committed before, on, or
15 after February 28, 1990, must register within twenty-four hours from
16 the time of release with the county sheriff for the county of the
17 person's residence. Sex offenders who, on July 23, 1995, are not in
18 custody but are under the jurisdiction of the United States bureau of
19 prisons, United States courts, United States parole commission, or
20 military parole board for sex offenses committed before, on, or after
21 February 28, 1990, must register within ten days of July 23, 1995. A
22 change in supervision status of a sex offender who was required to
23 register under this subsection (3)(a)(iii) as of July 23, 1995, shall
24 not relieve the offender of the duty to register or to reregister
25 following a change in residence. The obligation to register shall only
26 cease pursuant to RCW 9A.44.140.

27 (iv) SEX OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex
28 offenders who are convicted of a sex offense on or after July 28, 1991,
29 for a sex offense that was committed on or after February 28, 1990, but
30 who are not sentenced to serve a term of confinement immediately upon
31 sentencing, shall report to the county sheriff to register immediately
32 upon completion of being sentenced.

33 (~~(iv)~~) (v) SEX OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING
34 WASHINGTON RESIDENTS. Sex offenders who move to Washington state from
35 another state or a foreign country that are not under the jurisdiction
36 of the state department of corrections, the indeterminate sentence
37 review board, or the state department of social and health services at
38 the time of moving to Washington, must register within thirty days of
39 establishing residence or reestablishing residence if the person is a

1 former Washington resident. The duty to register under this subsection
2 applies to sex offenders convicted under the laws of another state or
3 a foreign country, federal or military statutes, or Washington state
4 for offenses committed on or after February 28, 1990. Sex offenders
5 from other states or a foreign country who, when they move to
6 Washington, are under the jurisdiction of the department of
7 corrections, the indeterminate sentence review board, or the department
8 of social and health services must register within twenty-four hours of
9 moving to Washington. The agency that has jurisdiction over the
10 offender shall notify the offender of the registration requirements
11 before the offender moves to Washington.

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

31 (b) Failure to register within the time required under this section
32 constitutes a per se violation of this section and is punishable as
33 provided in subsection (7) of this section. The county sheriff shall
34 not be required to determine whether the person is living within the
35 county.

36 (c) An arrest on charges of failure to register, service of an
37 information, or a complaint for a violation of this section, or
38 arraignment on charges for a violation of this section, constitutes
39 actual notice of the duty to register. Any person charged with the

1 crime of failure to register under this section who asserts as a
2 defense the lack of notice of the duty to register shall register
3 immediately following actual notice of the duty through arrest,
4 service, or arraignment. Failure to register as required under this
5 subsection (c) constitutes grounds for filing another charge of failing
6 to register. Registering following arrest, service, or arraignment on
7 charges shall not relieve the offender from criminal liability for
8 failure to register prior to the filing of the original charge.

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

12 (4) If any person required to register pursuant to this section
13 changes his or her residence address within the same county, the person
14 must send written notice of the change of address to the county sheriff
15 within ten days of (~~establishing the new residence~~) moving. If any
16 person required to register pursuant to this section moves to a new
17 county, the person must register with the county sheriff in the new
18 county within ten days of (~~establishing the new residence~~) moving.
19 The person must also send written notice within ten days of the change
20 of address in the new county to the county sheriff with whom the person
21 last registered. If any person required to register pursuant to this
22 section moves out of Washington state, the person must also send
23 written notice within ten days of moving to the new state or a foreign
24 country to the county sheriff with whom the person last registered in
25 Washington state.

26 (5) The county sheriff shall obtain a photograph of the individual
27 and shall obtain a copy of the individual's fingerprints.

28 (6) "Sex offense" for the purpose of RCW 9A.44.130, 10.01.200,
29 43.43.540, 70.48.470, and 72.09.330 means any offense defined as a sex
30 offense by RCW 9.94A.030.

31 (7) A person who knowingly fails to register or who moves without
32 notifying the county sheriff as required by this section is guilty of
33 a class C felony (~~if the crime for which the individual was convicted~~
34 ~~was a class A felony or a federal or out-of-state conviction for an~~
35 ~~offense that under the laws of this state would be a class A felony.~~
36 ~~If the crime was other than a class A felony or a federal or out-of-~~
37 ~~state conviction for an offense that under the laws of this state would~~
38 ~~be a class A felony, violation of this section is a gross~~
39 ~~misdemeanor)).~~

1 **Sec. 2.** RCW 9A.44.140 and 1991 c 274 s 3 are each amended to read
2 as follows:

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

4 (a) For a person convicted of a class A felony: Such person may
5 only be relieved of the duty to register under subsection (~~((2))~~) (3)
6 or (~~((3))~~) (4) of this section.

7 (b) For a person convicted of a class B felony: Fifteen years
8 after the last date of release from confinement, if any, (including
9 full-time residential treatment) pursuant to the conviction, or entry
10 of the judgment and sentence, if the person has spent fifteen
11 consecutive years in the community without being convicted of any new
12 offenses.

13 (c) For a person convicted of a class C felony: Ten years after
14 the last date of release from confinement, if any, (including full-time
15 residential treatment) pursuant to the conviction, or entry of the
16 judgment and sentence, if the person has spent ten consecutive years in
17 the community without being convicted of any new offenses.

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

21 (~~((2))~~) (3) Any person having a duty to register under RCW
22 9A.44.130 may petition the superior court to be relieved of that duty.
23 The petition shall be made to the court in which the petitioner was
24 convicted of the offense that subjects him or her to the duty to
25 register, or, in the case of convictions in other states, a foreign
26 country, or a federal or military court, to the court in Thurston
27 county. The prosecuting attorney of the county shall be named and
28 served as the respondent in any such petition. The court shall
29 consider the nature of the registrable offense committed, and the
30 criminal and relevant noncriminal behavior of the petitioner both
31 before and after conviction, and may consider other factors. Except as
32 provided in subsection (~~((3))~~) (4) of this section, the court may
33 relieve the petitioner of the duty to register only if the petitioner
34 shows, with clear and convincing evidence, that future registration of
35 the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
36 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

37 (~~((3))~~) (4) An offender having a duty to register under RCW
38 9A.44.130 for a sex offense committed when the offender was a juvenile
39 may petition the superior court to be relieved of that duty. The court

1 shall consider the nature of the registrable offense committed, and the
2 criminal and relevant noncriminal behavior of the petitioner both
3 before and after adjudication, and may consider other factors. The
4 court may relieve the petitioner of the duty to register for a sex
5 offense that was committed while the petitioner was fifteen years of
6 age or older only if the petitioner shows, with clear and convincing
7 evidence, that future registration of the petitioner will not serve the
8 purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470,
9 and 72.09.330. The court may relieve the petitioner of the duty to
10 register for a sex offense that was committed while the petitioner was
11 under the age of fifteen if the petitioner (a) has not been adjudicated
12 of any additional sex offenses during the twenty-four months following
13 the adjudication for the sex offense giving rise to the duty to
14 register, and (b) the petitioner proves by a preponderance of the
15 evidence that future registration of the petitioner will not serve the
16 purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470,
17 and 72.09.330.

18 ~~((4))~~ (5) Unless relieved of the duty to register pursuant to
19 this section, a violation of RCW 9A.44.130 is an ongoing offense for
20 purposes of the statute of limitations under RCW 9A.04.080.

21 ~~((5))~~ (6) Nothing in RCW 9.94A.220 relating to discharge of an
22 offender shall be construed as operating to relieve the offender of his
23 or her duty to register pursuant to RCW 9A.44.130.

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 9A.44 RCW
25 to read as follows:

26 When a sex offender registers with the county sheriff pursuant to
27 RCW 9A.44.130, the county sheriff shall make reasonable attempts to
28 verify that the sex offender is residing at the registered address.
29 Reasonable attempts at verifying an address shall include at a minimum
30 sending certified mail, with return receipt requested, to the sex
31 offender at the registered address, and if the return receipt is not
32 signed by the sex offender, talking in person with the residents living
33 at the address. The sheriff shall make reasonable attempts to locate
34 any sex offender who cannot be located at the registered address."

35 Correct the title accordingly.

1 EFFECT: Strikes the provisions of SSB 5326 in favor of the
2 provisions that the House passed on this same subject in 2SHB 1214,
3 along with some technical corrections relating primarily to the
4 application of the sex offender registration requirements to sex
5 offenders convicted in the federal system.

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