

2 **HB 1172** - S COMM AMD

3 By Committee on Human Services & Corrections

4 NOT ADOPTED 3/4/98

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

7 "**Sec. 1.** RCW 9A.44.130 and 1997 c 340 s 3 and 1997 c 113 s 3 are
8 each reenacted and amended to read as follows:

9 (1) Any adult or juvenile residing, or who is a student, is
10 employed, or carries on a vocation in this state who has been found to
11 have committed or has been convicted of any sex offense or kidnapping
12 offense, or who has been found not guilty by reason of insanity under
13 chapter 10.77 RCW of committing any sex offense or kidnapping offense,
14 shall register with the county sheriff for the county of the person's
15 residence, school, or place of employment or vocation. Where a person
16 required to register under this section is in custody of the state
17 department of corrections, the state department of social and health
18 services, a local division of youth services, or a local jail or
19 juvenile detention facility as a result of a sex offense or kidnapping
20 offense, the person shall also register at the time of release from
21 custody with an official designated by the agency that has jurisdiction
22 over the person.

23 (2) The person shall provide (~~the county sheriff with~~) the
24 following information when registering: (a) Name; (b) address; (c)
25 date and place of birth; (d) place of employment; (e) crime for which
26 convicted; (f) date and place of conviction; (g) aliases used; (~~and~~)
27 (h) social security number; (i) photograph; and (j) fingerprints.

28 (3)(a) Offenders shall register within the following deadlines.
29 For purposes of this section the term "conviction" refers to adult
30 convictions and juvenile adjudications for sex offenses or kidnapping
31 offenses:

32 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
33 offense on, before, or after February 28, 1990, and who, on or after
34 July 28, 1991, are in custody, as a result of that offense, of the
35 state department of corrections, the state department of social and
36 health services, a local division of youth services, or a local jail or

1 juvenile detention facility, and (B) kidnapping offenders who on or
2 after July 27, 1997, are in custody of the state department of
3 corrections, the state department of social and health services, a
4 local division of youth services, or a local jail or juvenile detention
5 facility, must register at the time of release from custody with an
6 official designated by the agency that has jurisdiction over the
7 offender. The agency shall within three days forward the registration
8 information to the county sheriff for the county of the offender's
9 anticipated residence. The offender must also register within twenty-
10 four hours from the time of release with the county sheriff for the
11 county of the person's residence, school, or place of employment or
12 vocation. The agency that has jurisdiction over the offender shall
13 provide notice to the offender of the duty to register. Failure to
14 register at the time of release and within twenty-four hours of release
15 constitutes a violation of this section and is punishable as provided
16 in subsection (7) of this section.

17 When the agency with jurisdiction intends to release an offender
18 with a duty to register under this section, and the agency has
19 knowledge that the offender is eligible for developmental disability
20 services from the department of social and health services, the agency
21 shall notify the division of developmental disabilities of the release.
22 Notice shall occur not more than thirty days before the offender is to
23 be released. The agency and the division shall assist the offender in
24 meeting the initial registration requirement under this section.
25 Failure to provide such assistance shall not constitute a defense for
26 any violation of this section.

27 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
28 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
29 but are under the jurisdiction of the indeterminate sentence review
30 board or under the department of correction's active supervision, as
31 defined by the department of corrections, the state department of
32 social and health services, or a local division of youth services, for
33 sex offenses committed before, on, or after February 28, 1990, must
34 register within ten days of July 28, 1991. Kidnapping offenders who,
35 on July 27, 1997, are not in custody but are under the jurisdiction of
36 the indeterminate sentence review board or under the department of
37 correction's active supervision, as defined by the department of
38 corrections, the state department of social and health services, or a
39 local division of youth services, for kidnapping offenses committed

1 before, on, or after July 27, 1997, must register within ten days of
2 July 27, 1997. A change in supervision status of a sex offender who
3 was required to register under this subsection (3)(a)(ii) as of July
4 28, 1991, or a kidnapping offender required to register as of July 27,
5 1997, shall not relieve the offender of the duty to register or to
6 reregister following a change in residence. The obligation to register
7 shall only cease pursuant to RCW 9A.44.140.

8 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
9 or after July 23, 1995, and kidnapping offenders who, on or after July
10 27, 1997, as a result of that offense are in the custody of the United
11 States bureau of prisons or other federal or military correctional
12 agency for sex offenses committed before, on, or after February 28,
13 1990, or kidnapping offenses committed on, before, or after July 27,
14 1997, must register within twenty-four hours from the time of release
15 with the county sheriff for the county of the person's residence,
16 school, or place of employment or vocation. Sex offenders who, on July
17 23, 1995, are not in custody but are under the jurisdiction of the
18 United States bureau of prisons, United States courts, United States
19 parole commission, or military parole board for sex offenses committed
20 before, on, or after February 28, 1990, must register within ten days
21 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not
22 in custody but are under the jurisdiction of the United States bureau
23 of prisons, United States courts, United States parole commission, or
24 military parole board for kidnapping offenses committed before, on, or
25 after July 27, 1997, must register within ten days of July 27, 1997.
26 A change in supervision status of a sex offender who was required to
27 register under this subsection (3)(a)(iii) as of July 23, 1995, or a
28 kidnapping offender required to register as of July 27, 1997 shall not
29 relieve the offender of the duty to register or to reregister following
30 a change in residence, school, or place of employment or vocation. The
31 obligation to register shall only cease pursuant to RCW 9A.44.140.

32 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
33 who are convicted of a sex offense on or after July 28, 1991, for a sex
34 offense that was committed on or after February 28, 1990, and
35 kidnapping offenders who are convicted on or after July 27, 1997, for
36 a kidnapping offense that was committed on or after July 27, 1997, but
37 who are not sentenced to serve a term of confinement immediately upon
38 sentencing, shall report to the county sheriff to register immediately
39 upon completion of being sentenced.

1 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
2 RESIDENTS. Sex offenders and kidnapping offenders who move to
3 Washington state from another state or a foreign country that are not
4 under the jurisdiction of the state department of corrections, the
5 indeterminate sentence review board, or the state department of social
6 and health services at the time of moving to Washington, must register
7 within thirty days of establishing residence or reestablishing
8 residence if the person is a former Washington resident. The duty to
9 register under this subsection applies to sex offenders convicted under
10 the laws of another state or a foreign country, federal or military
11 statutes, or Washington state for offenses committed on or after
12 February 28, 1990, and to kidnapping offenders convicted under the laws
13 of another state or a foreign country, federal or military statutes, or
14 Washington state for offenses committed on or after July 27, 1997. Sex
15 offenders and kidnapping offenders from other states or a foreign
16 country who, when they move to Washington, are under the jurisdiction
17 of the department of corrections, the indeterminate sentence review
18 board, or the department of social and health services must register
19 within twenty-four hours of moving to Washington. The agency that has
20 jurisdiction over the offender shall notify the offender of the
21 registration requirements before the offender moves to Washington.

22 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
23 or juvenile who has been found not guilty by reason of insanity under
24 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
25 February 28, 1990, and who, on or after July 23, 1995, is in custody,
26 as a result of that finding, of the state department of social and
27 health services, or (B) committing a kidnapping offense on, before, or
28 after July 27, 1997, and who on or after July 27, 1997, is in custody,
29 as a result of that finding, of the state department of social and
30 health services, must register within twenty-four hours from the time
31 of release with the county sheriff for the county of the person's
32 residence. The state department of social and health services shall
33 provide notice to the adult or juvenile in its custody of the duty to
34 register. Any adult or juvenile who has been found not guilty by
35 reason of insanity of committing a sex offense on, before, or after
36 February 28, 1990, but who was released before July 23, 1995, or any
37 adult or juvenile who has been found not guilty by reason of insanity
38 of committing a kidnapping offense but who was released before July 27,
39 1997, shall be required to register within twenty-four hours of

1 receiving notice of this registration requirement. The state
2 department of social and health services shall make reasonable attempts
3 within available resources to notify sex offenders who were released
4 before July 23, 1995, and kidnapping offenders who were released before
5 July 27, 1997. Failure to register within twenty-four hours of
6 release, or of receiving notice, constitutes a violation of this
7 section and is punishable as provided in subsection (7) of this
8 section.

9 (b) Failure to register within the time required under this section
10 constitutes a per se violation of this section and is punishable as
11 provided in subsection (7) of this section. The county sheriff shall
12 not be required to determine whether the person is living within the
13 county.

14 (c) An arrest on charges of failure to register, service of an
15 information, or a complaint for a violation of this section, or
16 arraignment on charges for a violation of this section, constitutes
17 actual notice of the duty to register. Any person charged with the
18 crime of failure to register under this section who asserts as a
19 defense the lack of notice of the duty to register shall register
20 immediately following actual notice of the duty through arrest,
21 service, or arraignment. Failure to register as required under this
22 subsection (c) constitutes grounds for filing another charge of failing
23 to register. Registering following arrest, service, or arraignment on
24 charges shall not relieve the offender from criminal liability for
25 failure to register prior to the filing of the original charge.

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

29 (4)(a) If any person required to register pursuant to this section
30 changes his or her residence address within the same county, the person
31 must send written notice of the change of address to the county sheriff
32 (~~((at least fourteen days before))~~) within seventy-two hours of moving.
33 If any person required to register pursuant to this section moves to a
34 new county, the person must send written notice of the change of
35 address at least fourteen days before moving to the county sheriff in
36 the new county of residence and must register with that county sheriff
37 within twenty-four hours of moving. The person must also send written
38 notice within ten days of the change of address in the new county to
39 the county sheriff with whom the person last registered. The county

1 sheriff with whom the person last registered shall promptly forward the
2 information concerning the change of address to the county sheriff for
3 the county of the person's new residence. If any person required to
4 register pursuant to this section moves out of Washington state, the
5 person must also send written notice within ten days of moving to the
6 new state or a foreign country to the county sheriff with whom the
7 person last registered in Washington state. Upon receipt of notice of
8 change of address to a new state, the county sheriff shall promptly
9 forward the information regarding the change of address to the agency
10 designated by the new state as the state's offender registration
11 agency.

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

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

22 (6) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
23 70.48.470, and 72.09.330:

24 (a) "Sex offense" means any offense defined as a sex offense by RCW
25 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation of a
26 minor), 9.68A.050 (dealing in depictions of minor engaged in sexually
27 explicit conduct), 9.68A.060 (sending, bringing into state depictions
28 of minor engaged in sexually explicit conduct), 9.68A.090
29 (communication with minor for immoral purposes), 9.68A.100 (patronizing
30 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in
31 the second degree), as well as any gross misdemeanor that is, under
32 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or
33 criminal conspiracy to commit an offense that is classified as a sex
34 offense under RCW 9.94A.030.

35 (b) "Kidnapping offense" means the crimes of kidnapping in the
36 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.

1 (c) "Employed" or "carries on a vocation" means employment that is
2 full-time or part-time for a period of time exceeding fourteen days, or
3 for an aggregate period of time exceeding thirty days during any
4 calendar year. A person is employed or carries on a vocation whether
5 the person's employment is financially compensated, volunteered, or for
6 the purpose of government or educational benefit.

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

11 (7) A person who knowingly fails to register or who moves without
12 notifying the county sheriff as required by this section is guilty of
13 a class C felony if the crime for which the individual was convicted
14 was a felony or a federal or out-of-state conviction for an offense
15 that under the laws of this state would be a felony. If the crime was
16 other than a felony or a federal or out-of-state conviction for an
17 offense that under the laws of this state would be other than a felony,
18 violation of this section is a gross misdemeanor.

19 **Sec. 2.** RCW 9A.44.135 and 1995 c 248 s 3 are each amended to read
20 as follows:

21 (1) When ((a-sex)) an offender registers with the county sheriff
22 pursuant to RCW 9A.44.130, the county sheriff shall make reasonable
23 attempts to verify that the ((sex)) offender is residing at the
24 registered address. Reasonable attempts at verifying an address shall
25 include at a minimum ((sending certified mail, with return receipt
26 requested, to the sex offender at the registered address, and if the
27 return receipt is not signed by the sex offender, talking in person
28 with the residents living at the address))):

29 (a) Each year the county sheriff shall send by certified mail, with
30 return receipt requested, a nonforwardable verification form to the
31 offender at the offender's last registered address.

32 (b) The offender must sign the verification form, state on the form
33 whether he or she still resides at the last registered address, and
34 return the form to the county sheriff within ten days after receipt of
35 the form.

36 (2) The sheriff shall make reasonable attempts to locate any sex
37 offender who fails to return the verification form or who cannot be
38 located at the registered address. If the offender fails to return the

1 verification form or the offender is not at the last registered
2 address, the county sheriff shall promptly forward this information to
3 the Washington state patrol for inclusion in the central registry of
4 sex offenders.

5 **Sec. 3.** RCW 9A.44.140 and 1997 c 113 s 4 are each amended to read
6 as follows:

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

8 (a) For a person convicted of a class A felony, or a person
9 convicted of any sex offense or kidnapping offense who has one or more
10 prior conviction for a sex offense or kidnapping offense: Such person
11 may only be relieved of the duty to register under subsection (3) or
12 (4) of this section.

13 (b) For a person convicted of a class B felony, and the person does
14 not have one or more prior conviction for a sex offense or kidnapping
15 offense: Fifteen years after the last date of release from
16 confinement, if any, (including full-time residential treatment)
17 pursuant to the conviction, or entry of the judgment and sentence, if
18 the person has spent fifteen consecutive years in the community without
19 being convicted of any new offenses.

20 (c) For a person convicted of a class C felony, a violation of RCW
21 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to
22 commit a class C felony, and the person does not have one or more prior
23 conviction for a sex offense or kidnapping offense: Ten years after
24 the last date of release from confinement, if any, (including full-time
25 residential treatment) pursuant to the conviction, or entry of the
26 judgment and sentence, if the person has spent ten consecutive years in
27 the community without being convicted of any new offenses.

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

31 (3) Any person having a duty to register under RCW 9A.44.130 may
32 petition the superior court to be relieved of that duty, if the person
33 has spent ten consecutive years in the community without being
34 convicted of any new offenses. The petition shall be made to the court
35 in which the petitioner was convicted of the offense that subjects him
36 or her to the duty to register, or, in the case of convictions in other
37 states, a foreign country, or a federal or military court, to the court
38 in Thurston county. The prosecuting attorney of the county shall be

1 named and served as the respondent in any such petition. The court
2 shall consider the nature of the registrable offense committed, and the
3 criminal and relevant noncriminal behavior of the petitioner both
4 before and after conviction, and may consider other factors. Except as
5 provided in subsection (4) of this section, the court may relieve the
6 petitioner of the duty to register only if the petitioner shows, with
7 clear and convincing evidence, that future registration of the
8 petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
9 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

10 (4) An offender having a duty to register under RCW 9A.44.130 for
11 a sex offense or kidnapping offense committed when the offender was a
12 juvenile may petition the superior court to be relieved of that duty.
13 The court shall consider the nature of the registrable offense
14 committed, and the criminal and relevant noncriminal behavior of the
15 petitioner both before and after adjudication, and may consider other
16 factors. 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. The court may relieve
22 the petitioner of the duty to register for a sex offense or kidnapping
23 offense that was committed while the petitioner was under the age of
24 fifteen if the petitioner (a) has not been adjudicated of any
25 additional sex offenses or kidnapping offenses during the twenty-four
26 months following the adjudication for the offense giving rise to the
27 duty to register, and (b) the petitioner proves by a preponderance of
28 the evidence that future registration of the petitioner will not serve
29 the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187,
30 70.48.470, and 72.09.330.

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

32 (5) Unless relieved of the duty to register pursuant to this
33 section, a violation of RCW 9A.44.130 is an ongoing offense for
34 purposes of the statute of limitations under RCW 9A.04.080.

35 (6) Nothing in RCW 9.94A.220 relating to discharge of an offender
36 shall be construed as operating to relieve the offender of his or her
37 duty to register pursuant to RCW 9A.44.130.

1 **Sec. 4.** RCW 43.43.540 and 1997 c 113 s 6 are each amended to read
2 as follows:

3 The county sheriff shall forward the information, photographs, and
4 fingerprints obtained pursuant to RCW 9A.44.130, including any notice
5 of change of address, to the Washington state patrol within five
6 working days. The state patrol shall maintain a central registry of
7 sex offenders and kidnapping offenders required to register under RCW
8 9A.44.130 and shall adopt rules consistent with chapters 10.97, 10.98,
9 and 43.43 RCW as are necessary to carry out the purposes of RCW
10 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and
11 72.09.330. The Washington state patrol shall reimburse the counties
12 for the costs of processing the offender registration, including taking
13 the fingerprints and the photographs.

14 **Sec. 5.** RCW 4.24.550 and 1997 c 364 s 1 and 1997 c 113 s 2 are
15 each reenacted and amended to read as follows:

16 (1) Public agencies are authorized to release information to the
17 public regarding sex offenders and kidnapping offenders when the agency
18 determines that disclosure of the information is relevant and necessary
19 to protect the public and counteract the danger created by the
20 particular offender. This authorization applies to information
21 regarding: (a) Any person adjudicated or convicted of a sex offense as
22 defined in RCW (~~9.94A.030~~) 9A.44.130 or a kidnapping offense as
23 defined by RCW 9A.44.130; (b) any person under the jurisdiction of the
24 indeterminate sentence review board as the result of a sex offense or
25 kidnapping offense; (c) any person committed as a sexually violent
26 predator under chapter 71.09 RCW or as a sexual psychopath under
27 chapter 71.06 RCW; (d) any person found not guilty of a sex offense or
28 kidnapping offense by reason of insanity under chapter 10.77 RCW; and
29 (e) any person found incompetent to stand trial for a sex offense or
30 kidnapping offense and subsequently committed under chapter 71.05 or
31 71.34 RCW.

32 (2) The extent of the public disclosure of relevant and necessary
33 information shall be rationally related to: (a) The level of risk
34 posed by the offender to the community; (b) the locations where the
35 offender resides, expects to reside, or is regularly found; and (c) the
36 needs of the affected community members for information to enhance
37 their individual and collective safety.

1 (3) Local law enforcement agencies shall consider the following
2 guidelines in determining the extent of a public disclosure made under
3 this section: (a) For offenders classified as risk level I, the agency
4 shall share information with other appropriate law enforcement agencies
5 and may disclose, upon request, relevant, necessary, and accurate
6 information to any victim or witness to the offense and to any
7 individual community member who lives near the residence where the
8 offender resides, expects to reside, or is regularly found; (b) for
9 offenders classified as risk level II, the agency may also disclose
10 relevant, necessary, and accurate information to public and private
11 schools, child day care centers, family day care providers, businesses
12 and organizations that serve primarily children, women, or vulnerable
13 adults, and neighbors and community groups near the residence where the
14 offender resides, expects to reside, or is regularly found; and (c) for
15 offenders classified as risk level III, the agency may also disclose
16 relevant, necessary, and accurate information to the public at large.

17 (4) Local law enforcement agencies that disseminate information
18 pursuant to this section shall: (a) Review available risk level
19 classifications made by the department of corrections, the department
20 of social and health services, and the indeterminate sentence review
21 board; (b) assign risk level classifications to all ((sex)) offenders
22 about whom information will be disseminated; and (c) make a good faith
23 effort to notify the public and residents at least fourteen days before
24 the offender is released from confinement or, where an offender moves
25 from another jurisdiction, as soon as possible after the agency learns
26 of the offender's move, except that in no case may this notification
27 provision be construed to require an extension of an offender's release
28 date. The juvenile court shall provide local law enforcement officials
29 with all relevant information on offenders allowed to remain in the
30 community in a timely manner.

31 (5) An appointed or elected public official, public employee, or
32 public agency as defined in RCW 4.24.470 is immune from civil liability
33 for damages for any discretionary risk level classification decisions
34 or release of relevant and necessary information, unless it is shown
35 that the official, employee, or agency acted with gross negligence or
36 in bad faith. The immunity in this section applies to risk level
37 classification decisions and the release of relevant and necessary
38 information regarding any individual for whom disclosure is authorized.
39 The decision of a local law enforcement agency or official to classify

1 ((~~a sex~~)) an offender to a risk level other than the one assigned by
2 the department of corrections, the department of social and health
3 services, or the indeterminate sentence review board, or the release of
4 any relevant and necessary information based on that different
5 classification shall not, by itself, be considered gross negligence or
6 bad faith. The immunity provided under this section applies to the
7 release of relevant and necessary information to other public
8 officials, public employees, or public agencies, and to the general
9 public.

10 (6) Except as may otherwise be provided by law, nothing in this
11 section shall impose any liability upon a public official, public
12 employee, or public agency for failing to release information
13 authorized under this section.

14 (7) Nothing in this section implies that information regarding
15 persons designated in subsection (1) of this section is confidential
16 except as may otherwise be provided by law.

17 (8) When a local law enforcement agency or official classifies ((~~a~~
18 ~~sex~~)) an offender differently than the offender is classified by the
19 department of corrections, the department of social and health
20 services, or the indeterminate sentence review board, the law
21 enforcement agency or official shall notify the appropriate department
22 or the board and submit its reasons supporting the change in
23 classification.

24 NEW SECTION. **Sec. 6.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected."

28 **HB 1172** - S COMM AMD
29 By Committee on Human Services & Corrections

30 NOT ADOPTED 3/4/98

31 On page 1, line 1 of the title, after "registration;" strike the
32 remainder of the title and insert "amending RCW 9A.44.135, 9A.44.140,
33 and 43.43.540; and reenacting and amending RCW 9A.44.130 and 4.24.550."

--- END ---