
SUBSTITUTE HOUSE BILL 2368

State of Washington

55th Legislature

1998 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Carlson, Kenney, Radcliff, Gardner, Anderson, Constantine and Mason)

Read first time 01/28/98. Referred to Committee on .

1 AN ACT Relating to security on campuses of institutions of higher
2 education; and reenacting and amending RCW 9A.44.130.

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

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

6 (1) Any adult or juvenile residing in this state who has been found
7 to have committed or has been convicted of any sex offense or
8 kidnapping offense, or who has been found not guilty by reason of
9 insanity under chapter 10.77 RCW of committing any sex offense or
10 kidnapping offense, shall register with the county sheriff for the
11 county of the person's residence. In addition, any such adult or
12 juvenile who is admitted to a public or private institution of higher
13 education shall, within ten days of receiving notice of the admission
14 or by the first business day after arriving at the institution,
15 whichever is earlier, register with the institution's department of
16 public safety and shall provide that department with the same
17 information to be provided a county sheriff under subsection (2) of
18 this section.

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

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

10 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
11 offense on, before, or after February 28, 1990, and who, on or after
12 July 28, 1991, are in custody, as a result of that offense, of the
13 state department of corrections, the state department of social and
14 health services, a local division of youth services, or a local jail or
15 juvenile detention facility, and (B) kidnapping offenders who on or
16 after July 27, 1997, are in custody of the state department of
17 corrections, the state department of social and health services, a
18 local division of youth services, or a local jail or juvenile detention
19 facility, must register within twenty-four hours from the time of
20 release with the county sheriff for the county of the person's
21 residence. The agency that has jurisdiction over the offender shall
22 provide notice to the offender of the duty to register. Failure to
23 register within twenty-four hours of release constitutes a violation of
24 this section and is punishable as provided in subsection (7) of this
25 section.

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

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

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

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

38 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
39 RESIDENTS. Sex offenders and kidnapping offenders who move to

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

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

1 within available resources to notify sex offenders who were released
2 before July 23, 1995, and kidnapping offenders who were released before
3 July 27, 1997. Failure to register within twenty-four hours of
4 release, or of receiving notice, constitutes a violation of this
5 section and is punishable as provided in subsection (7) of this
6 section.

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

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

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

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

1 a foreign country to the county sheriff with whom the person last
2 registered in Washington state.

3 (b) It is an affirmative defense to a charge that the person failed
4 to send a notice at least fourteen days in advance of moving as
5 required under (a) of this subsection that the person did not know the
6 location of his or her new residence at least fourteen days before
7 moving. The defendant must establish the defense by a preponderance of
8 the evidence and, to prevail on the defense, must also prove by a
9 preponderance that the defendant sent the required notice within
10 twenty-four hours of determining the new address.

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

13 (6) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
14 70.48.470, and 72.09.330:

15 (a) "Sex offense" means any offense defined as a sex offense by RCW
16 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation of a
17 minor), 9.68A.050 (dealing in depictions of minor engaged in sexually
18 explicit conduct), 9.68A.060 (sending, bringing into state depictions
19 of minor engaged in sexually explicit conduct), 9.68A.090
20 (communication with minor for immoral purposes), 9.68A.100 (patronizing
21 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in
22 the second degree), as well as any gross misdemeanor that is, under
23 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or
24 criminal conspiracy to commit an offense that is classified as a sex
25 offense under RCW 9.94A.030.

26 (b) "Kidnapping offense" means the crimes of kidnapping in the
27 first degree, kidnapping in the second degree, and unlawful
28 imprisonment as defined in chapter 9A.40 RCW, where the victim is a
29 minor and the offender is not the minor's parent.

30 (7) A person who knowingly fails to register with a county sheriff
31 or with a department of public safety of an institution of higher
32 education or who moves without notifying the county sheriff as required
33 by this section is guilty of a class C felony if the crime for which
34 the individual was convicted was a felony or a federal or out-of-state
35 conviction for an offense that under the laws of this state would be a
36 felony. If the crime was other than a felony or a federal or out-of-
37 state conviction for an offense that under the laws of this state would

1 be other than a felony, violation of this section is a gross
2 misdemeanor.

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