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**SUBSTITUTE SENATE BILL 5759**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove, Zarelli, Franklin, Winsley, Oke and Roach)

Read first time 02/26/97.

1 AN ACT Relating to sex offender risk level classification and  
2 public notification procedures; amending RCW 4.24.550, 13.40.217,  
3 70.48.470, and 9.95.145; adding a new section to chapter 72.09 RCW; and  
4 creating new sections.

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

6 **Sec. 1.** RCW 4.24.550 and 1996 c 215 s 1 are each amended to read  
7 as follows:

8 (1) Public agencies are authorized to release ~~((relevant and~~  
9 ~~necessary))~~ information to the public regarding sex offenders ~~((to the~~  
10 ~~public when the release of the information is necessary for public~~  
11 ~~protection))~~ when the agency determines that disclosure of the  
12 information is relevant and necessary to protect the public and  
13 counteract the danger created by the particular offender. This  
14 authorization applies to information regarding: (a) Any person  
15 adjudicated or convicted of a sex offense as defined in RCW 9.94A.030;  
16 (b) any person under the jurisdiction of the indeterminate sentence  
17 review board as the result of a sex offense; (c) any person committed  
18 as a sexually violent predator under chapter 71.09 RCW or as a sexual  
19 psychopath under chapter 71.06 RCW; (d) any person found not guilty of

1 a sex offense by reason of insanity under chapter 10.77 RCW; and (e)  
2 any person found incompetent to stand trial for a sex offense and  
3 subsequently committed under chapter 71.05 or 71.34 RCW.

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

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

26 (4) Local law enforcement agencies (~~and officials who decide to~~  
27 release)) that disseminate information pursuant to this section shall:  
28 (a) Review available risk level classifications made by the department  
29 of corrections, the department of social and health services, and the  
30 indeterminate sentence review board; (b) assign risk level  
31 classifications to all sex offenders about whom information will be  
32 disseminated; and (c) make a good faith effort to notify the public and  
33 residents at least fourteen days before the sex offender is released  
34 from confinement or, where an offender moves from another jurisdiction,  
35 as soon as possible after the agency learns of the offender's move,  
36 except that in no case may this notification provision be construed to  
37 require an extension of an offender's release date. (~~If a change~~  
38 occurs in the release plan, this notification provision will not  
39 require an extension of the release date. The department of

1 corrections and the department of social and health services shall  
2 provide local law enforcement officials with all relevant information  
3 on sex offenders about to be released or placed into the community in  
4 a timely manner. When a sex offender under county jurisdiction will be  
5 released from jail and will reside in a county other than the county of  
6 incarceration, the chief law enforcement officer of the jail, or his or  
7 her designee, shall notify the sheriff in the county where the offender  
8 will reside of the offender's release as provided in RCW 70.48.470.

9 ~~(3))~~ (5) An appointed or elected public official, public employee,  
10 or public agency as defined in RCW 4.24.470 is immune from civil  
11 liability for damages for any discretionary ((decision to release))  
12 risk level classification decisions ((and the)) or release of relevant  
13 and necessary information, unless it is shown that the official,  
14 employee, or agency acted with gross negligence or in bad faith. The  
15 ((authorization and)) immunity in this section applies to risk level  
16 classification decisions and the release of relevant and necessary  
17 information regarding~~((: (a) A person convicted of, or juvenile found~~  
18 ~~to have committed, a sex offense as defined by RCW 9.94A.030; (b) a~~  
19 ~~person found not guilty of a sex offense by reason of insanity under~~  
20 ~~chapter 10.77 RCW; (c) a person found incompetent to stand trial for a~~  
21 ~~sex offense and subsequently committed under chapter 71.05 or 71.34~~  
22 ~~RCW; (d) a person committed as a sexual psychopath under chapter 71.06~~  
23 ~~RCW; or (e) a person committed as a sexually violent predator under~~  
24 ~~chapter 71.09 RCW)) any individual for whom disclosure is authorized.~~  
25 The decision of a local law enforcement agency or official to classify  
26 a sex offender to a risk level other than the one assigned by the  
27 department of corrections, the department of social and health  
28 services, or the indeterminate sentence review board, or the release of  
29 any relevant and necessary information based on that different  
30 classification shall not, by itself, be considered gross negligence or  
31 bad faith. The immunity provided under this section applies to the  
32 release of relevant and necessary information to other public  
33 officials, public employees ((or officials)), or public agencies, and  
34 to the general public.

35 ~~((4))~~ (6) Except as may otherwise be provided by ((statute)) law,  
36 nothing in this section shall impose any liability upon a public  
37 official, public employee, or public agency for failing to release  
38 information ((as provided in subsections (2) and (3) of)) authorized  
39 under this section.

1       (~~(5)~~) (7) Nothing in this section implies that information  
2 regarding persons designated in subsection(~~(2) and (3)~~) (1) of this  
3 section is confidential except as may otherwise be provided by  
4 (~~statute~~) law.

5       (8) When a local law enforcement agency or official classifies a  
6 sex offender differently than the offender is classified by the  
7 department of corrections, the department of social and health  
8 services, or the indeterminate sentence review board, the law  
9 enforcement agency or official shall notify the appropriate department  
10 or the board and submit its reasons supporting the change in  
11 classification.

12       **Sec. 2.** RCW 13.40.217 and 1990 c 3 s 102 are each amended to read  
13 as follows:

14       (1) In addition to any other information required to be released  
15 under this chapter, the department is authorized, pursuant to RCW  
16 4.24.550, to release relevant information that is necessary to protect  
17 the public concerning juveniles adjudicated of sex offenses.

18       (2) In order for public agencies to have the information necessary  
19 for notifying the public about sex offenders as authorized in RCW  
20 4.24.550, the secretary shall issue to appropriate law enforcement  
21 agencies narrative notices regarding the pending release of sex  
22 offenders from the department's juvenile rehabilitation facilities.  
23 The narrative notices shall, at a minimum, describe the identity and  
24 criminal history behavior of the offender and shall include the  
25 department's risk level classification for the offender. For sex  
26 offenders classified as either risk level II or III, the narrative  
27 notices shall also include the reasons underlying the classification.

28       (3) For the purposes of this section, the department shall classify  
29 as risk level I those offenders whose risk assessments indicate a low  
30 risk of reoffense within the community at large. The department shall  
31 classify as risk level II those offenders whose risk assessments  
32 indicate a moderate risk of reoffense within the community at large.  
33 The department shall classify as risk level III those offenders whose  
34 risk assessments indicate a high risk of reoffense within the community  
35 at large.

36       **Sec. 3.** RCW 70.48.470 and 1996 c 215 s 2 are each amended to read  
37 as follows:

1 (1) A person having charge of a jail shall notify in writing any  
2 confined person who is in the custody of the jail for a conviction of  
3 a (~~sexual~~[sex]) sex offense as defined in RCW 9.94A.030 of the  
4 registration requirements of RCW 9A.44.130 at the time of the inmate's  
5 release from confinement, and shall obtain written acknowledgment of  
6 such notification. The person shall also obtain from the inmate the  
7 county of the inmate's residence upon release from jail and, where  
8 applicable, the city.

9 (2) (~~If an inmate convicted of a sexual offense will reside in a~~  
10 ~~county other than the county of incarceration upon release, the chief~~  
11 ~~law enforcement officer, or his or her designee, shall notify the~~  
12 ~~sheriff of the county where the inmate will reside of the inmate's~~  
13 ~~impending release. Notice shall be provided at least fourteen days~~  
14 ~~prior to the inmate's release, or if the release date is not known at~~  
15 ~~least fourteen days prior to release, notice shall be provided not~~  
16 ~~later than the day after the inmate's release)) When a sex offender  
17 under local government jurisdiction will reside in a county other than  
18 the county of conviction upon discharge or release, the chief law  
19 enforcement officer of the jail or his or her designee shall give  
20 notice of the inmate's discharge or release to the sheriff of the  
21 county and, where applicable, to the police chief of the city where the  
22 offender will reside.~~

23 NEW SECTION. Sec. 4. A new section is added to chapter 72.09 RCW  
24 to read as follows:

25 (1) In addition to any other information required to be released  
26 under this chapter, the department is authorized, pursuant to RCW  
27 4.24.550, to release relevant information that is necessary to protect  
28 the public concerning offenders convicted of sex offenses.

29 (2) In order for public agencies to have the information necessary  
30 to notify the public as authorized in RCW 4.24.550, the secretary shall  
31 establish and administer an end-of-sentence review committee for the  
32 purposes of assigning risk levels, reviewing available release plans,  
33 and making appropriate referrals for sex offenders. The committee  
34 shall assess, on a case-by-case basis, the public risk posed by sex  
35 offenders who are: (a) Preparing for their release from confinement  
36 for sex offenses committed on or after July 1, 1984; and (b) accepted  
37 from another state under a reciprocal agreement under the interstate  
38 compact authorized in chapter 72.74 RCW.

1 (3) Notwithstanding any other provision of law, the committee shall  
2 have access to all relevant records and information in the possession  
3 of public agencies relating to the offenders under review, including  
4 police reports; prosecutors' statements of probable cause; presentence  
5 investigations and reports; complete judgments and sentences; current  
6 classification referrals; criminal history summaries; violation and  
7 disciplinary reports; all psychological evaluations and psychiatric  
8 hospital reports; sex offender treatment program reports; and juvenile  
9 records. Records and information obtained under this subsection shall  
10 not be disclosed outside the committee unless otherwise authorized by  
11 law.

12 (4) The committee shall review each sex offender under its  
13 authority before the offender's release from confinement or start of  
14 the offender's term of community placement or community custody in  
15 order to: (a) Classify the offender into a risk level for the purposes  
16 of public notification under RCW 4.24.550; (b) where available, review  
17 the offender's proposed release plan in accordance with the  
18 requirements of RCW 72.09.340; and (c) make appropriate referrals.

19 (5) The committee shall classify as risk level I those sex  
20 offenders whose risk assessments indicate a low risk of reoffense  
21 within the community at large. The committee shall classify as risk  
22 level II those offenders whose risk assessments indicate a moderate  
23 risk of reoffense within the community at large. The committee shall  
24 classify as risk level III those offenders whose risk assessments  
25 indicate a high risk of reoffense within the community at large.

26 (6) The committee shall issue to appropriate law enforcement  
27 agencies, for their use in making public notifications under RCW  
28 4.24.550, narrative notices regarding the pending release of sex  
29 offenders from the department's facilities. The narrative notices  
30 shall, at a minimum, describe the identity and criminal history  
31 behavior of the offender and shall include the department's risk level  
32 classification for the offender. For sex offenders classified as  
33 either risk level II or III, the narrative notices shall also include  
34 the reasons underlying the classification.

35 **Sec. 5.** RCW 9.95.145 and 1990 c 3 s 127 are each amended to read  
36 as follows:

37 (1) In addition to any other information required to be released  
38 under this chapter, the indeterminate sentence review board may,

1 pursuant to RCW 4.24.550, release information concerning inmates under  
2 the jurisdiction of the indeterminate sentence review board who are  
3 convicted of sex offenses as defined in RCW 9.94A.030.

4 (2) In order for public agencies to have the information necessary  
5 for notifying the public about sex offenders as authorized in RCW  
6 4.24.550, the board shall issue to appropriate law enforcement agencies  
7 narrative notices regarding the pending release from confinement of sex  
8 offenders under the board's jurisdiction. The narrative notices shall,  
9 at a minimum, describe the identity and criminal history behavior of  
10 the offender. For sex offenders being discharged from custody on  
11 serving the maximum punishment provided by law or fixed by the court,  
12 the narrative notices shall also include the board's risk level  
13 classification for the offender and the reasons underlying the  
14 classification.

15 (3) For the purposes of this section, the board shall classify as  
16 risk level I those offenders whose risk assessments indicate a low risk  
17 of reoffense within the community at large. The board shall classify  
18 as risk level II those offenders whose risk assessments indicate a  
19 moderate risk of reoffense within the community at large. The board  
20 shall classify as risk level III those offenders whose risk assessments  
21 indicate a high risk of reoffense within the community at large.

22 NEW SECTION. Sec. 6. (1) By December 1, 1997, the Washington  
23 association of sheriffs and police chiefs shall develop a model policy  
24 for law enforcement agencies to follow when they disclose information  
25 about sex offenders to the public under RCW 4.24.550. The model policy  
26 shall be designed to further the objectives of providing adequate  
27 notice to the community concerning sex offenders who are or will be  
28 residing in the community and of assisting community members in  
29 developing constructive plans to prepare themselves and their children  
30 for residing near released sex offenders.

31 (2) In developing the policy, the association shall consult with  
32 representatives of the following agencies and professions: (a) The  
33 department of corrections; (b) the department of social and health  
34 services; (c) the indeterminate sentence review board; (d) the  
35 Washington state council of police officers; (e) local correctional  
36 agencies; (f) the Washington association of prosecuting attorneys; (g)  
37 the Washington public defender association; (h) the Washington

1 association for the treatment of sexual abusers; and (i) victim  
2 advocates.

3 (3) The model policy shall, at a minimum, include recommendations  
4 to address the following issues: (a) Procedures for local agencies or  
5 officials to accomplish the notifications required under RCW  
6 4.24.550(8); (b) contents and form of community notification documents,  
7 including ways of protecting the privacy of victims of the offenders'  
8 crimes; (c) methods of distributing community notification documents;  
9 (d) methods of providing follow-up notifications to community residents  
10 at specified intervals and of disclosing information about offenders to  
11 law enforcement agencies in other jurisdictions if necessary to protect  
12 the public; (e) methods of educating community residents at public  
13 meetings on how they can use the information in the notification  
14 document in a reasonable manner to enhance their individual and  
15 collective safety; (f) procedures for educating community members  
16 regarding the right of sex offenders not to be the subject of  
17 harassment or criminal acts as a result of the notification process;  
18 and (g) other matters the Washington association of sheriffs and police  
19 chiefs deems necessary to ensure the effective and fair administration  
20 of RCW 4.24.550.

21 NEW SECTION. **Sec. 7.** (1) The department of corrections, the  
22 department of social and health services, and the indeterminate  
23 sentence review board shall jointly develop, by September 1, 1997, a  
24 consistent approach to risk assessment for the purposes of implementing  
25 this act, including consistent standards for classifying sex offenders  
26 into risk levels I, II, and III.

27 (2) The department of social and health services, the department of  
28 corrections, and the indeterminate sentence review board shall each  
29 prepare and deliver to the legislature, by December 1, 1998, a report  
30 indicating the number of sex offenders released after the effective  
31 date of this section and classified in each level of risk category.  
32 The reports shall also include information on the number,  
33 jurisdictions, and circumstances where the risk level classification  
34 made by a local law enforcement agency or official for specific sex  
35 offenders differed from the risk level classification made by the  
36 department or the indeterminate sentence review board for the same  
37 offender.



1        NEW SECTION.    **Sec. 8.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

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