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SENATE BILL 5759

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State of Washington

55th Legislature

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By Senators Long, Hargrove, Zarelli, Franklin, Winsley, Oke and Roach

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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; (b) the locations where the offender resides,  
7 expects to reside, or is regularly found; and (c) the needs of the  
8 affected community members for information to enhance their individual  
9 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 general public.

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

1 social and health services shall provide local law enforcement  
2 officials with all relevant information on sex offenders about to be  
3 released or placed into the community in a timely manner. When a sex  
4 offender under county jurisdiction will be released from jail and will  
5 reside in a county other than the county of incarceration, the chief  
6 law enforcement officer of the jail, or his or her designee, shall  
7 notify the sheriff in the county where the offender will reside of the  
8 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 risk  
12 level classification decisions and the release of relevant and  
13 necessary information, unless it is shown that the official, employee,  
14 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(~~(s (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 agency or  
9 official shall notify the appropriate department or the board and  
10 submit its reasons supporting the change in classification.

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

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

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

26       (3) For the purposes of this section, the department shall classify  
27 as risk level I those offenders whose risk assessments indicate a low  
28 risk of reoffense. The department shall classify as risk level II  
29 those offenders whose risk assessments indicate a moderate risk of  
30 reoffense. The department shall classify as risk level III those  
31 offenders whose risk assessments indicate a high risk of reoffense.

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

34       (1) A person having charge of a jail shall notify in writing any  
35 confined person who is in the custody of the jail for a conviction of  
36 a (~~(sexual-[sex])~~) sex offense as defined in RCW 9.94A.030 of the  
37 registration requirements of RCW 9A.44.130 at the time of the inmate's

1 release from confinement, and shall obtain written acknowledgment of  
2 such notification. The person shall also obtain from the inmate the  
3 county of the inmate's residence upon release from jail and, where  
4 applicable, the city.

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

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

21 (1) In addition to any other information required to be released  
22 under this chapter, the department is authorized, pursuant to RCW  
23 4.24.550, to release relevant information that is necessary to protect  
24 the public concerning offenders convicted of sex offenses.

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

34 (3) Notwithstanding any other provision of law, the committee shall  
35 have access to all relevant records and information in the possession  
36 of public agencies relating to the offenders under review, including  
37 police reports; prosecutors' statements of probable cause; presentence  
38 investigations and reports; complete judgments and sentences; current

1 classification referrals; criminal history summaries; violation and  
2 disciplinary reports; all psychological evaluations and psychiatric  
3 hospital reports; sex offender treatment program reports; and juvenile  
4 records. Records and information obtained under this subsection shall  
5 not be disclosed outside the committee unless otherwise authorized by  
6 law.

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

14 (5) The committee shall classify as risk level I those sex  
15 offenders whose risk assessments indicate a low risk of reoffense. The  
16 committee shall classify as risk level II those offenders whose risk  
17 assessments indicate a moderate risk of reoffense. The committee shall  
18 classify as risk level III those offenders whose risk assessments  
19 indicate a high risk of reoffense.

20 (6) The committee shall issue to appropriate law enforcement  
21 agencies, for their use in making public notifications under RCW  
22 4.24.550 narrative notices regarding the pending release of sex  
23 offenders from the department's facilities. The narrative notices  
24 shall, at a minimum, describe the identity and criminal history  
25 behavior of the offender and shall include the department's risk level  
26 classification for the offender and the reasons underlying the  
27 classification.

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

30 (1) In addition to any other information required to be released  
31 under this chapter, the indeterminate sentence review board may,  
32 pursuant to RCW 4.24.550, release information concerning inmates under  
33 the jurisdiction of the indeterminate sentence review board who are  
34 convicted of sex offenses as defined in RCW 9.94A.030.

35 (2) In order for public agencies to have the information necessary  
36 for notifying the public about sex offenders as authorized in RCW  
37 4.24.550, the board shall issue to appropriate law enforcement agencies  
38 narrative notices regarding the pending release of sex offenders from

1 the department of corrections' facilities. The narrative notices  
2 shall, at a minimum, describe the identity and criminal history  
3 behavior of the offender and shall include the board's risk level  
4 classification for the offender and the reasons underlying the  
5 classification.

6 (3) For the purposes of this section, the board shall classify as  
7 risk level I those offenders whose risk assessments indicate a low risk  
8 of reoffense. The board shall classify as risk level II those  
9 offenders whose risk assessments indicate a moderate risk of reoffense.  
10 The board shall classify as risk level III those offenders whose risk  
11 assessments indicate a high risk of reoffense.

12 NEW SECTION. Sec. 6. (1) By December 1, 1997, the Washington  
13 association of sheriffs and police chiefs shall develop a model policy  
14 for law enforcement agencies to follow when they disclose information  
15 about sex offenders to the public under RCW 4.24.550. The model policy  
16 shall be designed to further the objectives of providing adequate  
17 notice to the community concerning sex offenders who are or will be  
18 residing in the community and of assisting community members in  
19 developing constructive plans to prepare themselves and their children  
20 for residing near released sex offenders.

21 (2) In developing the policy, the association shall consult with  
22 representatives of the following agencies and professions: (a) The  
23 department of corrections; (b) the department of social and health  
24 services; (c) the indeterminate sentence review board; (d) the  
25 Washington state council of police officers; (e) local correctional  
26 agencies; (f) the Washington association of prosecuting attorneys; (g)  
27 the Washington public defender association; (h) the Washington  
28 association for the treatment of sexual abusers; and (i) victim  
29 advocates.

30 (3) The model policy shall, at a minimum, include recommendations  
31 to address the following issues: (a) Contents and form of community  
32 notification documents, including ways of protecting the privacy of  
33 victims of the offenders' crimes; (b) methods of distributing community  
34 notification documents; (c) methods of providing follow-up  
35 notifications to community residents at specified intervals and of  
36 disclosing information about offenders to law enforcement agencies in  
37 other jurisdictions if necessary to protect the public; (d) methods of  
38 educating community residents at public meetings on how they can use

1 the information in the notification document in a reasonable manner to  
2 enhance their individual and collective safety; (e) procedures for  
3 educating community members regarding the right of sex offenders not to  
4 be the subject of harassment or criminal acts as a result of the  
5 notification process; (f) procedures for local agencies or officials to  
6 accomplish the notifications required under RCW 4.24.550(8); and (g)  
7 other matters the Washington association of sheriffs and police chiefs  
8 deems necessary to ensure the effective and fair administration of RCW  
9 4.24.550.

10 NEW SECTION. **Sec. 7.** The department of social and health  
11 services, the department of corrections, and the indeterminate sentence  
12 review board shall each prepare and deliver to the legislature, by  
13 December 1, 1998, a report indicating the number of sex offenders  
14 released after the effective date of this section and classified in  
15 each level of risk category. The reports shall also include  
16 information on the number, jurisdictions, and circumstances where the  
17 risk level classification made by a local law enforcement agency or  
18 official for specific sex offenders differed from the risk level  
19 classification made by the department or the indeterminate sentence  
20 review board for the same offender.

21 NEW SECTION. **Sec. 8.** If any provision of this act or its  
22 application to any person or circumstance is held invalid, the  
23 remainder of the act or the application of the provision to other  
24 persons or circumstances is not affected.

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