

2 **ESHB 1004** - S AMD - 544

3 By Senators Hargrove, Long and Costa

4 ADOPTED 5/19/99

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

7 "NEW SECTION. **Sec. 1.** It is the intent of this act to revise the  
8 law on registration of sex and kidnapping offenders in response to the  
9 case of *State v. Pickett*, Docket number 41562-0-I. The legislature  
10 intends that all sex and kidnapping offenders whose history requires  
11 them to register shall do so regardless of whether the person has a  
12 fixed residence. The lack of a residential address is not to be  
13 construed to preclude registration as a sex or kidnapping offender.  
14 The legislature intends that persons who lack a residential address  
15 shall have an affirmative duty to report to the appropriate county  
16 sheriff, based on the level of risk of offending.

17 **Sec. 2.** RCW 9A.44.130 and 1998 c 220 s 1 and 1998 c 139 s 1 are  
18 each reenacted and amended to read as follows:

19 (1) Any adult or juvenile residing whether or not the person has a  
20 fixed residence, or who is a student, is employed, or carries on a  
21 vocation in this state who has been found to have committed or has been  
22 convicted of any sex offense or kidnapping offense, or who has been  
23 found not guilty by reason of insanity under chapter 10.77 RCW of  
24 committing any sex offense or kidnapping offense, shall register with  
25 the county sheriff for the county of the person's residence, or if the  
26 person is not a resident of Washington, the county of the person's  
27 school, or place of employment or vocation, or as otherwise specified  
28 in this section. Where a person required to register under this  
29 section is in custody of the state department of corrections, the state  
30 department of social and health services, a local division of youth  
31 services, or a local jail or juvenile detention facility as a result of  
32 a sex offense or kidnapping offense, the person shall also register at  
33 the time of release from custody with an official designated by the  
34 agency that has jurisdiction over the person. In addition, any such  
35 adult or juvenile who is admitted to a public or private institution of

1 higher education shall, within ten days of enrolling or by the first  
2 business day after arriving at the institution, whichever is earlier,  
3 notify the sheriff for the county of the person's residence of the  
4 person's intent to attend the institution. Persons required to  
5 register under this section who are enrolled in a public or private  
6 institution of higher education on June 11, 1998, must notify the  
7 county sheriff immediately. The sheriff shall notify the institution's  
8 department of public safety and shall provide that department with the  
9 same information provided to a county sheriff under subsection (3) of  
10 this section.

11 (2) This section may not be construed to confer any powers pursuant  
12 to RCW 4.24.500 upon the public safety department of any public or  
13 private institution of higher education.

14 (3)(a) The person shall provide the following information when  
15 registering: ~~((a))~~ (i) Name; ~~((b))~~ (ii) address; ~~((c))~~ (iii)  
16 date and place of birth; ~~((d))~~ (iv) place of employment; ~~((e))~~ (v)  
17 crime for which convicted; ~~((f))~~ (vi) date and place of conviction;  
18 ~~((g))~~ (vii) aliases used; ~~((h))~~ (viii) social security number;  
19 ~~((i))~~ (ix) photograph; and ~~((j))~~ (x) fingerprints.

20 (b) Any person who lacks a fixed residence shall provide the  
21 following information when registering: (i) Name; (ii) date and place  
22 of birth; (iii) place of employment; (iv) crime for which convicted;  
23 (v) date and place of conviction; (vi) aliases used; (vii) social  
24 security number; (viii) photograph; (ix) fingerprints; and (x) where he  
25 or she plans to stay.

26 (4)(a) Offenders shall register with the county sheriff within the  
27 following deadlines. For purposes of this section the term  
28 "conviction" refers to adult convictions and juvenile adjudications for  
29 sex offenses or kidnapping offenses:

30 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex  
31 offense on, before, or after February 28, 1990, and who, on or after  
32 July 28, 1991, are in custody, as a result of that offense, of the  
33 state department of corrections, the state department of social and  
34 health services, a local division of youth services, or a local jail or  
35 juvenile detention facility, and (B) kidnapping offenders who on or  
36 after July 27, 1997, are in custody of the state department of  
37 corrections, the state department of social and health services, a  
38 local division of youth services, or a local jail or juvenile detention  
39 facility, must register at the time of release from custody with an

1 official designated by the agency that has jurisdiction over the  
2 offender. The agency shall within three days forward the registration  
3 information to the county sheriff for the county of the offender's  
4 anticipated residence. The offender must also register within twenty-  
5 four hours from the time of release with the county sheriff for the  
6 county of the person's residence, or if the person is not a resident of  
7 Washington, the county of the person's school, or place of employment  
8 or vocation. The agency that has jurisdiction over the offender shall  
9 provide notice to the offender of the duty to register. Failure to  
10 register at the time of release and within twenty-four hours of release  
11 constitutes a violation of this section and is punishable as provided  
12 in subsection (~~((9))~~) (10) of this section.

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

23       (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL  
24 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody  
25 but are under the jurisdiction of the indeterminate sentence review  
26 board or under the department of correction's active supervision, as  
27 defined by the department of corrections, the state department of  
28 social and health services, or a local division of youth services, for  
29 sex offenses committed before, on, or after February 28, 1990, must  
30 register within ten days of July 28, 1991. Kidnapping offenders who,  
31 on July 27, 1997, are not in custody but are under the jurisdiction of  
32 the indeterminate sentence review board or under the department of  
33 correction's active supervision, as defined by the department of  
34 corrections, the state department of social and health services, or a  
35 local division of youth services, for kidnapping offenses committed  
36 before, on, or after July 27, 1997, must register within ten days of  
37 July 27, 1997. A change in supervision status of a sex offender who  
38 was required to register under this subsection (4)(a)(ii) as of July  
39 28, 1991, or a kidnapping offender required to register as of July 27,

1 1997, shall not relieve the offender of the duty to register or to  
2 reregister following a change in residence. The obligation to register  
3 shall only cease pursuant to RCW 9A.44.140.

4 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on  
5 or after July 23, 1995, and kidnapping offenders who, on or after July  
6 27, 1997, as a result of that offense are in the custody of the United  
7 States bureau of prisons or other federal or military correctional  
8 agency for sex offenses committed before, on, or after February 28,  
9 1990, or kidnapping offenses committed on, before, or after July 27,  
10 1997, must register within twenty-four hours from the time of release  
11 with the county sheriff for the county of the person's residence, or if  
12 the person is not a resident of Washington, the county of the person's  
13 school, or place of employment or vocation. Sex offenders who, on July  
14 23, 1995, are not in custody but are under the jurisdiction of the  
15 United States bureau of prisons, United States courts, United States  
16 parole commission, or military parole board for sex offenses committed  
17 before, on, or after February 28, 1990, must register within ten days  
18 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not  
19 in custody but are under the jurisdiction of the United States bureau  
20 of prisons, United States courts, United States parole commission, or  
21 military parole board for kidnapping offenses committed before, on, or  
22 after July 27, 1997, must register within ten days of July 27, 1997.  
23 A change in supervision status of a sex offender who was required to  
24 register under this subsection (4)(a)(iii) as of July 23, 1995, or a  
25 kidnapping offender required to register as of July 27, 1997 shall not  
26 relieve the offender of the duty to register or to reregister following  
27 a change in residence, or if the person is not a resident of  
28 Washington, the county of the person's school, or place of employment  
29 or vocation. The obligation to register shall only cease pursuant to  
30 RCW 9A.44.140.

31 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders  
32 who are convicted of a sex offense on or after July 28, 1991, for a sex  
33 offense that was committed on or after February 28, 1990, and  
34 kidnapping offenders who are convicted on or after July 27, 1997, for  
35 a kidnapping offense that was committed on or after July 27, 1997, but  
36 who are not sentenced to serve a term of confinement immediately upon  
37 sentencing, shall report to the county sheriff to register immediately  
38 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 ~~((+9))~~ (10) of  
8 this section.

9 (vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks  
10 a fixed residence and leaves the county in which he or she is  
11 registered and enters and remains within a new county for twenty-four  
12 hours is required to register with the county sheriff not more than  
13 twenty-four hours after entering the county and provide the information  
14 required in subsection (3)(b) of this section.

15 (viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER  
16 SUPERVISION. Offenders who lack a fixed residence and who are under  
17 the supervision of the department shall register in the county of their  
18 supervision.

19 (b) Failure to register within the time required under this section  
20 constitutes a per se violation of this section and is punishable as  
21 provided in subsection ~~((+9))~~ (10) of this section. The county  
22 sheriff shall not be required to determine whether the person is living  
23 within the county.

24 (c) An arrest on charges of failure to register, service of an  
25 information, or a complaint for a violation of this section, or  
26 arraignment on charges for a violation of this section, constitutes  
27 actual notice of the duty to register. Any person charged with the  
28 crime of failure to register under this section who asserts as a  
29 defense the lack of notice of the duty to register shall register  
30 immediately following actual notice of the duty through arrest,  
31 service, or arraignment. Failure to register as required under this  
32 subsection (4)(c) constitutes grounds for filing another charge of  
33 failing to register. Registering following arrest, service, or  
34 arraignment on charges shall not relieve the offender from criminal  
35 liability for failure to register prior to the filing of the original  
36 charge.

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

1 (5)(a) If any person required to register pursuant to this section  
2 changes his or her residence address within the same county, the person  
3 must send written notice of the change of address to the county sheriff  
4 within seventy-two hours of moving. If any person required to register  
5 pursuant to this section moves to a new county, the person must send  
6 written notice of the change of address at least fourteen days before  
7 moving to the county sheriff in the new county of residence and must  
8 register with that county sheriff within twenty-four hours of moving.  
9 The person must also send written notice within ten days of the change  
10 of address in the new county to the county sheriff with whom the person  
11 last registered. The county sheriff with whom the person last  
12 registered shall promptly forward the information concerning the change  
13 of address to the county sheriff for the county of the person's new  
14 residence. If any person required to register pursuant to this section  
15 moves out of Washington state, the person must also send written notice  
16 within ten days of moving to the new state or a foreign country to the  
17 county sheriff with whom the person last registered in Washington  
18 state. Upon receipt of notice of change of address to a new state, the  
19 county sheriff shall promptly forward the information regarding the  
20 change of address to the agency designated by the new state as the  
21 state's offender registration agency.

22 (b) It is an affirmative defense to a charge that the person failed  
23 to send a notice at least fourteen days in advance of moving as  
24 required under (a) of this subsection that the person did not know the  
25 location of his or her new residence at least fourteen days before  
26 moving. The defendant must establish the defense by a preponderance of  
27 the evidence and, to prevail on the defense, must also prove by a  
28 preponderance that the defendant sent the required notice within  
29 twenty-four hours of determining the new address.

30 (6)(a) Any person required to register under this section who lacks  
31 a fixed residence shall provide written notice to the sheriff of the  
32 county where he or she last registered within fourteen days after  
33 ceasing to have a fixed residence. The notice shall include the  
34 information required by subsection (3)(b) of this section, except the  
35 photograph and fingerprints. The county sheriff may, for reasonable  
36 cause, require the offender to provide a photograph and fingerprints.  
37 The sheriff shall forward this information to the sheriff of the county  
38 in which the person intends to reside, if the person intends to reside  
39 in another county.

1 (b) A person who lacks a fixed residence must report in person to  
2 the sheriff of the county where he or she is registered. If he or she  
3 has been classified as a risk level I sex or kidnapping offender, he or  
4 she must report monthly. If he or she has been classified as a risk  
5 level II or III sex or kidnapping offender, he or she must report  
6 weekly. The lack of a fixed residence is a factor that may be  
7 considered in determining a sex offender's risk level.

8 (c) If any person required to register pursuant to this section  
9 does not have a fixed residence, it is an affirmative defense to the  
10 charge of failure to register, that he or she provided written notice  
11 to the sheriff of the county where he or she last registered within  
12 fourteen days after ceasing to have a fixed residence and has  
13 subsequently complied with the requirements of subsections (4)(a)(vii)  
14 or (viii) and (6) of this section. To prevail, the person must prove  
15 the defense by a preponderance of the evidence.

16 (7) A sex offender subject to registration requirements under this  
17 section who applies to change his or her name under RCW 4.24.130 or any  
18 other law shall submit a copy of the application to the county sheriff  
19 of the county of the person's residence and to the state patrol not  
20 fewer than five days before the entry of an order granting the name  
21 change. No sex offender under the requirement to register under this  
22 section at the time of application shall be granted an order changing  
23 his or her name if the court finds that doing so will interfere with  
24 legitimate law enforcement interests, except that no order shall be  
25 denied when the name change is requested for religious or legitimate  
26 cultural reasons or in recognition of marriage or dissolution of  
27 marriage. A sex offender under the requirement to register under this  
28 section who receives an order changing his or her name shall submit a  
29 copy of the order to the county sheriff of the county of the person's  
30 residence and to the state patrol within five days of the entry of the  
31 order.

32 ~~((+7))~~ (8) The county sheriff shall obtain a photograph of the  
33 individual and shall obtain a copy of the individual's fingerprints.

34 ~~((+8))~~ (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,  
35 70.48.470, and 72.09.330:

36 (a) "Sex offense" means any offense defined as a sex offense by RCW  
37 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation of a  
38 minor), 9.68A.050 (dealing in depictions of minor engaged in sexually  
39 explicit conduct), 9.68A.060 (sending, bringing into state depictions



1 of minor engaged in sexually explicit conduct), 9.68A.090  
2 (communication with minor for immoral purposes), 9.68A.100 (patronizing  
3 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in  
4 the second degree), as well as any gross misdemeanor that is, under  
5 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or  
6 criminal conspiracy to commit an offense that is classified as a sex  
7 offense under RCW 9.94A.030.

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

12 (c) "Employed" or "carries on a vocation" means employment that is  
13 full-time or part-time for a period of time exceeding fourteen days, or  
14 for an aggregate period of time exceeding thirty days during any  
15 calendar year. A person is employed or carries on a vocation whether  
16 the person's employment is financially compensated, volunteered, or for  
17 the purpose of government or educational benefit.

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

22 ~~((+9))~~ (10) A person who knowingly fails to register with the  
23 county sheriff or notify the county sheriff, or who changes his or her  
24 name without notifying the county sheriff and the state patrol, as  
25 required by this section is guilty of a class C felony if the crime for  
26 which the individual was convicted was a felony or a federal or out-of-  
27 state conviction for an offense that under the laws of this state would  
28 be a felony. If the crime was other than a felony or a federal or out-  
29 of-state conviction for an offense that under the laws of this state  
30 would be other than a felony, violation of this section is a gross  
31 misdemeanor.

32 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
33 preservation of the public peace, health, or safety, or support of the  
34 state government and its existing public institutions, and takes effect  
35 immediately."

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4 On page 1, line 1 of the title, after "offenders;" strike the  
5 remainder of the title and insert "reenacting and amending RCW  
6 9A.44.130; creating a new section; and declaring an emergency."

--- END ---