
ENGROSSED SUBSTITUTE HOUSE BILL 1004

State of Washington 56th Legislature 1999 1 Special Session

By House Committee on Appropriations (originally sponsored by Representatives Ballasiotes, O'Brien, Benson, Radcliff, Mitchell, Quall, Dickerson, Cairnes, Morris, Hurst, Campbell, Koster, Bush, Mulliken, Kastama, Miloscia, Conway, Esser, Scott, McIntire, Kessler, Keiser, Mielke, Carrell, McDonald, Dunn, Kenney, Ogden, Schoesler, Rockefeller and Wood)

Read first time 03/05/1999.

1 AN ACT Relating to transient sex offenders; and reenacting and
2 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 1998 c 220 s 1 and 1998 c 139 s 1 are
5 each reenacted and amended to read as follows:

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

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

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

13 (3) The person shall provide the following information when
14 registering: (a) Name; (b) address; (c) date and place of birth; (d)
15 place of employment; (e) crime for which convicted; (f) date and place
16 of conviction; (g) aliases used; (h) social security number; (i)
17 photograph; and (j) fingerprints.

18 (4) Any person who lacks a fixed residence shall be deemed to
19 reside in any county where the person is physically present. Such
20 person shall report in person to the county sheriff's office within
21 twenty-four hours after entering the county. Thereafter, the person
22 shall report in person monthly, if he or she has been classified as a
23 risk level I sex offender, or weekly, if the person has been classified
24 as a risk level II or III sex offender. When reporting, the person
25 shall provide the information set out in subsection (3) of this section
26 and shall additionally state where he or she plans to stay. The lack
27 of a fixed residence is a factor to be considered in determining a sex
28 offender's risk level.

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

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

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

16 When the agency with jurisdiction intends to release an offender
17 with a duty to register under this section, and the agency has
18 knowledge that the offender is eligible for developmental disability
19 services from the department of social and health services, the agency
20 shall notify the division of developmental disabilities of the release.
21 Notice shall occur not more than thirty days before the offender is to
22 be released. The agency and the division shall assist the offender in
23 meeting the initial registration requirement under this section.
24 Failure to provide such assistance shall not constitute a defense for
25 any violation of this 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 (~~((4))~~) (5)(a)(ii) as of
3 July 28, 1991, or a kidnapping offender required to register as of July
4 27, 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, or if
15 the person is not a resident of Washington, the county of the person's
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 (~~((4))~~) (5)(a)(iii) as of July 23, 1995,
28 or a kidnapping offender required to register as of July 27, 1997 shall
29 not relieve the offender of the duty to register or to reregister
30 following a change in residence, or if the person is not a resident of
31 Washington, the county of the person's school, or place of employment
32 or vocation. The obligation to register shall only cease pursuant to
33 RCW 9A.44.140.

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

1 sentencing, shall report to the county sheriff to register immediately
2 upon completion of being sentenced.

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

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

1 of committing a kidnapping offense but who was released before July 27,
2 1997, shall be required to register within twenty-four hours of
3 receiving notice of this registration requirement. The state
4 department of social and health services shall make reasonable attempts
5 within available resources to notify sex offenders who were released
6 before July 23, 1995, and kidnapping offenders who were released before
7 July 27, 1997. Failure to register within twenty-four hours of
8 release, or of receiving notice, constitutes a violation of this
9 section and is punishable as provided in subsection (~~(+9)~~) (10) of
10 this section.

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

16 (c) An arrest on charges of failure to register, service of an
17 information, or a complaint for a violation of this section, or
18 arraignment on charges for a violation of this section, constitutes
19 actual notice of the duty to register. Any person charged with the
20 crime of failure to register under this section who asserts as a
21 defense the lack of notice of the duty to register shall register
22 immediately following actual notice of the duty through arrest,
23 service, or arraignment. Failure to register as required under this
24 subsection (~~(+4)~~) (5)(c) constitutes grounds for filing another charge
25 of failing to register. Registering following arrest, service, or
26 arraignment on charges shall not relieve the offender from criminal
27 liability for failure to register prior to the filing of the original
28 charge.

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

32 (~~(+5)~~) (6)(a) If any person required to register pursuant to this
33 section changes his or her residence address within the same county,
34 the person must send written notice of the change of address to the
35 county sheriff within seventy-two hours of moving. If any person
36 required to register pursuant to this section moves to a new county,
37 the person must send written notice of the change of address at least
38 fourteen days before moving to the county sheriff in the new county of
39 residence and must register with that county sheriff within twenty-four

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

14 (b) If any person required to register pursuant to this section
15 ceases to have a fixed residence, he or she shall provide written
16 notice to the sheriff of the county where he or she last registered
17 within fourteen days after ceasing to have a fixed residence. The
18 notice shall include the information required by subsection (3) of this
19 section. The sheriff shall forward this information to the sheriff of
20 the county in which the offender intends to be physically present.

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

32 ~~((6))~~ (7) A sex offender subject to registration requirements
33 under this section who applies to change his or her name under RCW
34 4.24.130 or any other law shall submit a copy of the application to the
35 county sheriff of the county of the person's residence and to the state
36 patrol not fewer than five days before the entry of an order granting
37 the name change. No sex offender under the requirement to register
38 under this section at the time of application shall be granted an order
39 changing his or her name if the court finds that doing so will

1 interfere with legitimate law enforcement interests, except that no
2 order shall be denied when the name change is requested for religious
3 or legitimate cultural reasons or in recognition of marriage or
4 dissolution of marriage. A sex offender under the requirement to
5 register under this section who receives an order changing his or her
6 name shall submit a copy of the order to the county sheriff of the
7 county of the person's residence and to the state patrol within five
8 days of the entry of the order.

9 ~~((+7))~~ (8) The county sheriff shall obtain a photograph of the
10 individual and shall obtain a copy of the individual's fingerprints.

11 ~~((+8))~~ (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
12 70.48.470, and 72.09.330:

13 (a) "Sex offense" means any offense defined as a sex offense by RCW
14 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation of a
15 minor), 9.68A.050 (dealing in depictions of minor engaged in sexually
16 explicit conduct), 9.68A.060 (sending, bringing into state depictions
17 of minor engaged in sexually explicit conduct), 9.68A.090
18 (communication with minor for immoral purposes), 9.68A.100 (patronizing
19 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in
20 the second degree), as well as any gross misdemeanor that is, under
21 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or
22 criminal conspiracy to commit an offense that is classified as a sex
23 offense under RCW 9.94A.030.

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

28 (c) "Employed" or "carries on a vocation" means employment that is
29 full-time or part-time for a period of time exceeding fourteen days, or
30 for an aggregate period of time exceeding thirty days during any
31 calendar year. A person is employed or carries on a vocation whether
32 the person's employment is financially compensated, volunteered, or for
33 the purpose of government or educational benefit.

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

38 ~~((+9))~~ (10) A person who knowingly fails to register with the
39 county sheriff or notify the county sheriff, or who changes his or her

1 name without notifying the county sheriff and the state patrol, as
2 required by this section is guilty of a class C felony if the crime for
3 which the individual was convicted was a felony or a federal or out-of-
4 state conviction for an offense that under the laws of this state would
5 be a felony. If the crime was other than a felony or a federal or out-
6 of-state conviction for an offense that under the laws of this state
7 would be other than a felony, violation of this section is a gross
8 misdemeanor.

--- END ---