

CERTIFICATION OF ENROLLMENT  
ENGROSSED SUBSTITUTE HOUSE BILL 1004

56th Legislature  
1999 1<sup>st</sup> Special Session

Passed by the House May 19, 1999  
Yeas 94 Nays 0

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**Speaker of the House of Representatives**

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**Speaker of the House of Representatives**

Passed by the Senate May 19, 1999  
Yeas 47 Nays 0

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**President of the Senate**

Approved

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1004** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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ENGROSSED SUBSTITUTE HOUSE BILL 1004

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AS AMENDED BY THE SENATE

Passed Legislature - 1999 1st Special Session

State of Washington                      56th Legislature                      1999 1st 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; reenacting and amending  
2 RCW 9A.44.130; creating a new section; and declaring an emergency.

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

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

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

16            (1) Any adult or juvenile residing whether or not the person has a  
17 fixed residence, or who is a student, is employed, or carries on a

1 vocation in this state who has been found to have committed or has been  
2 convicted of any sex offense or kidnapping offense, or who has been  
3 found not guilty by reason of insanity under chapter 10.77 RCW of  
4 committing any sex offense or kidnapping offense, shall register with  
5 the county sheriff for the county of the person's residence, or if the  
6 person is not a resident of Washington, the county of the person's  
7 school, or place of employment or vocation, or as otherwise specified  
8 in this section. Where a person required to register under this  
9 section is in custody of the state department of corrections, the state  
10 department of social and health services, a local division of youth  
11 services, or a local jail or juvenile detention facility as a result of  
12 a sex offense or kidnapping offense, the person shall also register at  
13 the time of release from custody with an official designated by the  
14 agency that has jurisdiction over the person. In addition, any such  
15 adult or juvenile who is admitted to a public or private institution of  
16 higher education shall, within ten days of enrolling or by the first  
17 business day after arriving at the institution, whichever is earlier,  
18 notify the sheriff for the county of the person's residence of the  
19 person's intent to attend the institution. Persons required to  
20 register under this section who are enrolled in a public or private  
21 institution of higher education on June 11, 1998, must notify the  
22 county sheriff immediately. The sheriff shall notify the institution's  
23 department of public safety and shall provide that department with the  
24 same information provided to a county sheriff under subsection (3) of  
25 this section.

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

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

35 (b) Any person who lacks a fixed residence shall provide the  
36 following information when registering: (i) Name; (ii) date and place  
37 of birth; (iii) place of employment; (iv) crime for which convicted;  
38 (v) date and place of conviction; (vi) aliases used; (vii) social

1 security number; (viii) photograph; (ix) fingerprints; and (x) where he  
2 or she plans to stay.

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

7 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex  
8 offense on, before, or after February 28, 1990, and who, on or after  
9 July 28, 1991, are in custody, as a result of that offense, of the  
10 state department of corrections, the state department of social and  
11 health services, a local division of youth services, or a local jail or  
12 juvenile detention facility, and (B) kidnapping offenders who on or  
13 after July 27, 1997, are in custody of the state department of  
14 corrections, the state department of social and health services, a  
15 local division of youth services, or a local jail or juvenile detention  
16 facility, must register at the time of release from custody with an  
17 official designated by the agency that has jurisdiction over the  
18 offender. The agency shall within three days forward the registration  
19 information to the county sheriff for the county of the offender's  
20 anticipated residence. The offender must also register within twenty-  
21 four hours from the time of release with the county sheriff for the  
22 county of the person's residence, or if the person is not a resident of  
23 Washington, the county of the person's school, or place of employment  
24 or vocation. The agency that has jurisdiction over the offender shall  
25 provide notice to the offender of the duty to register. Failure to  
26 register at the time of release and within twenty-four hours of release  
27 constitutes a violation of this section and is punishable as provided  
28 in subsection (~~((9))~~) (10) of this section.

29 When the agency with jurisdiction intends to release an offender  
30 with a duty to register under this section, and the agency has  
31 knowledge that the offender is eligible for developmental disability  
32 services from the department of social and health services, the agency  
33 shall notify the division of developmental disabilities of the release.  
34 Notice shall occur not more than thirty days before the offender is to  
35 be released. The agency and the division shall assist the offender in  
36 meeting the initial registration requirement under this section.  
37 Failure to provide such assistance shall not constitute a defense for  
38 any violation of this section.

1 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL  
2 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody  
3 but are under the jurisdiction of the indeterminate sentence review  
4 board or under the department of correction's active supervision, as  
5 defined by the department of corrections, the state department of  
6 social and health services, or a local division of youth services, for  
7 sex offenses committed before, on, or after February 28, 1990, must  
8 register within ten days of July 28, 1991. Kidnapping offenders who,  
9 on July 27, 1997, are not in custody but are under the jurisdiction of  
10 the indeterminate sentence review board or under the department of  
11 correction's active supervision, as defined by the department of  
12 corrections, the state department of social and health services, or a  
13 local division of youth services, for kidnapping offenses committed  
14 before, on, or after July 27, 1997, must register within ten days of  
15 July 27, 1997. A change in supervision status of a sex offender who  
16 was required to register under this subsection (4)(a)(ii) as of July  
17 28, 1991, or a kidnapping offender required to register as of July 27,  
18 1997, shall not relieve the offender of the duty to register or to  
19 reregister following a change in residence. The obligation to register  
20 shall only cease pursuant to RCW 9A.44.140.

21 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on  
22 or after July 23, 1995, and kidnapping offenders who, on or after July  
23 27, 1997, as a result of that offense are in the custody of the United  
24 States bureau of prisons or other federal or military correctional  
25 agency for sex offenses committed before, on, or after February 28,  
26 1990, or kidnapping offenses committed on, before, or after July 27,  
27 1997, must register within twenty-four hours from the time of release  
28 with the county sheriff for the county of the person's residence, or if  
29 the person is not a resident of Washington, the county of the person's  
30 school, or place of employment or vocation. Sex offenders who, on July  
31 23, 1995, are not in custody but are under the jurisdiction of the  
32 United States bureau of prisons, United States courts, United States  
33 parole commission, or military parole board for sex offenses committed  
34 before, on, or after February 28, 1990, must register within ten days  
35 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not  
36 in custody but are under the jurisdiction of the United States bureau  
37 of prisons, United States courts, United States parole commission, or  
38 military parole board for kidnapping offenses committed before, on, or  
39 after July 27, 1997, must register within ten days of July 27, 1997.

1 A change in supervision status of a sex offender who was required to  
2 register under this subsection (4)(a)(iii) as of July 23, 1995, or a  
3 kidnapping offender required to register as of July 27, 1997 shall not  
4 relieve the offender of the duty to register or to reregister following  
5 a change in residence, or if the person is not a resident of  
6 Washington, the county of the person's school, or place of employment  
7 or vocation. The obligation to register shall only cease pursuant to  
8 RCW 9A.44.140.

9 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders  
10 who are convicted of a sex offense on or after July 28, 1991, for a sex  
11 offense that was committed on or after February 28, 1990, and  
12 kidnapping offenders who are convicted on or after July 27, 1997, for  
13 a kidnapping offense that was committed on or after July 27, 1997, but  
14 who are not sentenced to serve a term of confinement immediately upon  
15 sentencing, shall report to the county sheriff to register immediately  
16 upon completion of being sentenced.

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

38 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult  
39 or juvenile who has been found not guilty by reason of insanity under

1 chapter 10.77 RCW of (A) committing a sex offense on, before, or after  
2 February 28, 1990, and who, on or after July 23, 1995, is in custody,  
3 as a result of that finding, of the state department of social and  
4 health services, or (B) committing a kidnapping offense on, before, or  
5 after July 27, 1997, and who on or after July 27, 1997, is in custody,  
6 as a result of that finding, of the state department of social and  
7 health services, must register within twenty-four hours from the time  
8 of release with the county sheriff for the county of the person's  
9 residence. The state department of social and health services shall  
10 provide notice to the adult or juvenile in its custody of the duty to  
11 register. Any adult or juvenile who has been found not guilty by  
12 reason of insanity of committing a sex offense on, before, or after  
13 February 28, 1990, but who was released before July 23, 1995, or any  
14 adult or juvenile who has been found not guilty by reason of insanity  
15 of committing a kidnapping offense but who was released before July 27,  
16 1997, shall be required to register within twenty-four hours of  
17 receiving notice of this registration requirement. The state  
18 department of social and health services shall make reasonable attempts  
19 within available resources to notify sex offenders who were released  
20 before July 23, 1995, and kidnapping offenders who were released before  
21 July 27, 1997. Failure to register within twenty-four hours of  
22 release, or of receiving notice, constitutes a violation of this  
23 section and is punishable as provided in subsection ~~((+9))~~ (10) of  
24 this section.

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

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

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

1 (c) An arrest on charges of failure to register, service of an  
2 information, or a complaint for a violation of this section, or  
3 arraignment on charges for a violation of this section, constitutes  
4 actual notice of the duty to register. Any person charged with the  
5 crime of failure to register under this section who asserts as a  
6 defense the lack of notice of the duty to register shall register  
7 immediately following actual notice of the duty through arrest,  
8 service, or arraignment. Failure to register as required under this  
9 subsection (4)(c) constitutes grounds for filing another charge of  
10 failing to register. Registering following arrest, service, or  
11 arraignment on charges shall not relieve the offender from criminal  
12 liability for failure to register prior to the filing of the original  
13 charge.

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

17 (5)(a) If any person required to register pursuant to this section  
18 changes his or her residence address within the same county, the person  
19 must send written notice of the change of address to the county sheriff  
20 within seventy-two hours of moving. If any person required to register  
21 pursuant to this section moves to a new county, the person must send  
22 written notice of the change of address at least fourteen days before  
23 moving to the county sheriff in the new county of residence and must  
24 register with that county sheriff within twenty-four hours of moving.  
25 The person must also send written notice within ten days of the change  
26 of address in the new county to the county sheriff with whom the person  
27 last registered. The county sheriff with whom the person last  
28 registered shall promptly forward the information concerning the change  
29 of address to the county sheriff for the county of the person's new  
30 residence. If any person required to register pursuant to this section  
31 moves out of Washington state, the person must also send written notice  
32 within ten days of moving to the new state or a foreign country to the  
33 county sheriff with whom the person last registered in Washington  
34 state. Upon receipt of notice of change of address to a new state, the  
35 county sheriff shall promptly forward the information regarding the  
36 change of address to the agency designated by the new state as the  
37 state's offender registration agency.

38 (b) It is an affirmative defense to a charge that the person failed  
39 to send a notice at least fourteen days in advance of moving as



1 required under (a) of this subsection that the person did not know the  
2 location of his or her new residence at least fourteen days before  
3 moving. The defendant must establish the defense by a preponderance of  
4 the evidence and, to prevail on the defense, must also prove by a  
5 preponderance that the defendant sent the required notice within  
6 twenty-four hours of determining the new address.

7 (6)(a) Any person required to register under this section who lacks  
8 a fixed residence shall provide written notice to the sheriff of the  
9 county where he or she last registered within fourteen days after  
10 ceasing to have a fixed residence. The notice shall include the  
11 information required by subsection (3)(b) of this section, except the  
12 photograph and fingerprints. The county sheriff may, for reasonable  
13 cause, require the offender to provide a photograph and fingerprints.  
14 The sheriff shall forward this information to the sheriff of the county  
15 in which the person intends to reside, if the person intends to reside  
16 in another county.

17 (b) A person who lacks a fixed residence must report in person to  
18 the sheriff of the county where he or she is registered. If he or she  
19 has been classified as a risk level I sex or kidnapping offender, he or  
20 she must report monthly. If he or she has been classified as a risk  
21 level II or III sex or kidnapping offender, he or she must report  
22 weekly. The lack of a fixed residence is a factor that may be  
23 considered in determining a sex offender's risk level.

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

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

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

9 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
10 preservation of the public peace, health, or safety, or support of the  
11 state government and its existing public institutions, and takes effect  
12 immediately.

--- END ---