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**SUBSTITUTE SENATE BILL 5351**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senate Committee on Judiciary (originally sponsored by Senator Zarelli)

Read first time 03/03/1999.

1 AN ACT Relating to indecent exposure; amending RCW 9A.88.010;  
2 reenacting and amending RCW 9A.44.130; and prescribing penalties.

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

4 **Sec. 1.** RCW 9A.88.010 and 1990 c 3 s 904 are each amended to read  
5 as follows:

6 (1) A person is guilty of indecent exposure if he or she  
7 intentionally makes any open and obscene exposure of his or her person  
8 or the person of another knowing that such conduct is likely to cause  
9 reasonable affront or alarm.

10 (2) Indecent exposure is a gross misdemeanor (~~((unless such person~~  
11 ~~exposes himself to a person under the age of fourteen years in which~~  
12 ~~case indecent exposure is a gross misdemeanor on the first offense))~~)  
13 and, if such person has previously been convicted under this subsection  
14 or of a sex offense as defined in RCW 9.94A.030, then such person is  
15 guilty of a class C felony punishable under chapter 9A.20 RCW.

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

1 (1) Any adult or juvenile residing, or who is a student, is  
2 employed, or carries on a vocation in this state who has been found to  
3 have committed or has been convicted of any sex offense or kidnapping  
4 offense, or who has been found not guilty by reason of insanity under  
5 chapter 10.77 RCW of committing any sex offense or kidnapping offense,  
6 shall register with the county sheriff for the county of the person's  
7 residence, or if the person is not a resident of Washington, the county  
8 of the person's school, or place of employment or vocation. Where a  
9 person required to register under this section is in custody 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 as a result of a sex offense or kidnapping  
13 offense, the person shall also register at the time of release from  
14 custody with an official designated by the agency that has jurisdiction  
15 over the person. In addition, any such adult or juvenile who is  
16 admitted to a public or private institution of higher education shall,  
17 within ten days of enrolling or by the first business day after  
18 arriving at the institution, whichever is earlier, notify the sheriff  
19 for the county of the person's residence of the person's intent to  
20 attend the institution. Persons required to register under this  
21 section who are enrolled in a public or private institution of higher  
22 education on June 11, 1998, must notify the county sheriff immediately.  
23 The sheriff shall notify the institution's department of public safety  
24 and shall provide that department with the same information provided to  
25 a county sheriff under subsection (3) of 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) The person shall provide the following information when  
30 registering: (a) Name; (b) address; (c) date and place of birth; (d)  
31 place of employment; (e) crime for which convicted; (f) date and place  
32 of conviction; (g) aliases used; (h) social security number; (i)  
33 photograph; and (j) fingerprints.

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

38 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex  
39 offense on, before, or after February 28, 1990, and who, on or after

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

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

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

1 the indeterminate sentence review board or under the department of  
2 correction's active supervision, as defined by the department of  
3 corrections, the state department of social and health services, or a  
4 local division of youth services, for kidnapping offenses committed  
5 before, on, or after July 27, 1997, must register within ten days of  
6 July 27, 1997. A change in supervision status of a sex offender who  
7 was required to register under this subsection (4)(a)(ii) as of July  
8 28, 1991, or a kidnapping offender required to register as of July 27,  
9 1997, shall not relieve the offender of the duty to register or to  
10 reregister following a change in residence. The obligation to register  
11 shall only cease pursuant to RCW 9A.44.140.

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

1 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders  
2 who are convicted of a sex offense on or after July 28, 1991, for a sex  
3 offense that was committed on or after February 28, 1990, and  
4 kidnapping offenders who are convicted on or after July 27, 1997, for  
5 a kidnapping offense that was committed on or after July 27, 1997, but  
6 who are not sentenced to serve a term of confinement immediately upon  
7 sentencing, shall report to the county sheriff to register immediately  
8 upon completion of being sentenced.

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

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

1 residence. The state department of social and health services shall  
2 provide notice to the adult or juvenile in its custody of the duty to  
3 register. Any adult or juvenile who has been found not guilty by  
4 reason of insanity of committing a sex offense on, before, or after  
5 February 28, 1990, but who was released before July 23, 1995, or any  
6 adult or juvenile who has been found not guilty by reason of insanity  
7 of committing a kidnapping offense but who was released before July 27,  
8 1997, shall be required to register within twenty-four hours of  
9 receiving notice of this registration requirement. The state  
10 department of social and health services shall make reasonable attempts  
11 within available resources to notify sex offenders who were released  
12 before July 23, 1995, and kidnapping offenders who were released before  
13 July 27, 1997. Failure to register within twenty-four hours of  
14 release, or of receiving notice, constitutes a violation of this  
15 section and is punishable as provided in subsection (9) of this  
16 section.

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

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

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

38 (5)(a) If any person required to register pursuant to this section  
39 changes his or her residence address within the same county, the person

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

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

28 (6) A sex offender subject to registration requirements under this  
29 section who applies to change his or her name under RCW 4.24.130 or any  
30 other law shall submit a copy of the application to the county sheriff  
31 of the county of the person's residence and to the state patrol not  
32 fewer than five days before the entry of an order granting the name  
33 change. No sex offender under the requirement to register under this  
34 section at the time of application shall be granted an order changing  
35 his or her name if the court finds that doing so will interfere with  
36 legitimate law enforcement interests, except that no order shall be  
37 denied when the name change is requested for religious or legitimate  
38 cultural reasons or in recognition of marriage or dissolution of  
39 marriage. A sex offender under the requirement to register under this

1 section who receives an order changing his or her name shall submit a  
2 copy of the order to the county sheriff of the county of the person's  
3 residence and to the state patrol within five days of the entry of the  
4 order.

5 (7) The county sheriff shall obtain a photograph of the individual  
6 and shall obtain a copy of the individual's fingerprints.

7 (8) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,  
8 70.48.470, and 72.09.330:

9 (a) "Sex offense" means any offense defined as a sex offense by RCW  
10 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation of a  
11 minor), 9.68A.050 (dealing in depictions of minor engaged in sexually  
12 explicit conduct), 9.68A.060 (sending, bringing into state depictions  
13 of minor engaged in sexually explicit conduct), 9.68A.090  
14 (communication with minor for immoral purposes), 9.68A.100 (patronizing  
15 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in  
16 the second degree), as well as any gross misdemeanor that is, under  
17 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or  
18 criminal conspiracy to commit an offense that is classified as a sex  
19 offense under RCW 9.94A.030, or any felony violation of RCW 9A.88.010  
20 (indecent exposure).

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

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

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

35 (9) A person who knowingly fails to register with the county  
36 sheriff or notify the county sheriff, or who changes his or her name  
37 without notifying the county sheriff and the state patrol, as required  
38 by this section is guilty of a class C felony if the crime for which  
39 the individual was convicted was a felony or a federal or out-of-state



1 conviction for an offense that under the laws of this state would be a  
2 felony. If the crime was other than a felony or a federal or out-of-  
3 state conviction for an offense that under the laws of this state would  
4 be other than a felony, violation of this section is a gross  
5 misdemeanor.

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