
SENATE BILL 5351

State of Washington

56th Legislature

1999 Regular Session

By Senator Zarelli

Read first time 01/20/1999. Referred to Committee on Judiciary.

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
16 in the second degree), or 9A.88.010 (indecent exposure), as well as any
17 gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt,
18 criminal solicitation, or criminal conspiracy to commit an offense that
19 is classified as a sex offense under RCW 9.94A.030.

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

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

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

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

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

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