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**SUBSTITUTE SENATE BILL 5014**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Costa, Long, Fraser, Carlson and Gardner)

READ FIRST TIME 02/12/01.

1 AN ACT Relating to harmonizing the definitions of sex and  
2 kidnapping offenders under the criminal and registration statutes;  
3 amending RCW 9.94A.030 and 9A.44.130; providing an effective date; and  
4 declaring an emergency.

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

6 **Sec. 1.** RCW 9.94A.030 and 2000 c 28 s 2 are each amended to read  
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in  
9 this section apply throughout this chapter.

10 (1) "Collect," or any derivative thereof, "collect and remit," or  
11 "collect and deliver," when used with reference to the department,  
12 means that the department, either directly or through a collection  
13 agreement authorized by RCW 9.94A.145, is responsible for monitoring  
14 and enforcing the offender's sentence with regard to the legal  
15 financial obligation, receiving payment thereof from the offender, and,  
16 consistent with current law, delivering daily the entire payment to the  
17 superior court clerk without depositing it in a departmental account.

18 (2) "Commission" means the sentencing guidelines commission.

1 (3) "Community corrections officer" means an employee of the  
2 department who is responsible for carrying out specific duties in  
3 supervision of sentenced offenders and monitoring of sentence  
4 conditions.

5 (4) "Community custody" means that portion of an offender's  
6 sentence of confinement in lieu of earned release time or imposed  
7 pursuant to RCW 9.94A.120(2)(b), 9.94A.650 through 9.94A.670,  
8 9.94A.137, 9.94A.700 through 9.94A.715, or 9.94A.383, served in the  
9 community subject to controls placed on the offender's movement and  
10 activities by the department. For offenders placed on community  
11 custody for crimes committed on or after July 1, 2000, the department  
12 shall assess the offender's risk of reoffense and may establish and  
13 modify conditions of community custody, in addition to those imposed by  
14 the court, based upon the risk to community safety.

15 (5) "Community custody range" means the minimum and maximum period  
16 of community custody included as part of a sentence under RCW  
17 9.94A.715, as established by the commission or the legislature under  
18 RCW 9.94A.040, for crimes committed on or after July 1, 2000.

19 (6) "Community placement" means that period during which the  
20 offender is subject to the conditions of community custody and/or  
21 postrelease supervision, which begins either upon completion of the  
22 term of confinement (postrelease supervision) or at such time as the  
23 offender is transferred to community custody in lieu of earned release.  
24 Community placement may consist of entirely community custody, entirely  
25 postrelease supervision, or a combination of the two.

26 (7) "Community service" means compulsory service, without  
27 compensation, performed for the benefit of the community by the  
28 offender.

29 (8) "Community supervision" means a period of time during which a  
30 convicted offender is subject to crime-related prohibitions and other  
31 sentence conditions imposed by a court pursuant to this chapter or RCW  
32 16.52.200(6) or 46.61.524. Where the court finds that any offender has  
33 a chemical dependency that has contributed to his or her offense, the  
34 conditions of supervision may, subject to available resources, include  
35 treatment. For purposes of the interstate compact for out-of-state  
36 supervision of parolees and probationers, RCW 9.95.270, community  
37 supervision is the functional equivalent of probation and should be  
38 considered the same as probation by other states.

39 (9) "Confinement" means total or partial confinement.

1 (10) "Conviction" means an adjudication of guilt pursuant to Titles  
2 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
3 acceptance of a plea of guilty.

4 (11) "Crime-related prohibition" means an order of a court  
5 prohibiting conduct that directly relates to the circumstances of the  
6 crime for which the offender has been convicted, and shall not be  
7 construed to mean orders directing an offender affirmatively to  
8 participate in rehabilitative programs or to otherwise perform  
9 affirmative conduct. However, affirmative acts necessary to monitor  
10 compliance with the order of a court may be required by the department.

11 (12) "Criminal history" means the list of a defendant's prior  
12 convictions and juvenile adjudications, whether in this state, in  
13 federal court, or elsewhere. The history shall include, where known,  
14 for each conviction (a) whether the defendant has been placed on  
15 probation and the length and terms thereof; and (b) whether the  
16 defendant has been incarcerated and the length of incarceration.

17 (13) "Day fine" means a fine imposed by the sentencing court that  
18 equals the difference between the offender's net daily income and the  
19 reasonable obligations that the offender has for the support of the  
20 offender and any dependents.

21 (14) "Day reporting" means a program of enhanced supervision  
22 designed to monitor the offender's daily activities and compliance with  
23 sentence conditions, and in which the offender is required to report  
24 daily to a specific location designated by the department or the  
25 sentencing court.

26 (15) "Department" means the department of corrections.

27 (16) "Determinate sentence" means a sentence that states with  
28 exactitude the number of actual years, months, or days of total  
29 confinement, of partial confinement, of community supervision, the  
30 number of actual hours or days of community service work, or dollars or  
31 terms of a legal financial obligation. The fact that an offender  
32 through earned release can reduce the actual period of confinement  
33 shall not affect the classification of the sentence as a determinate  
34 sentence.

35 (17) "Disposable earnings" means that part of the earnings of an  
36 offender remaining after the deduction from those earnings of any  
37 amount required by law to be withheld. For the purposes of this  
38 definition, "earnings" means compensation paid or payable for personal  
39 services, whether denominated as wages, salary, commission, bonuses, or

1 otherwise, and, notwithstanding any other provision of law making the  
2 payments exempt from garnishment, attachment, or other process to  
3 satisfy a court-ordered legal financial obligation, specifically  
4 includes periodic payments pursuant to pension or retirement programs,  
5 or insurance policies of any type, but does not include payments made  
6 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
7 or Title 74 RCW.

8 (18) "Drug offender sentencing alternative" is a sentencing option  
9 available to persons convicted of a felony offense other than a violent  
10 offense or a sex offense and who are eligible for the option under RCW  
11 9.94A.660.

12 (19) "Drug offense" means:

13 (a) Any felony violation of chapter 69.50 RCW except possession of  
14 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
15 controlled substance (RCW 69.50.403);

16 (b) Any offense defined as a felony under federal law that relates  
17 to the possession, manufacture, distribution, or transportation of a  
18 controlled substance; or

19 (c) Any out-of-state conviction for an offense that under the laws  
20 of this state would be a felony classified as a drug offense under (a)  
21 of this subsection.

22 (20) "Earned release" means earned release from confinement as  
23 provided in RCW 9.94A.150.

24 (21) "Escape" means:

25 (a) Escape in the first degree (RCW 9A.76.110), escape in the  
26 second degree (RCW 9A.76.120), willful failure to return from furlough  
27 (RCW 72.66.060), willful failure to return from work release (RCW  
28 72.65.070), or willful failure to be available for supervision by the  
29 department while in community custody (RCW 72.09.310); or

30 (b) Any federal or out-of-state conviction for an offense that  
31 under the laws of this state would be a felony classified as an escape  
32 under (a) of this subsection.

33 (22) "Felony traffic offense" means:

34 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
35 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
36 and-run injury-accident (RCW 46.52.020(4)); or

37 (b) Any federal or out-of-state conviction for an offense that  
38 under the laws of this state would be a felony classified as a felony  
39 traffic offense under (a) of this subsection.

1 (23) "Fine" means a specific sum of money ordered by the sentencing  
2 court to be paid by the offender to the court over a specific period of  
3 time.

4 (24) "First-time offender" means any person who has no prior  
5 convictions for a felony and is eligible for the first-time offender  
6 waiver under RCW 9.94A.650.

7 (25) "Home detention" means a program of partial confinement  
8 available to offenders wherein the offender is confined in a private  
9 residence subject to electronic surveillance.

10 (26) "Legal financial obligation" means a sum of money that is  
11 ordered by a superior court of the state of Washington for legal  
12 financial obligations which may include restitution to the victim,  
13 statutorily imposed crime victims' compensation fees as assessed  
14 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,  
15 court-appointed attorneys' fees, and costs of defense, fines, and any  
16 other financial obligation that is assessed to the offender as a result  
17 of a felony conviction. Upon conviction for vehicular assault while  
18 under the influence of intoxicating liquor or any drug, RCW  
19 46.61.522(1)(b), or vehicular homicide while under the influence of  
20 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial  
21 obligations may also include payment to a public agency of the expense  
22 of an emergency response to the incident resulting in the conviction,  
23 subject to RCW 38.52.430.

24 (27) "Most serious offense" means any of the following felonies or  
25 a felony attempt to commit any of the following felonies:

26 (a) Any felony defined under any law as a class A felony or  
27 criminal solicitation of or criminal conspiracy to commit a class A  
28 felony;

29 (b) Assault in the second degree;

30 (c) Assault of a child in the second degree;

31 (d) Child molestation in the second degree;

32 (e) Controlled substance homicide;

33 (f) Extortion in the first degree;

34 (g) Incest when committed against a child under age fourteen;

35 (h) Indecent liberties;

36 (i) Kidnapping in the second degree;

37 (j) Leading organized crime;

38 (k) Manslaughter in the first degree;

39 (l) Manslaughter in the second degree;

1 (m) Promoting prostitution in the first degree;  
2 (n) Rape in the third degree;  
3 (o) Robbery in the second degree;  
4 (p) Sexual exploitation;  
5 (q) Vehicular assault;  
6 (r) Vehicular homicide, when proximately caused by the driving of  
7 any vehicle by any person while under the influence of intoxicating  
8 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
9 any vehicle in a reckless manner;  
10 (s) Any other class B felony offense with a finding of sexual  
11 motivation;  
12 (t) Any other felony with a deadly weapon verdict under RCW  
13 9.94A.125;  
14 (u) Any felony offense in effect at any time prior to December 2,  
15 1993, that is comparable to a most serious offense under this  
16 subsection, or any federal or out-of-state conviction for an offense  
17 that under the laws of this state would be a felony classified as a  
18 most serious offense under this subsection;  
19 (v)(i) A prior conviction for indecent liberties under RCW  
20 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.  
21 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as  
22 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)  
23 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;  
24 (ii) A prior conviction for indecent liberties under RCW  
25 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
26 if: (A) The crime was committed against a child under the age of  
27 fourteen; or (B) the relationship between the victim and perpetrator is  
28 included in the definition of indecent liberties under RCW  
29 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
30 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
31 through July 27, 1997.  
32 (28) "Nonviolent offense" means an offense which is not a violent  
33 offense.  
34 (29) "Offender" means a person who has committed a felony  
35 established by state law and is eighteen years of age or older or is  
36 less than eighteen years of age but whose case is under superior court  
37 jurisdiction under RCW 13.04.030 or has been transferred by the  
38 appropriate juvenile court to a criminal court pursuant to RCW

1 13.40.110. Throughout this chapter, the terms "offender" and  
2 "defendant" are used interchangeably.

3 (30) "Partial confinement" means confinement for no more than one  
4 year in a facility or institution operated or utilized under contract  
5 by the state or any other unit of government, or, if home detention or  
6 work crew has been ordered by the court, in an approved residence, for  
7 a substantial portion of each day with the balance of the day spent in  
8 the community. Partial confinement includes work release, home  
9 detention, work crew, and a combination of work crew and home  
10 detention.

11 (31) "Persistent offender" is an offender who:

12 (a)(i) Has been convicted in this state of any felony considered a  
13 most serious offense; and

14 (ii) Has, before the commission of the offense under (a) of this  
15 subsection, been convicted as an offender on at least two separate  
16 occasions, whether in this state or elsewhere, of felonies that under  
17 the laws of this state would be considered most serious offenses and  
18 would be included in the offender score under RCW 9.94A.360; provided  
19 that of the two or more previous convictions, at least one conviction  
20 must have occurred before the commission of any of the other most  
21 serious offenses for which the offender was previously convicted; or

22 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
23 of a child in the first degree, child molestation in the first degree,  
24 rape in the second degree, rape of a child in the second degree, or  
25 indecent liberties by forcible compulsion; (B) murder in the first  
26 degree, murder in the second degree, homicide by abuse, kidnapping in  
27 the first degree, kidnapping in the second degree, assault in the first  
28 degree, assault in the second degree, assault of a child in the first  
29 degree, or burglary in the first degree, with a finding of sexual  
30 motivation; or (C) an attempt to commit any crime listed in this  
31 subsection (31)(b)(i); and

32 (ii) Has, before the commission of the offense under (b)(i) of this  
33 subsection, been convicted as an offender on at least one occasion,  
34 whether in this state or elsewhere, of an offense listed in (b)(i) of  
35 this subsection. A conviction for rape of a child in the first degree  
36 constitutes a conviction under (b)(i) of this subsection only when the  
37 offender was sixteen years of age or older when the offender committed  
38 the offense. A conviction for rape of a child in the second degree  
39 constitutes a conviction under (b)(i) of this subsection only when the

1 offender was eighteen years of age or older when the offender committed  
2 the offense.

3 (32) "Postrelease supervision" is that portion of an offender's  
4 community placement that is not community custody.

5 (33) "Restitution" means a specific sum of money ordered by the  
6 sentencing court to be paid by the offender to the court over a  
7 specified period of time as payment of damages. The sum may include  
8 both public and private costs.

9 (34) "Risk assessment" means the application of an objective  
10 instrument supported by research and adopted by the department for the  
11 purpose of assessing an offender's risk of reoffense, taking into  
12 consideration the nature of the harm done by the offender, place and  
13 circumstances of the offender related to risk, the offender's  
14 relationship to any victim, and any information provided to the  
15 department by victims. The results of a risk assessment shall not be  
16 based on unconfirmed or unconfirmable allegations.

17 (35) "Serious traffic offense" means:

18 (a) Driving while under the influence of intoxicating liquor or any  
19 drug (RCW 46.61.502), actual physical control while under the influence  
20 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving  
21 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
22 or

23 (b) Any federal, out-of-state, county, or municipal conviction for  
24 an offense that under the laws of this state would be classified as a  
25 serious traffic offense under (a) of this subsection.

26 (36) "Serious violent offense" is a subcategory of violent offense  
27 and means:

28 (a)(i) Murder in the first degree;

29 (ii) Homicide by abuse;

30 (iii) Murder in the second degree;

31 (iv) Manslaughter in the first degree;

32 (v) Assault in the first degree;

33 (vi) Kidnapping in the first degree;

34 (vii) Rape in the first degree;

35 (viii) Assault of a child in the first degree; or

36 (ix) An attempt, criminal solicitation, or criminal conspiracy to  
37 commit one of these felonies; or



1 (b) Any federal or out-of-state conviction for an offense that  
2 under the laws of this state would be a felony classified as a serious  
3 violent offense under (a) of this subsection.

4 (37) "Sex offense" means:

5 (a)(i) A felony that is a violation of((+)

6 (i)) chapter 9A.44 RCW other than RCW 9A.44.130(11);

7 (ii) A violation of RCW 9A.64.020;

8 (iii) ((RCW 9.68A.090)) A felony that is a violation of chapter  
9 9.68A RCW other than RCW 9.68A.070 or 9.68A.080; or

10 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,  
11 criminal solicitation, or criminal conspiracy to commit such crimes;

12 (b) Any conviction for a felony offense in effect at any time prior  
13 to July 1, 1976, that is comparable to a felony classified as a sex  
14 offense in (a) of this subsection;

15 (c) A felony with a finding of sexual motivation under RCW  
16 9.94A.127 or 13.40.135; or

17 (d) Any federal or out-of-state conviction for an offense that  
18 under the laws of this state would be a felony classified as a sex  
19 offense under (a) of this subsection.

20 (38) "Sexual motivation" means that one of the purposes for which  
21 the defendant committed the crime was for the purpose of his or her  
22 sexual gratification.

23 (39) "Standard sentence range" means the sentencing court's  
24 discretionary range in imposing a nonappealable sentence.

25 (40) "Statutory maximum sentence" means the maximum length of time  
26 for which an offender may be confined as punishment for a crime as  
27 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the  
28 crime, or other statute defining the maximum penalty for a crime.

29 (41) "Total confinement" means confinement inside the physical  
30 boundaries of a facility or institution operated or utilized under  
31 contract by the state or any other unit of government for twenty-four  
32 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

33 (42) "Transition training" means written and verbal instructions  
34 and assistance provided by the department to the offender during the  
35 two weeks prior to the offender's successful completion of the work  
36 ethic camp program. The transition training shall include instructions  
37 in the offender's requirements and obligations during the offender's  
38 period of community custody.

1 (43) "Victim" means any person who has sustained emotional,  
2 psychological, physical, or financial injury to person or property as  
3 a direct result of the crime charged.

4 (44) "Violent offense" means:

5 (a) Any of the following felonies:

6 (i) Any felony defined under any law as a class A felony or an  
7 attempt to commit a class A felony;

8 (ii) Criminal solicitation of or criminal conspiracy to commit a  
9 class A felony;

10 (iii) Manslaughter in the first degree;

11 (iv) Manslaughter in the second degree;

12 (v) Indecent liberties if committed by forcible compulsion;

13 (vi) Kidnapping in the second degree;

14 (vii) Arson in the second degree;

15 (viii) Assault in the second degree;

16 (ix) Assault of a child in the second degree;

17 (x) Extortion in the first degree;

18 (xi) Robbery in the second degree;

19 (xii) Drive-by shooting;

20 (xiii) Vehicular assault; and

21 (xiv) Vehicular homicide, when proximately caused by the driving of  
22 any vehicle by any person while under the influence of intoxicating  
23 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
24 any vehicle in a reckless manner;

25 (b) Any conviction for a felony offense in effect at any time prior  
26 to July 1, 1976, that is comparable to a felony classified as a violent  
27 offense in (a) of this subsection; and

28 (c) Any federal or out-of-state conviction for an offense that  
29 under the laws of this state would be a felony classified as a violent  
30 offense under (a) or (b) of this subsection.

31 (45) "Work crew" means a program of partial confinement consisting  
32 of civic improvement tasks for the benefit of the community that  
33 complies with RCW 9.94A.135.

34 (46) "Work ethic camp" means an alternative incarceration program  
35 as provided in RCW 9.94A.137 designed to reduce recidivism and lower  
36 the cost of corrections by requiring offenders to complete a  
37 comprehensive array of real-world job and vocational experiences,  
38 character-building work ethics training, life management skills

1 development, substance abuse rehabilitation, counseling, literacy  
2 training, and basic adult education.

3 (47) "Work release" means a program of partial confinement  
4 available to offenders who are employed or engaged as a student in a  
5 regular course of study at school.

6 **Sec. 2.** RCW 9A.44.130 and 2000 c 91 s 2 are each amended to read  
7 as follows:

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

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

1 (3)(a) The person shall provide the following information when  
2 registering: (i) Name; (ii) address; (iii) date and place of birth;  
3 (iv) place of employment; (v) crime for which convicted; (vi) date and  
4 place of conviction; (vii) aliases used; (viii) social security number;  
5 (ix) photograph; and (x) fingerprints.

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

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

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

38 When the agency with jurisdiction intends to release an offender  
39 with a duty to register under this section, and the agency has

1 knowledge that the offender is eligible for developmental disability  
2 services from the department of social and health services, the agency  
3 shall notify the division of developmental disabilities of the release.  
4 Notice shall occur not more than thirty days before the offender is to  
5 be released. The agency and the division shall assist the offender in  
6 meeting the initial registration requirement under this section.  
7 Failure to provide such assistance shall not constitute a defense for  
8 any violation of this section.

9 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL  
10 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody  
11 but are under the jurisdiction of the indeterminate sentence review  
12 board or under the department of correction's active supervision, as  
13 defined by the department of corrections, the state department of  
14 social and health services, or a local division of youth services, for  
15 sex offenses committed before, on, or after February 28, 1990, must  
16 register within ten days of July 28, 1991. Kidnapping offenders who,  
17 on July 27, 1997, are not in custody but are under the jurisdiction of  
18 the indeterminate sentence review board or under the department of  
19 correction's active supervision, as defined by the department of  
20 corrections, the state department of social and health services, or a  
21 local division of youth services, for kidnapping offenses committed  
22 before, on, or after July 27, 1997, must register within ten days of  
23 July 27, 1997. A change in supervision status of a sex offender who  
24 was required to register under this subsection (4)(a)(ii) as of July  
25 28, 1991, or a kidnapping offender required to register as of July 27,  
26 1997, shall not relieve the offender of the duty to register or to  
27 reregister following a change in residence. The obligation to register  
28 shall only cease pursuant to RCW 9A.44.140.

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

1 United States bureau of prisons, United States courts, United States  
2 parole commission, or military parole board for sex offenses committed  
3 before, on, or after February 28, 1990, must register within ten days  
4 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not  
5 in custody but are under the jurisdiction of the United States bureau  
6 of prisons, United States courts, United States parole commission, or  
7 military parole board for kidnapping offenses committed before, on, or  
8 after July 27, 1997, must register within ten days of July 27, 1997.  
9 A change in supervision status of a sex offender who was required to  
10 register under this subsection (4)(a)(iii) as of July 23, 1995, or a  
11 kidnapping offender required to register as of July 27, 1997 shall not  
12 relieve the offender of the duty to register or to reregister following  
13 a change in residence, or if the person is not a resident of  
14 Washington, the county of the person's school, or place of employment  
15 or vocation. The obligation to register shall only cease pursuant to  
16 RCW 9A.44.140.

17 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders  
18 who are convicted of a sex offense on or after July 28, 1991, for a sex  
19 offense that was committed on or after February 28, 1990, and  
20 kidnapping offenders who are convicted on or after July 27, 1997, for  
21 a kidnapping offense that was committed on or after July 27, 1997, but  
22 who are not sentenced to serve a term of confinement immediately upon  
23 sentencing, shall report to the county sheriff to register immediately  
24 upon completion of being sentenced.

25 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON  
26 RESIDENTS. Sex offenders and kidnapping offenders who move to  
27 Washington state from another state or a foreign country that are not  
28 under the jurisdiction of the state department of corrections, the  
29 indeterminate sentence review board, or the state department of social  
30 and health services at the time of moving to Washington, must register  
31 within thirty days of establishing residence or reestablishing  
32 residence if the person is a former Washington resident. The duty to  
33 register under this subsection applies to sex offenders convicted under  
34 the laws of another state or a foreign country, federal or military  
35 statutes, or Washington state for offenses committed on or after  
36 February 28, 1990, and to kidnapping offenders convicted under the laws  
37 of another state or a foreign country, federal or military statutes, or  
38 Washington state for offenses committed on or after July 27, 1997. Sex  
39 offenders and kidnapping offenders from other states or a foreign

1 country who, when they move to Washington, are under the jurisdiction  
2 of the department of corrections, the indeterminate sentence review  
3 board, or the department of social and health services must register  
4 within twenty-four hours of moving to Washington. The agency that has  
5 jurisdiction over the offender shall notify the offender of the  
6 registration requirements before the offender moves to Washington.

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

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

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

5 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND  
6 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,  
7 who move to another state, or who work, carry on a vocation, or attend  
8 school in another state shall register a new address, fingerprints, and  
9 photograph with the new state within ten days after establishing  
10 residence, or after beginning to work, carry on a vocation, or attend  
11 school in the new state. The person must also send written notice  
12 within ten days of moving to the new state or to a foreign country to  
13 the county sheriff with whom the person last registered in Washington  
14 state. The county sheriff shall promptly forward this information to  
15 the Washington state patrol.

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

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

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

37 (5)(a) If any person required to register pursuant to this section  
38 changes his or her residence address within the same county, the person  
39 must send written notice of the change of address to the county sheriff



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

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

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

33 (b) A person who lacks a fixed residence must report in person to  
34 the sheriff of the county where he or she is registered. If he or she  
35 has been classified as a risk level I sex or kidnapping offender, he or  
36 she must report monthly. If he or she has been classified as a risk  
37 level II or III sex or kidnapping offender, he or she must report  
38 weekly. The lack of a fixed residence is a factor that may be  
39 considered in determining a sex offender's risk level.

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

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

25 (8) The county sheriff shall obtain a photograph of the individual  
26 and shall obtain a copy of the individual's fingerprints.

27 (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,  
28 70.48.470, and 72.09.330:

29 (a) "Sex offense" means:

30 (i) Any offense defined as a sex offense by RCW 9.94A.030 ((and any  
31 violation of RCW 9.68A.040 (sexual exploitation of a minor), 9.68A.050  
32 (dealing in depictions of minor engaged in sexually explicit conduct),  
33 9.68A.060 (sending, bringing into state depictions of minor engaged in  
34 sexually explicit conduct), 9.68A.090 (communication with minor for  
35 immoral purposes), 9.68A.100 (patronizing juvenile prostitute), or))i

36 (ii) Any violation under RCW 9A.44.096 (sexual misconduct with a  
37 minor in the second degree)((, as well as))i

1        (iii) Any federal or out-of-state conviction for an offense that  
2 under the laws of this state would be classified as a sex offense under  
3 this subsection; and

4        (iv) Any gross misdemeanor that is, under chapter 9A.28 RCW, a  
5 criminal attempt, criminal solicitation, or criminal conspiracy to  
6 commit an offense that is classified as a sex offense under RCW  
7 9.94A.030 or this subsection.

8        (b) "Kidnapping offense" means: (i) The crimes of kidnapping in  
9 the 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; (ii) any offense that  
12 is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation,  
13 or criminal conspiracy to commit an offense that is classified as a  
14 kidnapping offense under this subsection (9)(b); and (iii) any federal  
15 or out-of-state conviction for an offense that under the laws of this  
16 state would be classified as a kidnapping offense under this subsection  
17 (9)(b).

18        (c) "Employed" or "carries on a vocation" means employment that is  
19 full-time or part-time for a period of time exceeding fourteen days, or  
20 for an aggregate period of time exceeding thirty days during any  
21 calendar year. A person is employed or carries on a vocation whether  
22 the person's employment is financially compensated, volunteered, or for  
23 the purpose of government or educational benefit.

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

28        (10) A person who knowingly fails to register with the county  
29 sheriff or notify the county sheriff, or who changes his or her name  
30 without notifying the county sheriff and the state patrol, as required  
31 by this section is guilty of a class C felony if the crime for which  
32 the individual was convicted was a felony sex offense as defined in  
33 subsection (9)(a) of this section or a federal or out-of-state  
34 conviction for an offense that under the laws of this state would be a  
35 felony sex offense as defined in subsection (9)(a) of this section. If  
36 the crime was other than a felony or a federal or out-of-state  
37 conviction for an offense that under the laws of this state would be  
38 other than a felony, violation of this section is a gross misdemeanor.

1 (11) A person who knowingly fails to register or who moves within  
2 the state without notifying the county sheriff as required by this  
3 section is guilty of a class C felony if the crime for which the  
4 individual was convicted was a felony kidnapping offense as defined in  
5 subsection (9)(b) of this section or a federal or out-of-state  
6 conviction for an offense that under the laws of this state would be a  
7 felony kidnapping offense as defined in subsection (9)(b) of this  
8 section. If the crime was other than a felony or a federal or out-of-  
9 state conviction for an offense that under the laws of this state would  
10 be other than a felony, violation of this section is a gross  
11 misdemeanor.

12 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
13 preservation of the public peace, health, or safety, or support of the  
14 state government and its existing public institutions, and takes effect  
15 July 1, 2001.

--- END ---