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**SUBSTITUTE SENATE BILL 6501**

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**State of Washington 57th Legislature**

**2002 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Benton, Rasmussen, Stevens, Oke, Fairley, Finkbeiner, Johnson, Hochstatter, Winsley, Swecker, Roach, Keiser, McDonald, Prentice, Hale, Morton, Honeyford, McCaslin, Hewitt, Sheahan and Deccio)

READ FIRST TIME 02/07/2002.

1 AN ACT Relating to sex offender residences while under the criminal  
2 jurisdiction of the state; amending RCW 13.40.040 and 72.09.340;  
3 reenacting and amending RCW 13.40.210; and adding a new section to  
4 chapter 72.09 RCW.

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

6 **Sec. 1.** RCW 13.40.040 and 1999 c 167 s 2 are each amended to read  
7 as follows:

8 (1) A juvenile may be taken into custody:

9 (a) Pursuant to a court order if a complaint is filed with the  
10 court alleging, and the court finds probable cause to believe, that the  
11 juvenile has committed an offense or has violated terms of a  
12 disposition order or release order; or

13 (b) Without a court order, by a law enforcement officer if grounds  
14 exist for the arrest of an adult in identical circumstances. Admission  
15 to, and continued custody in, a court detention facility shall be  
16 governed by subsection (2) of this section; or

17 (c) Pursuant to a court order that the juvenile be held as a  
18 material witness; or

1 (d) Where the secretary or the secretary's designee has suspended  
2 the parole of a juvenile offender.

3 (2) A juvenile may not be held in detention unless there is  
4 probable cause to believe that:

5 (a) The juvenile has committed an offense or has violated the terms  
6 of a disposition order; and

7 (i) The juvenile will likely fail to appear for further  
8 proceedings; or

9 (ii) Detention is required to protect the juvenile from himself or  
10 herself; or

11 (iii) The juvenile is a threat to community safety; or

12 (iv) The juvenile will intimidate witnesses or otherwise unlawfully  
13 interfere with the administration of justice; or

14 (v) The juvenile has committed a crime while another case was  
15 pending; or

16 (b) The juvenile is a fugitive from justice; or

17 (c) The juvenile's parole has been suspended or modified; or

18 (d) The juvenile is a material witness.

19 (3) Notwithstanding subsection (2) of this section, a juvenile who  
20 has been found guilty of one of the following offenses shall be  
21 detained pending disposition: Rape in the first or second degree (RCW  
22 9A.44.040 and 9A.44.050); rape of a child in the first, second, or  
23 third degree (RCW 9A.44.073, 9A.44.076, and 9A.44.079); child  
24 molestation in the first, second, or third degree (RCW 9A.44.083,  
25 9A.44.086, and 9A.44.089); sexual misconduct with a minor in the first  
26 or second degree (RCW 9A.44.093 and 9A.44.096); indecent liberties (RCW  
27 9A.44.100); incest (RCW 9A.64.020); luring (RCW 9A.40.090); any class  
28 A or B felony that is a sexually motivated offense as defined in RCW  
29 9.94A.030; a felony violation of RCW 9.68A.090; or any offense that is,  
30 under chapter 9A.28 RCW, a criminal attempt, solicitation, or  
31 conspiracy to commit one of those offenses.

32 (4) Upon a finding that members of the community have threatened  
33 the health of a juvenile taken into custody, at the juvenile's request  
34 the court may order continued detention pending further order of the  
35 court.

36 (~~(4)~~) (5) Except as provided in RCW 9.41.280, a juvenile detained  
37 under this section may be released upon posting a probation bond set by  
38 the court. The juvenile's parent or guardian may sign for the  
39 probation bond. A court authorizing such a release shall issue an

1 order containing a statement of conditions imposed upon the juvenile  
2 and shall set the date of his or her next court appearance. The court  
3 shall advise the juvenile of any conditions specified in the order and  
4 may at any time amend such an order in order to impose additional or  
5 different conditions of release upon the juvenile or to return the  
6 juvenile to custody for failing to conform to the conditions imposed.  
7 In addition to requiring the juvenile to appear at the next court date,  
8 the court may condition the probation bond on the juvenile's compliance  
9 with conditions of release. The juvenile's parent or guardian may  
10 notify the court that the juvenile has failed to conform to the  
11 conditions of release or the provisions in the probation bond. If the  
12 parent notifies the court of the juvenile's failure to comply with the  
13 probation bond, the court shall notify the surety. As provided in the  
14 terms of the bond, the surety shall provide notice to the court of the  
15 offender's noncompliance. A juvenile may be released only to a  
16 responsible adult or the department of social and health services.  
17 Failure to appear on the date scheduled by the court pursuant to this  
18 section shall constitute the crime of bail jumping.

19 **Sec. 2.** RCW 13.40.210 and 2001 c 137 s 2 and 2001 c 51 s 1 are  
20 each reenacted and amended to read as follows:

21 (1)(a) The secretary shall set a release date for each juvenile  
22 committed to its custody. The release date shall be within the  
23 prescribed range to which a juvenile has been committed under RCW  
24 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning  
25 offenders the department determines are eligible for the juvenile  
26 offender basic training camp program. Such dates shall be determined  
27 prior to the expiration of sixty percent of a juvenile's minimum term  
28 of confinement included within the prescribed range to which the  
29 juvenile has been committed. The secretary shall release any juvenile  
30 committed to the custody of the department within four calendar days  
31 prior to the juvenile's release date or on the release date set under  
32 this chapter. Days spent in the custody of the department shall be  
33 tolled by any period of time during which a juvenile has absented  
34 himself or herself from the department's supervision without the prior  
35 approval of the secretary or the secretary's designee.

36 (b) For any juvenile found guilty of a felony sex offense, the  
37 juvenile rehabilitation administration shall approve the offender's  
38 residence and may not approve a residence location if the proposed

1 residence: (i) Includes a minor victim or child of similar age or  
2 circumstance as a previous victim who the department determines may be  
3 put at substantial risk of harm by the offender's residence in the  
4 household; or (ii) is within close proximity of the current residence  
5 of a victim, unless the whereabouts of the victim cannot be determined  
6 or unless such a restriction would impede family reunification efforts  
7 ordered by the court or directed by the department.

8 (c) Out-of-home placements made pursuant to this subsection are not  
9 subject to the provisions of chapter 26.44 RCW, unless the child  
10 otherwise meets the criteria of chapter 26.44 RCW.

11 (2) The secretary shall monitor the average daily population of the  
12 state's juvenile residential facilities. When the secretary concludes  
13 that in-residence population of residential facilities exceeds one  
14 hundred five percent of the rated bed capacity specified in statute, or  
15 in absence of such specification, as specified by the department in  
16 rule, the secretary may recommend reductions to the governor. On  
17 certification by the governor that the recommended reductions are  
18 necessary, the secretary has authority to administratively release a  
19 sufficient number of offenders to reduce in-residence population to one  
20 hundred percent of rated bed capacity. The secretary shall release  
21 those offenders who have served the greatest proportion of their  
22 sentence. However, the secretary may deny release in a particular case  
23 at the request of an offender, or if the secretary finds that there is  
24 no responsible custodian, as determined by the department, to whom to  
25 release the offender, or if the release of the offender would pose a  
26 clear danger to society. The department shall notify the committing  
27 court of the release at the time of release if any such early releases  
28 have occurred as a result of excessive in-residence population. In no  
29 event shall an offender adjudicated of a violent offense be granted  
30 release under the provisions of this subsection.

31 (3)(a) Following the release of any juvenile under subsection (1)  
32 of this section, the secretary may require the juvenile to comply with  
33 a program of parole to be administered by the department in his or her  
34 community which shall last no longer than eighteen months, except that  
35 in the case of a juvenile sentenced for rape in the first or second  
36 degree, rape of a child in the first or second degree, child  
37 molestation in the first degree, or indecent liberties with forcible  
38 compulsion, the period of parole shall be twenty-four months and, in  
39 the discretion of the secretary, may be up to thirty-six months when

1 the secretary finds that an additional period of parole is necessary  
2 and appropriate in the interests of public safety or to meet the  
3 ongoing needs of the juvenile. A parole program is mandatory for  
4 offenders released under subsection (2) of this section. The decision  
5 to place an offender on parole shall be based on an assessment by the  
6 department of the offender's risk for reoffending upon release. The  
7 department shall prioritize available parole resources to provide  
8 supervision and services to offenders at moderate to high risk for  
9 reoffending.

10 (b) The secretary shall, for the period of parole, facilitate the  
11 juvenile's reintegration into his or her community and to further this  
12 goal shall require the juvenile to refrain from possessing a firearm or  
13 using a deadly weapon and refrain from committing new offenses and may  
14 require the juvenile to: (i) Undergo available medical, psychiatric,  
15 drug and alcohol, sex offender, mental health, and other offense-  
16 related treatment services; (ii) report as directed to a parole officer  
17 and/or designee; (iii) pursue a course of study, vocational training,  
18 or employment; (iv) notify the parole officer of the current address  
19 where he or she resides; (v) be present at a particular address during  
20 specified hours; (vi) remain within prescribed geographical boundaries;  
21 (vii) submit to electronic monitoring; (viii) refrain from using  
22 illegal drugs and alcohol, and submit to random urinalysis when  
23 requested by the assigned parole officer; (ix) refrain from contact  
24 with specific individuals or a specified class of individuals; (x) meet  
25 other conditions determined by the parole officer to further enhance  
26 the juvenile's reintegration into the community; (xi) pay any court-  
27 ordered fines or restitution; and (xii) perform community service.  
28 Community service for the purpose of this section means compulsory  
29 service, without compensation, performed for the benefit of the  
30 community by the offender. Community service may be performed through  
31 public or private organizations or through work crews.

32 (c) The secretary may further require up to twenty-five percent of  
33 the highest risk juvenile offenders who are placed on parole to  
34 participate in an intensive supervision program. Offenders  
35 participating in an intensive supervision program shall be required to  
36 comply with all terms and conditions listed in (b) of this subsection  
37 and shall also be required to comply with the following additional  
38 terms and conditions: (i) Obey all laws and refrain from any conduct  
39 that threatens public safety; (ii) report at least once a week to an

1 assigned community case manager; and (iii) meet all other requirements  
2 imposed by the community case manager related to participating in the  
3 intensive supervision program. As a part of the intensive supervision  
4 program, the secretary may require day reporting.

5 (d) After termination of the parole period, the juvenile shall be  
6 discharged from the department's supervision.

7 (4)(a) The department may also modify parole for violation thereof.  
8 If, after affording a juvenile all of the due process rights to which  
9 he or she would be entitled if the juvenile were an adult, the  
10 secretary finds that a juvenile has violated a condition of his or her  
11 parole, the secretary shall order one of the following which is  
12 reasonably likely to effectuate the purpose of the parole and to  
13 protect the public: (i) Continued supervision under the same  
14 conditions previously imposed; (ii) intensified supervision with  
15 increased reporting requirements; (iii) additional conditions of  
16 supervision authorized by this chapter; (iv) except as provided in  
17 (a)(v) and (vi) of this subsection, imposition of a period of  
18 confinement not to exceed thirty days in a facility operated by or  
19 pursuant to a contract with the state of Washington or any city or  
20 county for a portion of each day or for a certain number of days each  
21 week with the balance of the days or weeks spent under supervision; (v)  
22 the secretary may order any of the conditions or may return the  
23 offender to confinement for the remainder of the sentence range if the  
24 offense for which the offender was sentenced is rape in the first or  
25 second degree, rape of a child in the first or second degree, child  
26 molestation in the first degree, indecent liberties with forcible  
27 compulsion, or a sex offense that is also a serious violent offense as  
28 defined by RCW 9.94A.030; and (vi) the secretary may order any of the  
29 conditions or may return the offender to confinement for the remainder  
30 of the sentence range if the youth has completed the basic training  
31 camp program as described in RCW 13.40.320.

32 (b) If the department finds that any juvenile in a program of  
33 parole has possessed a firearm or used a deadly weapon during the  
34 program of parole, the department shall modify the parole under (a) of  
35 this subsection and confine the juvenile for at least thirty days.  
36 Confinement shall be in a facility operated by or pursuant to a  
37 contract with the state or any county.

38 (5) A parole officer of the department of social and health  
39 services shall have the power to arrest a juvenile under his or her

1 supervision on the same grounds as a law enforcement officer would be  
2 authorized to arrest the person.

3 (6) If so requested and approved under chapter 13.06 RCW, the  
4 secretary shall permit a county or group of counties to perform  
5 functions under subsections (3) through (5) of this section.

6 **Sec. 3.** RCW 72.09.340 and 1996 c 215 s 3 are each amended to read  
7 as follows:

8 (1) In making all discretionary decisions regarding release plans  
9 for and supervision of sex offenders, the department shall set  
10 priorities and make decisions based on an assessment of public safety  
11 risks.

12 (2) The department shall, no later than September 1, 1996,  
13 implement a policy governing the department's evaluation and approval  
14 of release plans for sex offenders. The policy shall include, at a  
15 minimum, a formal process by which victims, witnesses, and other  
16 interested people may provide information and comments to the  
17 department on potential safety risks to specific individuals or classes  
18 of individuals posed by a specific sex offender. The department shall  
19 make all reasonable efforts to publicize the availability of this  
20 process through currently existing mechanisms and shall seek the  
21 assistance of courts, prosecutors, law enforcement, and victims'  
22 advocacy groups in doing so. Notice of an offender's proposed  
23 residence shall be provided to all people registered to receive notice  
24 of an offender's release under RCW 9.94A.612(2), except that in no case  
25 may this notification requirement be construed to require an extension  
26 of an offender's release date.

27 (3) For any offender convicted of a felony sex offense against a  
28 minor victim after June 6, 1996, or a victim of any age on or after the  
29 effective date of this act, the department shall not approve a  
30 residence location if the proposed residence: (a) Includes a minor  
31 victim or child of similar age or circumstance as a previous victim who  
32 the department determines may be put at substantial risk of harm by the  
33 offender's residence in the household; or (b) is within close proximity  
34 of the current residence of a ((minor)) victim, unless the whereabouts  
35 of the ((minor)) victim cannot be determined or unless such a  
36 restriction would impede family reunification efforts ordered by the  
37 court or directed by the department of social and health services. The  
38 department is further authorized to reject a residence location if the

1 proposed residence is within close proximity to schools, child care  
2 centers, playgrounds, or other grounds or facilities where children of  
3 similar age or circumstance as a previous victim are present who the  
4 department determines may be put at substantial risk of harm by the sex  
5 offender's residence at that location.

6 (4) When the department requires supervised visitation as a term or  
7 condition of a sex offender's community placement under RCW  
8 9.94A.700(6), the department shall, prior to approving a supervisor,  
9 consider the following: (a) The relationships between the proposed  
10 supervisor, the offender, and the minor; (b) the proposed supervisor's  
11 acknowledgment and understanding of the offender's prior criminal  
12 conduct, general knowledge of the dynamics of child sexual abuse, and  
13 willingness and ability to protect the minor from the potential risks  
14 posed by contact with the offender; and (c) recommendations made by the  
15 department of social and health services about the best interests of  
16 the child.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 72.09 RCW  
18 to read as follows:

19 When more than four sex offenders subject to level two or level  
20 three community notification live in the same building or within the  
21 same city block and are under the supervision of the department for  
22 terms of community custody, community placement, or community  
23 supervision, the secretary shall, upon a request from the community or  
24 from law enforcement, meet with the community.

25 The secretary shall provide community education and technical  
26 assistance to the community in establishing an appropriate neighborhood  
27 watch program. Such a meeting should reinforce the policies underlying  
28 the community notification program established in RCW 4.24.550 and  
29 shall emphasize that no neighborhood watch program may be used to  
30 harass or intimidate any person.

31 The department shall, to the extent possible, incorporate the  
32 features of other successful neighborhood watch programs into its  
33 technical assistance.

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