
HOUSE BILL 1712

State of Washington

58th Legislature

2003 Regular Session

By Representatives O'Brien, Mielke and Darneille; by request of Department of Community, Trade, and Economic Development

Read first time 02/05/2003. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to registration of sex offenders and kidnapping
2 offenders; and amending RCW 9A.44.130.

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

4 **Sec. 1.** RCW 9A.44.130 and 2002 c 31 s 1 are each amended to read
5 as follows:

6 (1) Any adult or juvenile residing whether or not the person has a
7 fixed residence, or who is a student, is employed, or carries on a
8 vocation in this state who has been found to have committed or has been
9 convicted of any sex offense or kidnapping offense, or who has been
10 found not guilty by reason of insanity under chapter 10.77 RCW of
11 committing any sex offense or kidnapping offense, shall register with
12 the county sheriff for the county of the person's residence, or if the
13 person is not a resident of Washington, the county of the person's
14 school, or place of employment or vocation, or as otherwise specified
15 in this section. Where a person required to register under this
16 section is in custody of the state department of corrections, the state
17 department of social and health services, a local division of youth
18 services, or a local jail or juvenile detention facility as a result of

1 a sex offense or kidnapping offense, the person shall also register at
2 the time of release from custody with an official designated by the
3 agency that has jurisdiction over the person. In addition, any such
4 adult or juvenile: (a) Who is admitted to a public or private
5 institution of higher education shall, within ten days of enrolling or
6 by the first business day after arriving at the institution, whichever
7 is earlier, notify the sheriff for the county of the person's residence
8 of the person's intent to attend the institution; (b) who gains
9 employment at a public or private institution of higher education
10 shall, after ten days of accepting employment or by the first business
11 day of commencing work at the institution, whichever is earlier, notify
12 the sheriff for the county of the person's residence of the person's
13 employment by the institution; or (c) whose enrollment or employment at
14 a public or private institution of higher education is terminated
15 shall, within ten days of such termination, notify the sheriff for the
16 county of the person's residence of the person's termination of
17 enrollment or employment at the institution. Persons required to
18 register under this section who are enrolled in a public or private
19 institution of higher education on June 11, 1998, must notify the
20 county sheriff immediately. The sheriff shall notify the institution's
21 department of public safety and shall provide that department with the
22 same information provided to a county sheriff under subsection (3) of
23 this section.

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

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

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

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

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

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

37 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
38 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody

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

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

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

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

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

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

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

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

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

35 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND
36 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,
37 who move to another state, or who work, carry on a vocation, or attend
38 school in another state shall register a new address, fingerprints, and

1 photograph with the new state within ten days after establishing
2 residence, or after beginning to work, carry on a vocation, or attend
3 school in the new state. The person must also send written notice
4 within ten days of moving to the new state or to a foreign country to
5 the county sheriff with whom the person last registered in Washington
6 state. The county sheriff shall promptly forward this information to
7 the Washington state patrol.

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

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

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

29 (5)(a) If any person required to register pursuant to this section
30 changes his or her residence address within the same county, the person
31 must send written notice of the change of address to the county sheriff
32 within seventy-two hours of moving. If any person required to register
33 pursuant to this section moves to a new county, the person must send
34 written notice of the change of address at least fourteen days before
35 moving to the county sheriff in the new county of residence and must
36 register with that county sheriff within twenty-four hours of moving.
37 The person must also send written notice within ten days of the change
38 of address in the new county to the county sheriff with whom the person

1 last registered. The county sheriff with whom the person last
2 registered shall promptly forward the information concerning the change
3 of address to the county sheriff for the county of the person's new
4 residence. Upon receipt of notice of change of address to a new state,
5 the county sheriff shall promptly forward the information regarding the
6 change of address to the agency designated by the new state as the
7 state's offender registration agency.

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

16 (6)(a) Any person required to register under this section who lacks
17 a fixed residence shall provide written notice to the sheriff of the
18 county where he or she last registered within forty-eight hours
19 excluding weekends and holidays after ceasing to have a fixed
20 residence. The notice shall include the information required by
21 subsection (3)(b) of this section, except the photograph and
22 fingerprints. The county sheriff may, for reasonable cause, require
23 the offender to provide a photograph and fingerprints. The sheriff
24 shall forward this information to the sheriff of the county in which
25 the person intends to reside, if the person intends to reside in
26 another county.

27 (b) A person who lacks a fixed residence must report weekly, in
28 person, to the sheriff of the county where he or she is registered.
29 The weekly report shall be on a day specified by the county sheriff's
30 office, and shall occur during normal business hours. The county
31 sheriff's office may require the person to list the locations where the
32 person has stayed during the last seven days. The lack of a fixed
33 residence is a factor that may be considered in determining an
34 offender's risk level and shall make the offender subject to disclosure
35 of information to the public at large pursuant to RCW 4.24.550.

36 (c) If any person required to register pursuant to this section
37 does not have a fixed residence, it is an affirmative defense to the
38 charge of failure to register, that he or she provided written notice

1 to the sheriff of the county where he or she last registered within
2 forty-eight hours excluding weekends and holidays after ceasing to have
3 a fixed residence and has subsequently complied with the requirements
4 of subsections (4)(a)(vii) or (viii) and (6) of this section. To
5 prevail, the person must prove the defense by a preponderance of the
6 evidence.

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

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

25 (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
26 70.48.470, and 72.09.330:

27 (a) "Sex offense" means:

28 (i) Any offense defined as a sex offense by RCW 9.94A.030;

29 (ii) Any violation under RCW 9A.44.096 (sexual misconduct with a
30 minor in the second degree);

31 (iii) Any violation under RCW 9.68A.090 (communication with a minor
32 for immoral purposes);

33 (iv) Any federal or out-of-state conviction for an offense that
34 under the laws of this state would be classified as a sex offense under
35 this subsection; and

36 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
37 criminal attempt, criminal solicitation, or criminal conspiracy to

1 commit an offense that is classified as a sex offense under RCW
2 9.94A.030 or this subsection.

3 (b) "Kidnapping offense" means: (i) The crimes of kidnapping in
4 the first degree, kidnapping in the second degree, and unlawful
5 imprisonment, as defined in chapter 9A.40 RCW, where the victim is a
6 minor and the offender is not the minor's parent; (ii) any offense that
7 is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation,
8 or criminal conspiracy to commit an offense that is classified as a
9 kidnapping offense under this subsection (9)(b); and (iii) any federal
10 or out-of-state conviction for an offense that under the laws of this
11 state would be classified as a kidnapping offense under this subsection
12 (9)(b).

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

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

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

34 (11) A person who knowingly fails to register or who moves within
35 the state without notifying the county sheriff as required by this
36 section is guilty of a class C felony if the crime for which the
37 individual was convicted was a felony kidnapping offense as defined in
38 subsection (9)(b) of this section or a federal or out-of-state

1 conviction for an offense that under the laws of this state would be a
2 felony kidnapping offense as defined in subsection (9)(b) of this
3 section. If the crime was other than a felony or a federal or out-of-
4 state conviction for an offense that under the laws of this state would
5 be other than a felony, violation of this section is a gross
6 misdemeanor.

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