
HOUSE BILL 1147

State of Washington 59th Legislature 2005 Regular Session

By Representatives Clements, O'Brien, Skinner, Woods, Pearson, Simpson, Lovick, Tom and B. Sullivan

Read first time 01/17/2005. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to protecting communities from sex offenders
2 through the establishment of community protection zones; amending RCW
3 9.94A.030, 9.94A.712, 72.09.340, and 4.24.550; reenacting and amending
4 RCW 9A.44.130 and 9.94A.515; adding a new section to chapter 9.94A RCW;
5 adding a new section to chapter 28A.300 RCW; prescribing penalties;
6 providing an effective date; and declaring an emergency.

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

8 **Sec. 1.** RCW 9.94A.030 and 2003 c 53 s 55 are each amended to read
9 as follows:

10 Unless the context clearly requires otherwise, the definitions in
11 this section apply throughout this chapter.

12 (1) "Board" means the indeterminate sentence review board created
13 under chapter 9.95 RCW.

14 (2) "Collect," or any derivative thereof, "collect and remit," or
15 "collect and deliver," when used with reference to the department,
16 means that the department, either directly or through a collection
17 agreement authorized by RCW 9.94A.760, is responsible for monitoring
18 and enforcing the offender's sentence with regard to the legal

1 financial obligation, receiving payment thereof from the offender, and,
2 consistent with current law, delivering daily the entire payment to the
3 superior court clerk without depositing it in a departmental account.

4 (3) "Commission" means the sentencing guidelines commission.

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

9 (5) "Community custody" means that portion of an offender's
10 sentence of confinement in lieu of earned release time or imposed
11 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,
12 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the
13 community subject to controls placed on the offender's movement and
14 activities by the department. For offenders placed on community
15 custody for crimes committed on or after July 1, 2000, the department
16 shall assess the offender's risk of reoffense and may establish and
17 modify conditions of community custody, in addition to those imposed by
18 the court, based upon the risk to community safety.

19 (6) "Community custody range" means the minimum and maximum period
20 of community custody included as part of a sentence under RCW
21 9.94A.715, as established by the commission or the legislature under
22 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

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

30 (8) "Community protection zone" means:

31 (a) The area within eight hundred eighty feet of the facilities and
32 grounds of a public or private school; and

33 (b) The area within an expanded community protection zone
34 established under section 2 of this act.

35 (9) "Community restitution" means compulsory service, without
36 compensation, performed for the benefit of the community by the
37 offender.

1 (~~(9)~~) (10) "Community supervision" means a period of time during
2 which a convicted offender is subject to crime-related prohibitions and
3 other sentence conditions imposed by a court pursuant to this chapter
4 or RCW 16.52.200(6) or 46.61.524. Where the court finds that any
5 offender has a chemical dependency that has contributed to his or her
6 offense, the conditions of supervision may, subject to available
7 resources, include treatment. For purposes of the interstate compact
8 for out-of-state supervision of parolees and probationers, RCW
9 9.95.270, community supervision is the functional equivalent of
10 probation and should be considered the same as probation by other
11 states.

12 (~~(10)~~) (11) "Confinement" means total or partial confinement.

13 (~~(11)~~) (12) "Conviction" means an adjudication of guilt pursuant
14 to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of
15 guilty, and acceptance of a plea of guilty.

16 (~~(12)~~) (13) "Crime-related prohibition" means an order of a court
17 prohibiting conduct that directly relates to the circumstances of the
18 crime for which the offender has been convicted, and shall not be
19 construed to mean orders directing an offender affirmatively to
20 participate in rehabilitative programs or to otherwise perform
21 affirmative conduct. However, affirmative acts necessary to monitor
22 compliance with the order of a court may be required by the department.

23 (~~(13)~~) (14) "Criminal history" means the list of a defendant's
24 prior convictions and juvenile adjudications, whether in this state, in
25 federal court, or elsewhere.

26 (a) The history shall include, where known, for each conviction (i)
27 whether the defendant has been placed on probation and the length and
28 terms thereof; and (ii) whether the defendant has been incarcerated and
29 the length of incarceration.

30 (b) A conviction may be removed from a defendant's criminal history
31 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or
32 a similar out-of-state statute, or if the conviction has been vacated
33 pursuant to a governor's pardon.

34 (c) The determination of a defendant's criminal history is distinct
35 from the determination of an offender score. A prior conviction that
36 was not included in an offender score calculated pursuant to a former
37 version of the sentencing reform act remains part of the defendant's
38 criminal history.

1 (~~(14)~~) (15) "Day fine" means a fine imposed by the sentencing
2 court that equals the difference between the offender's net daily
3 income and the reasonable obligations that the offender has for the
4 support of the offender and any dependents.

5 (~~(15)~~) (16) "Day reporting" means a program of enhanced
6 supervision designed to monitor the offender's daily activities and
7 compliance with sentence conditions, and in which the offender is
8 required to report daily to a specific location designated by the
9 department or the sentencing court.

10 (~~(16)~~) (17) "Department" means the department of corrections.

11 (~~(17)~~) (18) "Determinate sentence" means a sentence that states
12 with exactitude the number of actual years, months, or days of total
13 confinement, of partial confinement, of community supervision, the
14 number of actual hours or days of community restitution work, or
15 dollars or terms of a legal financial obligation. The fact that an
16 offender through earned release can reduce the actual period of
17 confinement shall not affect the classification of the sentence as a
18 determinate sentence.

19 (~~(18)~~) (19) "Disposable earnings" means that part of the earnings
20 of an offender remaining after the deduction from those earnings of any
21 amount required by law to be withheld. For the purposes of this
22 definition, "earnings" means compensation paid or payable for personal
23 services, whether denominated as wages, salary, commission, bonuses, or
24 otherwise, and, notwithstanding any other provision of law making the
25 payments exempt from garnishment, attachment, or other process to
26 satisfy a court-ordered legal financial obligation, specifically
27 includes periodic payments pursuant to pension or retirement programs,
28 or insurance policies of any type, but does not include payments made
29 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
30 or Title 74 RCW.

31 (~~(19)~~) (20) "Drug offender sentencing alternative" is a
32 sentencing option available to persons convicted of a felony offense
33 other than a violent offense or a sex offense and who are eligible for
34 the option under RCW 9.94A.660.

35 (~~(20)~~) (21) "Drug offense" means:

36 (a) Any felony violation of chapter 69.50 RCW except possession of
37 a controlled substance (RCW 69.50.4013) or forged prescription for a
38 controlled substance (RCW 69.50.403);

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

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

7 ~~((+21+))~~ (22) "Earned release" means earned release from
8 confinement as provided in RCW 9.94A.728.

9 ~~((+22+))~~ (23) "Escape" means:

10 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
11 first degree (RCW 9A.76.110), escape in the second degree (RCW
12 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
13 willful failure to return from work release (RCW 72.65.070), or willful
14 failure to be available for supervision by the department while in
15 community custody (RCW 72.09.310); or

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

19 ~~((+23+))~~ (24) "Felony traffic offense" means:

20 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
21 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
22 and-run injury-accident (RCW 46.52.020(4)); or

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

26 ~~((+24+))~~ (25) "Fine" means a specific sum of money ordered by the
27 sentencing court to be paid by the offender to the court over a
28 specific period of time.

29 ~~((+25+))~~ (26) "First-time offender" means any person who has no
30 prior convictions for a felony and is eligible for the first-time
31 offender waiver under RCW 9.94A.650.

32 ~~((+26+))~~ (27) "Home detention" means a program of partial
33 confinement available to offenders wherein the offender is confined in
34 a private residence subject to electronic surveillance.

35 ~~((+27+))~~ (28) "Legal financial obligation" means a sum of money
36 that is ordered by a superior court of the state of Washington for
37 legal financial obligations which may include restitution to the
38 victim, statutorily imposed crime victims' compensation fees as

1 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
2 drug funds, court-appointed attorneys' fees, and costs of defense,
3 fines, and any other financial obligation that is assessed to the
4 offender as a result of a felony conviction. Upon conviction for
5 vehicular assault while under the influence of intoxicating liquor or
6 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
7 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
8 legal financial obligations may also include payment to a public agency
9 of the expense of an emergency response to the incident resulting in
10 the conviction, subject to RCW 38.52.430.

11 ~~((28))~~ (29) "Most serious offense" means any of the following
12 felonies or a felony attempt to commit any of the following felonies:

13 (a) Any felony defined under any law as a class A felony or
14 criminal solicitation of or criminal conspiracy to commit a class A
15 felony;

16 (b) Assault in the second degree;

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

18 (d) Child molestation in the second degree;

19 (e) Controlled substance homicide;

20 (f) Extortion in the first degree;

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

22 (h) Indecent liberties;

23 (i) Kidnapping in the second degree;

24 (j) Leading organized crime;

25 (k) Manslaughter in the first degree;

26 (l) Manslaughter in the second degree;

27 (m) Promoting prostitution in the first degree;

28 (n) Rape in the third degree;

29 (o) Robbery in the second degree;

30 (p) Sexual exploitation;

31 (q) Vehicular assault, when caused by the operation or driving of
32 a vehicle by a person while under the influence of intoxicating liquor
33 or any drug or by the operation or driving of a vehicle in a reckless
34 manner;

35 (r) Vehicular homicide, when proximately caused by the driving of
36 any vehicle by any person while under the influence of intoxicating
37 liquor or any drug as defined by RCW 46.61.502, or by the operation of
38 any vehicle in a reckless manner;

1 (s) Any other class B felony offense with a finding of sexual
2 motivation;

3 (t) Any other felony with a deadly weapon verdict under RCW
4 9.94A.602;

5 (u) Any felony offense in effect at any time prior to December 2,
6 1993, that is comparable to a most serious offense under this
7 subsection, or any federal or out-of-state conviction for an offense
8 that under the laws of this state would be a felony classified as a
9 most serious offense under this subsection;

10 (v)(i) A prior conviction for indecent liberties under RCW
11 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
12 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
13 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
14 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

15 (ii) A prior conviction for indecent liberties under RCW
16 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
17 if: (A) The crime was committed against a child under the age of
18 fourteen; or (B) the relationship between the victim and perpetrator is
19 included in the definition of indecent liberties under RCW
20 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
21 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
22 through July 27, 1997.

23 (~~(+29+)~~) (30) "Nonviolent offense" means an offense which is not a
24 violent offense.

25 (~~(+30+)~~) (31) "Offender" means a person who has committed a felony
26 established by state law and is eighteen years of age or older or is
27 less than eighteen years of age but whose case is under superior court
28 jurisdiction under RCW 13.04.030 or has been transferred by the
29 appropriate juvenile court to a criminal court pursuant to RCW
30 13.40.110. Throughout this chapter, the terms "offender" and
31 "defendant" are used interchangeably.

32 (~~(+31+)~~) (32) "Partial confinement" means confinement for no more
33 than one year in a facility or institution operated or utilized under
34 contract by the state or any other unit of government, or, if home
35 detention or work crew has been ordered by the court, in an approved
36 residence, for a substantial portion of each day with the balance of
37 the day spent in the community. Partial confinement includes work

1 release, home detention, work crew, and a combination of work crew and
2 home detention.

3 ~~((+32+))~~ (33) "Persistent offender" is an offender who:

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

6 (ii) Has, before the commission of the offense under (a) of this
7 subsection, been convicted as an offender on at least two separate
8 occasions, whether in this state or elsewhere, of felonies that under
9 the laws of this state would be considered most serious offenses and
10 would be included in the offender score under RCW 9.94A.525; provided
11 that of the two or more previous convictions, at least one conviction
12 must have occurred before the commission of any of the other most
13 serious offenses for which the offender was previously convicted; or

14 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
15 of a child in the first degree, child molestation in the first degree,
16 rape in the second degree, rape of a child in the second degree, or
17 indecent liberties by forcible compulsion; (B) any of the following
18 offenses with a finding of sexual motivation: Murder in the first
19 degree, murder in the second degree, homicide by abuse, kidnapping in
20 the first degree, kidnapping in the second degree, assault in the first
21 degree, assault in the second degree, assault of a child in the first
22 degree, or burglary in the first degree; or (C) an attempt to commit
23 any crime listed in this subsection ~~((+32+))~~ (33)(b)(i); and

24 (ii) Has, before the commission of the offense under (b)(i) of this
25 subsection, been convicted as an offender on at least one occasion,
26 whether in this state or elsewhere, of an offense listed in (b)(i) of
27 this subsection or any federal or out-of-state offense or offense under
28 prior Washington law that is comparable to the offenses listed in
29 (b)(i) of this subsection. A conviction for rape of a child in the
30 first degree constitutes a conviction under (b)(i) of this subsection
31 only when the offender was sixteen years of age or older when the
32 offender committed the offense. A conviction for rape of a child in
33 the second degree constitutes a conviction under (b)(i) of this
34 subsection only when the offender was eighteen years of age or older
35 when the offender committed the offense.

36 ~~((+33+))~~ (34) "Postrelease supervision" is that portion of an
37 offender's community placement that is not community custody.

1 ~~((34))~~ (35) "Private school" means a school regulated under
2 chapter 28A.195 or 28A.205 RCW.

3 (36) "Public school" has the same meaning as in RCW 28A.150.010.

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

8 ~~((35))~~ (38) "Risk assessment" means the application of an
9 objective instrument supported by research and adopted by the
10 department for the purpose of assessing an offender's risk of
11 reoffense, taking into consideration the nature of the harm done by the
12 offender, place and circumstances of the offender related to risk, the
13 offender's relationship to any victim, and any information provided to
14 the department by victims. The results of a risk assessment shall not
15 be based on unconfirmed or unconfirmable allegations.

16 ~~((36))~~ (39) "Serious traffic offense" means:

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

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

25 ~~((37))~~ (40) "Serious violent offense" is a subcategory of violent
26 offense and means:

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

28 (ii) Homicide by abuse;

29 (iii) Murder in the second degree;

30 (iv) Manslaughter in the first degree;

31 (v) Assault in the first degree;

32 (vi) Kidnapping in the first degree;

33 (vii) Rape in the first degree;

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

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

37 (b) Any federal or out-of-state conviction for an offense that

1 under the laws of this state would be a felony classified as a serious
2 violent offense under (a) of this subsection.

3 ~~((38))~~ (41) "Sex offense" means:

4 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
5 RCW 9A.44.130(11);

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

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

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

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

14 (c) A felony with a finding of sexual motivation under RCW
15 9.94A.835 or 13.40.135; or

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

19 ~~((39))~~ (42) "Sexual motivation" means that one of the purposes
20 for which the defendant committed the crime was for the purpose of his
21 or her sexual gratification.

22 ~~((40))~~ (43) "Standard sentence range" means the sentencing
23 court's discretionary range in imposing a nonappealable sentence.

24 ~~((41))~~ (44) "Statutory maximum sentence" means the maximum length
25 of time for which an offender may be confined as punishment for a crime
26 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining
27 the crime, or other statute defining the maximum penalty for a crime.

28 ~~((42))~~ (45) "Total confinement" means confinement inside the
29 physical boundaries of a facility or institution operated or utilized
30 under contract by the state or any other unit of government for twenty-
31 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

32 ~~((43))~~ (46) "Transition training" means written and verbal
33 instructions and assistance provided by the department to the offender
34 during the two weeks prior to the offender's successful completion of
35 the work ethic camp program. The transition training shall include
36 instructions in the offender's requirements and obligations during the
37 offender's period of community custody.

1 (~~(44)~~) (47) "Victim" means any person who has sustained
2 emotional, psychological, physical, or financial injury to person or
3 property as a direct result of the crime charged.

4 (~~(45)~~) (48) "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, when caused by the operation or driving
21 of a vehicle by a person while under the influence of intoxicating
22 liquor or any drug or by the operation or driving of a vehicle in a
23 reckless manner; and

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

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

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

34 (~~(46)~~) (49) "Work crew" means a program of partial confinement
35 consisting of civic improvement tasks for the benefit of the community
36 that complies with RCW 9.94A.725.

37 (~~(47)~~) (50) "Work ethic camp" means an alternative incarceration
38 program as provided in RCW 9.94A.690 designed to reduce recidivism and

1 lower the cost of corrections by requiring offenders to complete a
2 comprehensive array of real-world job and vocational experiences,
3 character-building work ethics training, life management skills
4 development, substance abuse rehabilitation, counseling, literacy
5 training, and basic adult education.

6 ((~~48~~)) (51) "Work release" means a program of partial confinement
7 available to offenders who are employed or engaged as a student in a
8 regular course of study at school.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A RCW
10 to read as follows:

11 (1) A school district may expand a community protection zone to a
12 radius greater than eight hundred eighty feet around any public school
13 or private school in the district. Such an expansion must be
14 rationally related to the goal of protecting students at the school
15 from dangerous sex offenders.

16 (2) A private school may make a written request to the school
17 district in which the private school is located to expand the community
18 protection zone around the private school to a radius greater than
19 eight hundred eighty feet. The school district shall inform the
20 private school of its decision as to whether the district will begin
21 the process of establishing a community protection zone in writing
22 within thirty days.

23 (3) Prior to expanding a community protection zone around a public
24 school or a private school, the school district shall:

25 (a) Conduct at least two public meetings to give the community the
26 opportunity to submit written and oral testimony as to the location of
27 the zone. In order to provide adequate notice to the public of the
28 meetings, the district shall make a good faith effort to provide at
29 least fourteen days' advance notice of the meetings to:

- 30 (i) All newspapers of general circulation in the community;
31 (ii) All local radio and television stations generally available to
32 persons in the community; and
33 (iii) All parents and guardians of students attending the school
34 around which the zone will be established; and

35 (b) Obtain written approval of the expansion from:

- 36 (i) The department;

1 (ii) The county sheriff for the county in which the district is
2 located; and

3 (iii) The chief law enforcement official of any municipality in
4 which the school is located.

5 (4) When a community protection zone is expanded under this
6 section, the school district shall send notification of the zone's new
7 dimensions to:

- 8 (a) The department;
- 9 (b) The county sheriff in which the zone is located; and
- 10 (c) The chief law enforcement official of any municipality in which
11 the zone is located.

12 **Sec. 3.** RCW 9.94A.712 and 2004 c 176 s 3 are each amended to read
13 as follows:

14 (1) An offender who is not a persistent offender shall be sentenced
15 under this section if the offender:

- 16 (a) Is convicted of:
 - 17 (i) Rape in the first degree, rape in the second degree, rape of a
18 child in the first degree, child molestation in the first degree, rape
19 of a child in the second degree, or indecent liberties by forcible
20 compulsion;

- 21 (ii) Any of the following offenses with a finding of sexual
22 motivation: Murder in the first degree, murder in the second degree,
23 homicide by abuse, kidnapping in the first degree, kidnapping in the
24 second degree, assault in the first degree, assault in the second
25 degree, assault of a child in the first degree, or burglary in the
26 first degree; or

- 27 (iii) An attempt to commit any crime listed in this subsection
28 (1)(a);
29 committed on or after September 1, 2001; or

- 30 (b) Has a prior conviction for an offense listed in RCW
31 9.94A.030(~~(+32+)~~) (33)(b), and is convicted of any sex offense which
32 was committed after September 1, 2001.

33 For purposes of this subsection (1)(b), failure to register is not
34 a sex offense.

35 (2) An offender convicted of rape of a child in the first or second
36 degree or child molestation in the first degree who was seventeen years

1 of age or younger at the time of the offense shall not be sentenced
2 under this section.

3 (3) Upon a finding that the offender is subject to sentencing under
4 this section, the court shall impose a sentence to a maximum term
5 consisting of the statutory maximum sentence for the offense and a
6 minimum term either within the standard sentence range for the offense,
7 or outside the standard sentence range pursuant to RCW 9.94A.535, if
8 the offender is otherwise eligible for such a sentence.

9 (4) A person sentenced under subsection (3) of this section shall
10 serve the sentence in a facility or institution operated, or utilized
11 under contract, by the state.

12 (5) When a court sentences a person to the custody of the
13 department under this section, the court shall, in addition to the
14 other terms of the sentence, sentence the offender to community custody
15 under the supervision of the department and the authority of the board
16 for any period of time the person is released from total confinement
17 before the expiration of the maximum sentence.

18 (6)(a)(i) Unless a condition is waived by the court, the conditions
19 of community custody shall include those provided for in RCW
20 9.94A.700(4). The conditions may also include those provided for in
21 RCW 9.94A.700(5). The court may also order the offender to participate
22 in rehabilitative programs or otherwise perform affirmative conduct
23 reasonably related to the circumstances of the offense, the offender's
24 risk of reoffending, or the safety of the community, and the department
25 and the board shall enforce such conditions pursuant to RCW 9.94A.713,
26 9.95.425, and 9.95.430.

27 (ii) If the offense that caused the offender to be sentenced under
28 this section was an offense listed in subsection (1)(a) of this section
29 and the victim of the offense was under eighteen years of age at the
30 time of the offense, the court shall, as a condition of community
31 custody, prohibit the offender from residing in a community protection
32 zone unless the department can obtain prior written approval of the
33 residence from the school district in which the community protection
34 zone is located, the county sheriff for the county in which the
35 community protection zone is located, and the chief law enforcement
36 official of any municipality in which the community protection zone is
37 located.

1 (b) As part of any sentence under this section, the court shall
2 also require the offender to comply with any conditions imposed by the
3 board under RCW 9.94A.713 and 9.95.420 through 9.95.435.

4 **Sec. 4.** RCW 72.09.340 and 1996 c 215 s 3 are each amended to read
5 as follows:

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

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

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

1 facilities where children of similar age or circumstance as a previous
2 victim are present who the department determines may be put at
3 substantial risk of harm by the sex offender's residence at that
4 location.

5 (b) In addition, for any offender prohibited from living in a
6 community protection zone under RCW 9.94A.712(6)(a)(ii), the department
7 may not approve a residence location if the proposed residence is in a
8 community protection zone unless the department has obtained prior
9 written approval of the residence from the school district in which the
10 community protection zone is located, the county sheriff for the county
11 in which the community protection zone is located, and the chief law
12 enforcement official of any municipality in which the community
13 protection zone is located.

14 (4) When the department requires supervised visitation as a term or
15 condition of a sex offender's community placement under RCW
16 9.94A.700(6), the department shall, prior to approving a supervisor,
17 consider the following:

18 (a) The relationships between the proposed supervisor, the
19 offender, and the minor; (b) the proposed supervisor's acknowledgment
20 and understanding of the offender's prior criminal conduct, general
21 knowledge of the dynamics of child sexual abuse, and willingness and
22 ability to protect the minor from the potential risks posed by contact
23 with the offender; and (c) recommendations made by the department of
24 social and health services about the best interests of the child.

25 **Sec. 5.** RCW 9A.44.130 and 2003 c 215 s 1 and 2003 c 53 s 68 are
26 each reenacted and amended to read as follows:

27 (1) Any adult or juvenile residing whether or not the person has a
28 fixed residence, or who is a student, is employed, or carries on a
29 vocation in this state who has been found to have committed or has been
30 convicted of any sex offense or kidnapping offense, or who has been
31 found not guilty by reason of insanity under chapter 10.77 RCW of
32 committing any sex offense or kidnapping offense, shall register with
33 the county sheriff for the county of the person's residence, or if the
34 person is not a resident of Washington, the county of the person's
35 school, or place of employment or vocation, or as otherwise specified
36 in this section. Where a person required to register under this
37 section is in custody of the state department of corrections, the state

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

26 (2) This section may not be construed to confer any powers pursuant
27 to RCW ((~~4.24.500~~)) 4.24.550 upon the public safety department of any
28 public or private institution of higher education.

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

34 (b) Any person who lacks a fixed residence shall provide the
35 following information when registering: (i) Name; (ii) date and place
36 of birth; (iii) place of employment; (iv) crime for which convicted;
37 (v) date and place of conviction; (vi) aliases used; (vii) social

1 security number; (viii) photograph; (ix) fingerprints; and (x) where he
2 or she plans to stay.

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

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

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

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

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

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

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

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

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

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

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

37 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND
38 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,

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

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

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

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

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

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

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

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

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

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 forty-eight hours excluding weekends and holidays after ceasing to have
6 a fixed residence and has subsequently complied with the requirements
7 of subsections (4)(a)(vii) or (viii) and (6) of this section. To
8 prevail, the person must prove the defense by a preponderance of the
9 evidence.

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

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

28 (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
29 70.48.470, and 72.09.330:

30 (a) "Sex offense" means:

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

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

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

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

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

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

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

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

25 (10)(a)(i) A person ((who)) is guilty of failure to register as a
26 sex offender in the first degree if:

27 (A) He or she knowingly fails to register with the county sheriff
28 or notify the county sheriff, or ((who)) changes his or her name
29 without notifying the county sheriff and the state patrol, as required
30 by this section ((is guilty of a class C felony if the crime for which
31 the individual was convicted was a felony sex offense as defined in
32 subsection (9)(a) of this section or a federal or out-of-state
33 conviction for an offense that under the laws of this state would be a
34 felony sex offense as defined in subsection (9)(a) of this section));

35 (B) The crime for which the person was convicted was a crime listed
36 in RCW 9.94A.712(1)(a);

37 (C) The victim of the person's crime was under the age of eighteen
38 at the time the crime was committed; and

1 (D) The person resides in a community protection zone as defined in
2 RCW 9.94A.030.

3 (ii) Failure to register as a sex offender in the first degree is
4 a class C felony.

5 (b) ((If)) (i) A person is guilty of failure to register as a sex
6 offender in the second degree if, under circumstances not constituting
7 failure to register as a sex offender in the first degree:

8 (A) He or she knowingly fails to register with the county sheriff,
9 or changes his or her name without notifying the county sheriff and the
10 state patrol, as required by this section; and

11 (B) The crime for which the person was convicted was a felony sex
12 offense as defined in subsection (9)(a) of this section or a federal or
13 out-of-state conviction for an offense that under the laws of this
14 state would be a felony sex offense as defined in subsection (9)(a) of
15 this section.

16 (ii) Failure to register as a sex offender in the second degree is
17 a class C felony.

18 (c)(i) A person is guilty of failure to register as a sex offender
19 in the third degree if, under circumstances not constituting failure to
20 register in the first and second degrees:

21 (A) He or she knowingly fails to register with the county sheriff
22 or notify the county sheriff, or changes his or her name without
23 notifying the county sheriff and the state patrol, as required by this
24 section; and

25 (B) The crime for which the individual was convicted was other than
26 a felony or a federal or out-of-state conviction for an offense that
27 under the laws of this state would be other than a felony(~~, violation~~
28 of this section)).

29 (ii) Failure to register as a sex offender in the third degree is
30 a gross misdemeanor.

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

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

5 **Sec. 6.** RCW 9.94A.515 and 2004 c 176 s 2 and 2004 c 94 s 3 are
6 each reenacted and amended to read as follows:

7 TABLE 2

8 CRIMES INCLUDED WITHIN
9 EACH SERIOUSNESS LEVEL

- 10 XVI Aggravated Murder 1 (RCW
11 10.95.020)
- 12 XV Homicide by abuse (RCW 9A.32.055)
13 Malicious explosion 1 (RCW
14 70.74.280(1))
15 Murder 1 (RCW 9A.32.030)
- 16 XIV Murder 2 (RCW 9A.32.050)
17 Trafficking 1 (RCW 9A.40.100(1))
- 18 XIII Malicious explosion 2 (RCW
19 70.74.280(2))
20 Malicious placement of an explosive 1
21 (RCW 70.74.270(1))
- 22 XII Assault 1 (RCW 9A.36.011)
23 Assault of a Child 1 (RCW 9A.36.120)
24 Malicious placement of an imitation
25 device 1 (RCW 70.74.272(1)(a))
26 Rape 1 (RCW 9A.44.040)
27 Rape of a Child 1 (RCW 9A.44.073)
28 Trafficking 2 (RCW 9A.40.100(2))
- 29 XI Manslaughter 1 (RCW 9A.32.060)
30 Rape 2 (RCW 9A.44.050)
31 Rape of a Child 2 (RCW 9A.44.076)
- 32 X Child Molestation 1 (RCW 9A.44.083)
33 Indecent Liberties (with forcible
34 compulsion) (RCW
35 9A.44.100(1)(a))

1 Kidnapping 1 (RCW 9A.40.020)
2 Leading Organized Crime (RCW
3 9A.82.060(1)(a))
4 Malicious explosion 3 (RCW
5 70.74.280(3))
6 Sexually Violent Predator Escape
7 (RCW 9A.76.115)
8 IX Assault of a Child 2 (RCW 9A.36.130)
9 Explosive devices prohibited (RCW
10 70.74.180)
11 Hit and Run--Death (RCW
12 46.52.020(4)(a))
13 Homicide by Watercraft, by being
14 under the influence of intoxicating
15 liquor or any drug (RCW
16 79A.60.050)
17 Inciting Criminal Profiteering (RCW
18 9A.82.060(1)(b))
19 Malicious placement of an explosive 2
20 (RCW 70.74.270(2))
21 Robbery 1 (RCW 9A.56.200)
22 Sexual Exploitation (RCW 9.68A.040)
23 Vehicular Homicide, by being under
24 the influence of intoxicating
25 liquor or any drug (RCW
26 46.61.520)
27 VIII Arson 1 (RCW 9A.48.020)
28 Homicide by Watercraft, by the
29 operation of any vessel in a
30 reckless manner (RCW
31 79A.60.050)
32 Manslaughter 2 (RCW 9A.32.070)
33 Promoting Prostitution 1 (RCW
34 9A.88.070)
35 Theft of Ammonia (RCW 69.55.010)

1 Vehicular Homicide, by the operation
2 of any vehicle in a reckless
3 manner (RCW 46.61.520)
4 VII Burglary 1 (RCW 9A.52.020)
5 Child Molestation 2 (RCW 9A.44.086)
6 Civil Disorder Training (RCW
7 9A.48.120)
8 Dealing in depictions of minor
9 engaged in sexually explicit
10 conduct (RCW 9.68A.050)
11 Drive-by Shooting (RCW 9A.36.045)
12 Homicide by Watercraft, by disregard
13 for the safety of others (RCW
14 79A.60.050)
15 Indecent Liberties (without forcible
16 compulsion) (RCW 9A.44.100(1)
17 (b) and (c))
18 Introducing Contraband 1 (RCW
19 9A.76.140)
20 Malicious placement of an explosive 3
21 (RCW 70.74.270(3))
22 Sending, bringing into state depictions
23 of minor engaged in sexually
24 explicit conduct (RCW
25 9.68A.060)
26 Unlawful Possession of a Firearm in
27 the first degree (RCW
28 9.41.040(1))
29 Use of a Machine Gun in Commission
30 of a Felony (RCW 9.41.225)
31 Vehicular Homicide, by disregard for
32 the safety of others (RCW
33 46.61.520)
34 VI Bail Jumping with Murder 1 (RCW
35 9A.76.170(3)(a))
36 Bribery (RCW 9A.68.010)
37 Incest 1 (RCW 9A.64.020(1))

1 Intimidating a Judge (RCW
2 9A.72.160)
3 Intimidating a Juror/Witness (RCW
4 9A.72.110, 9A.72.130)
5 Malicious placement of an imitation
6 device 2 (RCW 70.74.272(1)(b))
7 Rape of a Child 3 (RCW 9A.44.079)
8 Theft of a Firearm (RCW 9A.56.300)
9 Unlawful Storage of Ammonia (RCW
10 69.55.020)
11 V Abandonment of dependent person 1
12 (RCW 9A.42.060)
13 Advancing money or property for
14 extortionate extension of credit
15 (RCW 9A.82.030)
16 Bail Jumping with class A Felony
17 (RCW 9A.76.170(3)(b))
18 Child Molestation 3 (RCW 9A.44.089)
19 Criminal Mistreatment 1 (RCW
20 9A.42.020)
21 Custodial Sexual Misconduct 1 (RCW
22 9A.44.160)
23 Domestic Violence Court Order
24 Violation (RCW 10.99.040,
25 10.99.050, 26.09.300, 26.10.220,
26 26.26.138, 26.50.110, 26.52.070,
27 or 74.34.145)
28 Extortion 1 (RCW 9A.56.120)
29 Extortionate Extension of Credit
30 (RCW 9A.82.020)
31 Extortionate Means to Collect
32 Extensions of Credit (RCW
33 9A.82.040)
34 Failure to register as a sex offender in
35 the first degree (RCW
36 9A.44.130(10)(a))
37 Incest 2 (RCW 9A.64.020(2))

1 Kidnapping 2 (RCW 9A.40.030)
2 Perjury 1 (RCW 9A.72.020)
3 Persistent prison misbehavior (RCW
4 9.94.070)
5 Possession of a Stolen Firearm (RCW
6 9A.56.310)
7 Rape 3 (RCW 9A.44.060)
8 Rendering Criminal Assistance 1
9 (RCW 9A.76.070)
10 Sexual Misconduct with a Minor 1
11 (RCW 9A.44.093)
12 Sexually Violating Human Remains
13 (RCW 9A.44.105)
14 Stalking (RCW 9A.46.110)
15 Taking Motor Vehicle Without
16 Permission 1 (RCW 9A.56.070)
17 IV Arson 2 (RCW 9A.48.030)
18 Assault 2 (RCW 9A.36.021)
19 Assault by Watercraft (RCW
20 79A.60.060)
21 Bribing a Witness/Bribe Received by
22 Witness (RCW 9A.72.090,
23 9A.72.100)
24 Cheating 1 (RCW 9.46.1961)
25 Commercial Bribery (RCW
26 9A.68.060)
27 Counterfeiting (RCW 9.16.035(4))
28 Endangerment with a Controlled
29 Substance (RCW 9A.42.100)
30 Escape 1 (RCW 9A.76.110)
31 Hit and Run--Injury (RCW
32 46.52.020(4)(b))
33 Hit and Run with Vessel--Injury
34 Accident (RCW 79A.60.200(3))
35 Identity Theft 1 (RCW 9.35.020(2))

1 Indecent Exposure to Person Under
2 Age Fourteen (subsequent sex
3 offense) (RCW 9A.88.010)
4 Influencing Outcome of Sporting
5 Event (RCW 9A.82.070)
6 Malicious Harassment (RCW
7 9A.36.080)
8 Residential Burglary (RCW
9 9A.52.025)
10 Robbery 2 (RCW 9A.56.210)
11 Theft of Livestock 1 (RCW 9A.56.080)
12 Threats to Bomb (RCW 9.61.160)
13 Trafficking in Stolen Property 1 (RCW
14 9A.82.050)
15 Unlawful factoring of a credit card or
16 payment card transaction (RCW
17 9A.56.290(4)(b))
18 Unlawful transaction of health
19 coverage as a health care service
20 contractor (RCW 48.44.016(3))
21 Unlawful transaction of health
22 coverage as a health maintenance
23 organization (RCW 48.46.033(3))
24 Unlawful transaction of insurance
25 business (RCW 48.15.023(3))
26 Unlicensed practice as an insurance
27 professional (RCW 48.17.063(3))
28 Use of Proceeds of Criminal
29 Profiteering (RCW 9A.82.080 (1)
30 and (2))
31 Vehicular Assault, by being under the
32 influence of intoxicating liquor or
33 any drug, or by the operation or
34 driving of a vehicle in a reckless
35 manner (RCW 46.61.522)
36 Willful Failure to Return from
37 Furlough (RCW 72.66.060)

1 III Abandonment of dependent person 2
2 (RCW 9A.42.070)
3 Assault 3 (RCW 9A.36.031)
4 Assault of a Child 3 (RCW 9A.36.140)
5 Bail Jumping with class B or C Felony
6 (RCW 9A.76.170(3)(c))
7 Burglary 2 (RCW 9A.52.030)
8 Communication with a Minor for
9 Immoral Purposes (RCW
10 9.68A.090)
11 Criminal Gang Intimidation (RCW
12 9A.46.120)
13 Criminal Mistreatment 2 (RCW
14 9A.42.030)
15 Custodial Assault (RCW 9A.36.100)
16 Cyberstalking (subsequent conviction
17 or threat of death) (RCW
18 9.61.260(3))
19 Escape 2 (RCW 9A.76.120)
20 Extortion 2 (RCW 9A.56.130)
21 Harassment (RCW 9A.46.020)
22 Intimidating a Public Servant (RCW
23 9A.76.180)
24 Introducing Contraband 2 (RCW
25 9A.76.150)
26 Malicious Injury to Railroad Property
27 (RCW 81.60.070)
28 Patronizing a Juvenile Prostitute
29 (RCW 9.68A.100)
30 Perjury 2 (RCW 9A.72.030)
31 Possession of Incendiary Device (RCW
32 9.40.120)
33 Possession of Machine Gun or Short-
34 Barreled Shotgun or Rifle (RCW
35 9.41.190)
36 Promoting Prostitution 2 (RCW
37 9A.88.080)

1 Securities Act violation (RCW
2 21.20.400)
3 Tampering with a Witness (RCW
4 9A.72.120)
5 Telephone Harassment (subsequent
6 conviction or threat of death)
7 (RCW 9.61.230(2))
8 Theft of Livestock 2 (RCW 9A.56.083)
9 Trafficking in Stolen Property 2 (RCW
10 9A.82.055)
11 Unlawful Imprisonment (RCW
12 9A.40.040)
13 Unlawful possession of firearm in the
14 second degree (RCW 9.41.040(2))
15 Vehicular Assault, by the operation or
16 driving of a vehicle with disregard
17 for the safety of others (RCW
18 46.61.522)
19 Willful Failure to Return from Work
20 Release (RCW 72.65.070)
21 II Computer Trespass 1 (RCW
22 9A.52.110)
23 Counterfeiting (RCW 9.16.035(3))
24 Escape from Community Custody
25 (RCW 72.09.310)
26 Health Care False Claims (RCW
27 48.80.030)
28 Identity Theft 2 (RCW 9.35.020(3))
29 Improperly Obtaining Financial
30 Information (RCW 9.35.010)
31 Malicious Mischief 1 (RCW
32 9A.48.070)
33 Possession of Stolen Property 1 (RCW
34 9A.56.150)
35 Theft 1 (RCW 9A.56.030)

1 Theft of Rental, Leased, or Lease-
2 purchased Property (valued at one
3 thousand five hundred dollars or
4 more) (RCW 9A.56.096(5)(a))
5 Trafficking in Insurance Claims (RCW
6 48.30A.015)
7 Unlawful factoring of a credit card or
8 payment card transaction (RCW
9 9A.56.290(4)(a))
10 Unlawful Practice of Law (RCW
11 2.48.180)
12 Unlicensed Practice of a Profession or
13 Business (RCW 18.130.190(7))
14 I Attempting to Elude a Pursuing Police
15 Vehicle (RCW 46.61.024)
16 False Verification for Welfare (RCW
17 74.08.055)
18 Forgery (RCW 9A.60.020)
19 Fraudulent Creation or Revocation of a
20 Mental Health Advance Directive
21 (RCW 9A.60.060)
22 Malicious Mischief 2 (RCW
23 9A.48.080)
24 Mineral Trespass (RCW 78.44.330)
25 Possession of Stolen Property 2 (RCW
26 9A.56.160)
27 Reckless Burning 1 (RCW 9A.48.040)
28 Taking Motor Vehicle Without
29 Permission 2 (RCW 9A.56.075)
30 Theft 2 (RCW 9A.56.040)
31 Theft of Rental, Leased, or Lease-
32 purchased Property (valued at two
33 hundred fifty dollars or more but
34 less than one thousand five
35 hundred dollars) (RCW
36 9A.56.096(5)(b))

1 Transaction of insurance business
2 beyond the scope of licensure
3 (RCW 48.17.063(4))
4 Unlawful Issuance of Checks or Drafts
5 (RCW 9A.56.060)
6 Unlawful Possession of Fictitious
7 Identification (RCW 9A.56.320)
8 Unlawful Possession of Instruments of
9 Financial Fraud (RCW
10 9A.56.320)
11 Unlawful Possession of Payment
12 Instruments (RCW 9A.56.320)
13 Unlawful Possession of a Personal
14 Identification Device (RCW
15 9A.56.320)
16 Unlawful Production of Payment
17 Instruments (RCW 9A.56.320)
18 Unlawful Trafficking in Food Stamps
19 (RCW 9.91.142)
20 Unlawful Use of Food Stamps (RCW
21 9.91.144)
22 Vehicle Prowl 1 (RCW 9A.52.095)

23 **Sec. 7.** RCW 4.24.550 and 2003 c 217 s 1 are each amended to read
24 as follows:

25 (1) In addition to the disclosure under subsection (5) of this
26 section, public agencies are authorized to release information to the
27 public regarding sex offenders and kidnapping offenders when the agency
28 determines that disclosure of the information is relevant and necessary
29 to protect the public and counteract the danger created by the
30 particular offender. This authorization applies to information
31 regarding: (a) Any person adjudicated or convicted of a sex offense as
32 defined in RCW 9A.44.130 or a kidnapping offense as defined by RCW
33 9A.44.130; (b) any person under the jurisdiction of the indeterminate
34 sentence review board as the result of a sex offense or kidnapping
35 offense; (c) any person committed as a sexually violent predator under
36 chapter 71.09 RCW or as a sexual psychopath under chapter 71.06 RCW;
37 (d) any person found not guilty of a sex offense or kidnapping offense

1 by reason of insanity under chapter 10.77 RCW; and (e) any person found
2 incompetent to stand trial for a sex offense or kidnapping offense and
3 subsequently committed under chapter 71.05 or 71.34 RCW.

4 (2) Except for the information specifically required under
5 subsection (5) of this section, the extent of the public disclosure of
6 relevant and necessary information shall be rationally related to: (a)
7 The level of risk posed by the offender to the community; (b) the
8 locations where the offender resides, expects to reside, or is
9 regularly found; and (c) the needs of the affected community members
10 for information to enhance their individual and collective safety.

11 (3) Except for the information specifically required under
12 subsection (5) of this section, local law enforcement agencies shall
13 consider the following guidelines in determining the extent of a public
14 disclosure made under this section: (a) For offenders classified as
15 risk level I, the agency shall share information with other appropriate
16 law enforcement agencies and may disclose, upon request, relevant,
17 necessary, and accurate information to any victim or witness to the
18 offense and to any individual community member who lives near the
19 residence where the offender resides, expects to reside, or is
20 regularly found; (b) for offenders classified as risk level II, the
21 agency may also disclose relevant, necessary, and accurate information
22 to public and private schools, child day care centers, family day care
23 providers, businesses and organizations that serve primarily children,
24 women, or vulnerable adults, and neighbors and community groups near
25 the residence where the offender resides, expects to reside, or is
26 regularly found; (c) for offenders classified as risk level III, the
27 agency may also disclose relevant, necessary, and accurate information
28 to the public at large; and (d) because more localized notification is
29 not feasible and homeless and transient offenders may present unique
30 risks to the community, the agency may also disclose relevant,
31 necessary, and accurate information to the public at large for
32 offenders registered as homeless or transient.

33 (4) The county sheriff with whom an offender classified as risk
34 level III is registered shall cause to be published by legal notice,
35 advertising, or news release a sex offender community notification that
36 conforms to the guidelines established under RCW 4.24.5501 in at least
37 one legal newspaper with general circulation in the area of the sex
38 offender's registered address or location. In addition, if the

1 offender classified as risk level III was convicted of a crime listed
2 in RCW 9.94A.712(1)(a) against a victim under the age of eighteen and
3 resides, or plans to reside, in a community protection zone as defined
4 in RCW 9.94A.030, the county sheriff shall provide the sex offender
5 community notification to each public and private school within the
6 zone. The county sheriff shall also cause to be published consistent
7 with this subsection a current list of level III registered sex
8 offenders, twice yearly. Unless the information is posted on the web
9 site described in subsection (5) of this section, this list shall be
10 maintained by the county sheriff on a publicly accessible web site and
11 shall be updated at least once per month.

12 (5)(a) When funded by federal grants or other sources, the
13 Washington association of sheriffs and police chiefs shall create and
14 maintain a statewide registered sex offender web site, which shall be
15 available to the public. The web site shall post all level III and
16 level II registered sex offenders in the state of Washington.

17 (i) For level III offenders, the web site shall contain, but is not
18 limited to, the registered sex offender's name, relevant criminal
19 convictions, address by hundred block, physical description, and
20 photograph. The web site shall provide mapping capabilities that
21 display the sex offender's address by hundred block on a map. The web
22 site shall allow citizens to search for registered sex offenders within
23 the state of Washington by county, city, zip code, last name, type of
24 conviction, and address by hundred block.

25 (ii) For level II offenders, the web site shall contain, but is not
26 limited to, the same information and functionality as described in
27 (a)(i) of this subsection, provided that it is permissible under state
28 and federal law. If it is not permissible, the web site shall be
29 limited to the information and functionality that is permissible under
30 state and federal law.

31 (b) Until the implementation of (a) of this subsection, the
32 Washington association of sheriffs and police chiefs shall create a web
33 site available to the public that provides electronic links to county-
34 operated web sites that offer sex offender registration information.

35 (6) Local law enforcement agencies that disseminate information
36 pursuant to this section shall: (a) Review available risk level
37 classifications made by the department of corrections, the department
38 of social and health services, and the indeterminate sentence review

1 board; (b) assign risk level classifications to all offenders about
2 whom information will be disseminated; and (c) make a good faith effort
3 to notify the public and residents at least fourteen days before the
4 offender is released from confinement or, where an offender moves from
5 another jurisdiction, as soon as possible after the agency learns of
6 the offender's move, except that in no case may this notification
7 provision be construed to require an extension of an offender's release
8 date. The juvenile court shall provide local law enforcement officials
9 with all relevant information on offenders allowed to remain in the
10 community in a timely manner.

11 (7) An appointed or elected public official, public employee, or
12 public agency as defined in RCW 4.24.470, or units of local government
13 and its employees, as provided in RCW 36.28A.010, are immune from civil
14 liability for damages for any discretionary risk level classification
15 decisions or release of relevant and necessary information, unless it
16 is shown that the official, employee, or agency acted with gross
17 negligence or in bad faith. The immunity in this section applies to
18 risk level classification decisions and the release of relevant and
19 necessary information regarding any individual for whom disclosure is
20 authorized. The decision of a local law enforcement agency or official
21 to classify an offender to a risk level other than the one assigned by
22 the department of corrections, the department of social and health
23 services, or the indeterminate sentence review board, or the release of
24 any relevant and necessary information based on that different
25 classification shall not, by itself, be considered gross negligence or
26 bad faith. The immunity provided under this section applies to the
27 release of relevant and necessary information to other public
28 officials, public employees, or public agencies, and to the general
29 public.

30 (8) Except as may otherwise be provided by law, nothing in this
31 section shall impose any liability upon a public official, public
32 employee, or public agency for failing to release information
33 authorized under this section.

34 (9) Nothing in this section implies that information regarding
35 persons designated in subsection (1) of this section is confidential
36 except as may otherwise be provided by law.

37 (10) When a local law enforcement agency or official classifies an
38 offender differently than the offender is classified by the end of

1 sentence review committee or the department of social and health
2 services at the time of the offender's release from confinement, the
3 law enforcement agency or official shall notify the end of sentence
4 review committee or the department of social and health services and
5 submit its reasons supporting the change in classification. Upon
6 implementation of subsection (5)(a) of this section, notification of
7 the change shall also be sent to the Washington association of sheriffs
8 and police chiefs.

9 NEW SECTION. **Sec. 8.** A new section is added to chapter 28A.300
10 RCW to read as follows:

11 (1) Within two years of the effective date of this act, each school
12 district shall conduct at least one public hearing regarding the
13 question of whether the district should adopt a written policy on
14 notifying parents and guardians of students attending a school when the
15 school receives a sex offender community notification under RCW
16 4.24.550.

17 (2) In order to provide adequate notice to the public of the
18 meeting, the district shall make a good faith effort to provide at
19 least fourteen days' advance notice of the meeting to:

20 (a) All newspapers of general circulation in the community;

21 (b) All local radio and television stations generally available to
22 persons in the community; and

23 (c) All parents and guardians of students attending schools in the
24 district.

25 (3) Nothing in this section shall be interpreted to impose a duty
26 on behalf of the school district to adopt such a policy.

27 NEW SECTION. **Sec. 9.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of the
33 state government and its existing public institutions, and takes effect

1 July 1, 2005.

--- END ---