
HOUSE BILL 1746

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By Representatives Holmquist, O'Brien, Hinkle, Lantz, Woods, Ahern, Cox, Simpson, Sump, Kagi, McDonald, Haler, Newhouse, McCune, Kretz, Serben, Clements, Condotta, Roach, Pearson, Kirby, Bailey, Strow, Williams, Moeller, Kenney and Kristiansen

Read first time 02/03/2005. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to requiring arson offenders to register with the
2 county sheriff; amending RCW 9A.48.010, 10.01.200, 70.48.470, and
3 72.09.330; adding new sections to chapter 9A.48 RCW; adding a new
4 section to chapter 43.43 RCW; adding a new section to chapter 42.17
5 RCW; creating a new section; and prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

8 (a) Arsonists often pose a high risk of reoffense; and

9 (b) Law enforcement's efforts to protect our communities, conduct
10 investigations, and quickly apprehend arsonists are impaired by the
11 lack of information available to law enforcement agencies about
12 convicted arsonists who live out in the community.

13 (2) It is therefore the intent of the legislature to:

14 (a) Assist local law enforcement agencies to increase public safety
15 by providing them with another tool for them to use in arson
16 investigations;

17 (b) Require arson offenders to register with local law enforcement
18 agencies in a regulatory, rather than punitive, manner; and

1 (c) Limit the disclosure of arson offender registration information
2 only to the extent necessary to increase public safety.

3 **Sec. 2.** RCW 9A.48.010 and 2002 c 32 s 1 are each amended to read
4 as follows:

5 (1) For the purpose of this chapter, unless the context indicates
6 otherwise:

7 (a) "Arson offender" means a person convicted, or found not guilty
8 by reason of insanity, of arson in the first degree or arson in the
9 second degree;

10 (b) "Building" has the definition in RCW 9A.04.110(5), and where a
11 building consists of two or more units separately secured or occupied,
12 each unit shall not be treated as a separate building;

13 ~~((b))~~ (c) "Damages", in addition to its ordinary meaning,
14 includes any charring, scorching, burning, or breaking, or agricultural
15 or industrial sabotage, and shall include any diminution in the value
16 of any property as a consequence of an act;

17 ~~((e))~~ (d) "Property of another" means property in which the actor
18 possesses anything less than exclusive ownership.

19 (2) To constitute arson it is not necessary that a person other
20 than the actor has ownership in the building or structure damaged or
21 set on fire.

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 9A.48 RCW
23 to read as follows:

24 (1)(a) An arson offender who resides, whether or not the offender
25 has a fixed residence, in this state, or who is a student, is employed,
26 or carries on a vocation in this state, shall register with the county
27 sheriff for the county of the person's residence, or if the person is
28 not a resident of this state, the county of the person's school, place
29 of employment or vocation, or as otherwise specified in this section.

30 (b) An arson offender who lacks a fixed residence and is under the
31 supervision of the state department of corrections shall also register
32 in the county of his or her supervision if he or she is not already
33 required to do so under (a) of this subsection.

34 (c) An offender required to register under this section shall do so
35 in person.

1 (2)(a) An offender who has a fixed residence shall provide the
2 following information when registering:

- 3 (i) Name;
- 4 (ii) Residential address;
- 5 (iii) Date and place of birth;
- 6 (iv) Place of employment;
- 7 (v) Arson offense for which convicted;
- 8 (vi) Date and location of conviction;
- 9 (vii) Aliases used;
- 10 (viii) Social security number;
- 11 (ix) Photograph; and
- 12 (x) Fingerprints.

13 (b) An offender who lacks a fixed residence shall provide the
14 following information when registering:

- 15 (i) Name;
- 16 (ii) Where he or she plans to stay;
- 17 (iii) Date and place of birth;
- 18 (iv) Place of employment;
- 19 (v) Arson offense for which convicted;
- 20 (vi) Date and location of conviction;
- 21 (vii) Aliases used;
- 22 (viii) Social security number;
- 23 (ix) Photograph; and
- 24 (x) Fingerprints.

25 (3)(a) An arson offender shall register with the county sheriff
26 subject to the following deadlines and restrictions:

27 (i) OFFENDERS IN CUSTODY. An arson offender who, on or after the
28 effective date of this act, is in the custody of the United States
29 bureau of prisons or other federal or military correctional agency, the
30 state department of corrections, the state department of social and
31 health services, a local division of youth services, or a local jail or
32 juvenile detention facility, for an arson offense committed before, on,
33 or after the effective date of this act, shall register within twenty-
34 four hours of the time of release with the county sheriff for the
35 county of the offender's residence, or if the person is not a resident
36 of this state, the county of the offender's school or place of
37 employment or vocation. A state or local agency that has jurisdiction

1 over the offender shall provide notice to the offender of the duty to
2 register.

3 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER FEDERAL, STATE, OR LOCAL
4 JURISDICTION. An arson offender who, on the effective date of this
5 act, is not in custody but is under the jurisdiction of the United
6 States bureau of prisons, the United States courts, the United States
7 parole commission, the United States military parole board, the state
8 indeterminate sentence review board, the state department of
9 corrections on active supervision as defined by the state department of
10 corrections, the state department of social and health services, or a
11 local division of youth services, for an arson offense committed
12 before, on, or after the effective date of this act, shall register
13 within thirty days of the effective date of this act. A change in the
14 supervision status of the offender shall not relieve the offender of
15 the duty to register or to reregister following a change in residence.

16 (iii) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. An arson
17 offender who is convicted of an arson offense on or after the effective
18 date of this act, but who is not sentenced to serve a term of
19 confinement immediately upon sentencing, shall report to the county
20 sheriff to register immediately upon completion of being sentenced.

21 (iv) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
22 RESIDENTS. An arson offender who moves to Washington state from
23 another state or a foreign country who is not under the jurisdiction of
24 the state department of corrections, the indeterminate sentence review
25 board, or the state department of social and health services at the
26 time of moving to Washington must register within seventy-two hours of
27 establishing residence or reestablishing residence if the offender is
28 a former Washington resident. An arson offender from another state or
29 a foreign country who, when the offender moves to Washington, is under
30 the jurisdiction of the department of corrections, the indeterminate
31 sentence review board, or the department of social and health services
32 must register within twenty-four hours of moving to Washington. The
33 agency that has jurisdiction over the offender shall notify the
34 offender of the registration requirements before the offender moves to
35 Washington.

36 (v) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. An arson
37 offender who has been found not guilty by reason of insanity under
38 chapter 10.77 RCW of committing arson in the first degree or arson in

1 the second degree on, before, or after the effective date of this act
2 and who, on or after the effective date of this act, is in custody, as
3 a result of that finding, of the state department of social and health
4 services must register within twenty-four hours from the time of
5 release with the county sheriff for the county of the person's
6 residence. The state department of social and health services shall
7 provide notice to the arson offender in its custody of the duty to
8 register. An arson offender who has been found not guilty by reason of
9 insanity of committing arson in the first degree or arson in the second
10 degree, but who was released before the effective date of this act,
11 shall register within twenty-four hours of receiving notice of this
12 registration requirement. The state department of social and health
13 services shall make reasonable attempts within available resources to
14 notify arson offenders who were released prior to the effective date of
15 this act.

16 (vi) OFFENDERS WHO LACK A FIXED RESIDENCE. Any arson offender who
17 lacks a fixed residence and leaves the county in which he or she is
18 registered and enters and remains within a new county for twenty-four
19 hours is required to register with the county sheriff not more than
20 twenty-four hours after entering the county and provide the information
21 required in subsection (2)(b) of this section.

22 (vii) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND
23 SCHOOL IN ANOTHER STATE. An arson offender required to register in
24 Washington, who moves to another state, or who works, carries on a
25 vocation, or attends school in another state shall register a new
26 address, fingerprints, and photograph with the new state within ten
27 days after establishing residence, or after beginning to work, carry on
28 a vocation, or attend school in the new state. The offender must also
29 send written notice within ten days of moving to the new state or to a
30 foreign country to the county sheriff with whom the person last
31 registered in Washington state.

32 (viii) ALL OTHER OFFENDERS. An arson offender who is not subject
33 to one of the deadlines in (a)(i) through (vii) of this subsection
34 shall register no later than thirty days after the effective date of
35 this act.

36 (b) Failure to register within the deadlines required under this
37 section constitutes a per se violation of this section and is

1 punishable under subsection (8) of this section. The county sheriff is
2 not required to determine whether the person is living within the
3 county.

4 (c) An arrest on charges of failure to register, service of an
5 information, or a complaint for a violation of this section, or
6 arraignment on charges for a violation of this section, constitutes
7 actual notice of the duty to register. Any person charged with the
8 crime of failure to register under this section who asserts as a
9 defense the lack of notice of the duty to register shall register
10 immediately following actual notice of the duty through arrest,
11 service, or arraignment. Failure to register as required under this
12 subsection (3)(c) constitutes grounds for filing another charge of
13 failing to register. Registering following arrest, service, or
14 arraignment on charges shall not relieve the offender from criminal
15 liability for failure to register prior to the filing of the original
16 charge.

17 (4)(a) If any person required to register pursuant to this section
18 changes his or her residence address within the same county, the person
19 must send written notice of the change of address to the county sheriff
20 within seventy-two hours of moving. If any person required to register
21 pursuant to this section moves to a new county, the person must send
22 written notice of the change of address at least fourteen days before
23 moving to the county sheriff in the new county of residence and must
24 register with that county sheriff within twenty-four hours of moving.
25 The person must also send written notice within ten days of the change
26 of address in the new county to the county sheriff with whom the person
27 last registered. The county sheriff with whom the person last
28 registered shall promptly forward the information concerning the change
29 of address to the county sheriff for the county of the person's new
30 residence. Upon receipt of notice of change of address to a new state,
31 the county sheriff shall promptly forward the information regarding the
32 change of address to the agency designated by the new state as the
33 state's offender registration agency.

34 (b) It is an affirmative defense to a charge that the person failed
35 to send a notice at least fourteen days in advance of moving as
36 required under (a) of this subsection that the person did not know the
37 location of his or her new residence at least fourteen days before
38 moving. The defendant must establish the defense by a preponderance of

1 the evidence and, to prevail on the defense, must also prove by a
2 preponderance that the defendant sent the required notice within
3 twenty-four hours of determining the new address.

4 (5)(a) Any person required to register under this section who lacks
5 a fixed residence shall provide written notice to the sheriff of the
6 county where he or she last registered within forty-eight hours
7 excluding weekends and holidays after ceasing to have a fixed
8 residence. The notice shall include the information required by
9 subsection (2)(b) of this section, except the photograph and
10 fingerprints. The county sheriff may, for reasonable cause, require
11 the offender to provide a photograph and fingerprints. The sheriff
12 shall forward this information to the sheriff of the county in which
13 the person intends to reside, if the person intends to reside in
14 another county.

15 (b) A person who lacks a fixed residence must report weekly, in
16 person, to the sheriff of the county where he or she is registered.
17 The weekly report shall be on a day specified by the county sheriff's
18 office and shall occur during normal business hours. The county
19 sheriff's office may require the person to list the locations where the
20 person has stayed during the last seven days.

21 (c) If any person required to register pursuant to this section
22 does not have a fixed residence, it is an affirmative defense to the
23 charge of failure to register that he or she provided written notice to
24 the sheriff of the county where he or she last registered within forty-
25 eight hours excluding weekends and holidays after ceasing to have a
26 fixed residence and has subsequently complied with the requirements of
27 this subsection and subsection (3)(a)(vii) or (viii) of this section.
28 To prevail, the person must prove the defense by a preponderance of the
29 evidence.

30 (6) An arson offender subject to registration requirements under
31 this section who applies to change his or her name under RCW 4.24.130
32 or any other law shall submit a copy of the application to the county
33 sheriff of the county of the person's residence and to the state patrol
34 not fewer than five days before the entry of an order granting the name
35 change. No arson offender subject to the requirement to register under
36 this section at the time of application shall be granted an order
37 changing his or her name if the court finds that doing so will
38 interfere with legitimate law enforcement interests, except that no

1 order shall be denied when the name change is requested for religious
2 or legitimate cultural reasons or in recognition of marriage or
3 dissolution of marriage. An arson offender under the requirement to
4 register under this section who receives an order changing his or her
5 name shall submit a copy of the order to the county sheriff of the
6 county of the person's residence and to the state patrol within five
7 days of the entry of the order.

8 (7) For the purpose of this section:

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

15 (b) "Student" means a person who is enrolled, on a full-time or
16 part-time basis, in any public or private educational institution. An
17 educational institution includes any secondary school, trade or
18 professional institution, or institution of higher education.

19 (8)(a) A person who knowingly fails to register with the county
20 sheriff or notify the county sheriff, or who changes his or her name
21 without notifying the county sheriff and the state patrol, as required
22 by this section is guilty of a class C felony.

23 (b) Unless the person is relieved of the duty to register under
24 section 4 of this act, a violation of this section is an ongoing
25 offense for purposes of the statute of limitations under RCW 9A.04.080.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 9A.48 RCW
27 to read as follows:

28 (1) An arson offender may only be relieved of the duty to register
29 imposed under section 3 of this act by petitioning the superior court
30 under subsection (2) or (3) of this section.

31 (2) An offender having a duty to register under section 3 of this
32 act for an offense committed when the offender was an adult may
33 petition the superior court to be relieved of that duty, if the person
34 has spent ten consecutive years in the community without being
35 convicted of any new offenses. The court shall consider the nature of
36 the registrable offense committed, and the criminal and relevant

1 noncriminal behavior of the petitioner both before and after
2 conviction, and may consider other factors.

3 (a) The petition shall be made to the court in which the petitioner
4 was convicted, or found not guilty by reason of insanity, of the
5 offense that subjects him or her to the duty to register, or, in the
6 case of convictions in other states, a foreign country, or a federal or
7 military court, to the court in Thurston county. The prosecuting
8 attorney of the county shall be named and served as the respondent in
9 any such petition.

10 (b) The court may relieve the petitioner of the duty to register
11 only if the petitioner shows, with clear and convincing evidence, that
12 future registration of the petitioner will not serve the purposes of
13 this act.

14 (3) An offender having a duty to register under section 3 of this
15 act for an offense committed when the offender was a juvenile may
16 petition the superior court to be relieved of that duty. The court
17 shall consider the nature of the registrable offense committed, and the
18 criminal and relevant noncriminal behavior of the petitioner both
19 before and after adjudication, and may consider other factors.

20 (a) The petition must be made in the manner required by subsection
21 (2)(a) of this section.

22 (b) The court may relieve the petitioner of the duty to register
23 for an offense that was committed while the petitioner was fifteen
24 years of age or older only if the petitioner shows, with clear and
25 convincing evidence, that future registration of the petitioner will
26 not serve the purposes of this act.

27 (c) The court may relieve the petitioner of the duty to register
28 for an offense that was committed while the petitioner was under the
29 age of fifteen if the petitioner:

30 (i) Has not been adjudicated of arson in the first degree or arson
31 in the second degree during the twenty-four months following the
32 adjudication for the offense giving rise to the duty to register; and

33 (ii) Proves by a preponderance of the evidence that future
34 registration of the petitioner will not serve the purposes of this act.

35 (d) This subsection shall not apply to juveniles prosecuted as
36 adults.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.43 RCW
2 to read as follows:

3 (1) The county sheriff shall forward the information, photographs,
4 and fingerprints obtained pursuant to section 3 of this act, including
5 any notice of change of address, to the Washington state patrol within
6 five working days.

7 (2) The state patrol shall maintain a central registry of arson
8 offenders required to register under section 3 of this act.

9 (a) The state patrol shall grant access to the registry to law
10 enforcement agencies, the department of natural resources, and
11 regularly organized fire departments.

12 (b) The state patrol and the entities receiving information under
13 (a) of this subsection may not disclose the information obtained from
14 the registry to any other person or entity.

15 (3) The state patrol shall adopt rules consistent with chapters
16 10.97, 10.98, and 43.43 RCW as are necessary to carry out the purposes
17 of this act.

18 (4) The state patrol shall reimburse the counties for the cost of
19 processing the offender registration, including taking the fingerprints
20 and photographs.

21 NEW SECTION. **Sec. 6.** A new section is added to chapter 42.17 RCW
22 to read as follows:

23 Information regarding offenders subject to the registration
24 requirements in section 3 of this act is exempt from disclosure under
25 this chapter except as provided in section 5 of this act.

26 NEW SECTION. **Sec. 7.** A new section is added to chapter 9A.48 RCW
27 to read as follows:

28 (1) When an offender registers with the county sheriff pursuant to
29 section 3 of this act, the county sheriff shall notify the chief law
30 enforcement officer, if any, of the jurisdiction in which the offender
31 has registered to live. If the offender registers to live in an
32 unincorporated area of the county, the sheriff shall make reasonable
33 attempts to verify that the offender is residing at the registered
34 address. If the offender registers to live in an incorporated city or
35 town, the chief law enforcement officer of the city or town shall make

1 reasonable attempts to verify that the offender is residing at the
2 registered address.

3 (2)(a) For purposes of this section, "reasonable attempts" shall
4 include at a minimum sending by certified mail, with return receipt
5 requested, a nonforwardable annual verification form to the offender at
6 the offender's last registered address.

7 (b) The offender must sign the verification form, state on the form
8 whether he or she still resides at the last registered address, and
9 return the form to the chief law enforcement officer of the
10 jurisdiction where the offender is registered to live within ten days
11 after receipt of the form.

12 (3) The chief law enforcement officer of the jurisdiction where the
13 offender has registered to live, or the county sheriff if the offender
14 has registered in an unincorporated area, shall make reasonable
15 attempts to locate any arson offender who fails to return the
16 verification form or who cannot be located at the registered address.

17 (4) When an offender notifies the county sheriff of a change to his
18 or her residence address pursuant to section 3 of this act, and the new
19 address is in a different law enforcement jurisdiction, the county
20 sheriff shall notify the chief law enforcement officer of the
21 jurisdiction from which the offender has moved.

22 **Sec. 8.** RCW 10.01.200 and 1997 c 113 s 5 are each amended to read
23 as follows:

24 The court shall provide written notification to any defendant
25 charged with a sex offense or kidnapping offense of the registration
26 requirements of RCW 9A.44.130. The court shall provide written notice
27 to any defendant charged with arson in the first degree or arson in the
28 second degree of the registration requirements of section 3 of this
29 act. Such notice shall be included on any guilty plea forms and
30 judgment and sentence forms provided to the defendant.

31 **Sec. 9.** RCW 70.48.470 and 2000 c 91 s 4 are each amended to read
32 as follows:

33 (1)(a) A person having charge of a jail shall:
34 (i) Notify in writing any confined person who is in the custody of
35 the jail for a conviction of a sex offense as defined in RCW 9.94A.030
36 or a kidnapping offense as defined in RCW 9A.44.130 of the registration

1 requirements of RCW 9A.44.130 at the time of the inmate's release from
2 confinement, and shall obtain written acknowledgment of such
3 notification; and

4 (ii) Notify in writing any confined person who is in the custody of
5 the jail for a conviction of arson in the first degree or arson in the
6 second degree of the registration requirements of section 3 of this act
7 at the time of the inmate's release from confinement, and shall obtain
8 written acknowledgment of such notification.

9 (b) The person having charge of the jail shall also obtain from the
10 inmate the county of the inmate's residence upon release from jail and,
11 where applicable, the city.

12 (2)(a) When a sex offender or a person convicted of a kidnapping
13 offense as defined in RCW 9A.44.130 under local government jurisdiction
14 will reside in a county other than the county of conviction upon
15 discharge or release, the chief law enforcement officer of the jail or
16 his or her designee shall give notice of the inmate's discharge or
17 release to the sheriff of the county and, where applicable, to the
18 police chief of the city where the offender will reside.

19 (b) When an offender convicted of arson in the first degree or
20 arson in the second degree under local government jurisdiction will
21 reside in a county other than the county of conviction upon discharge
22 or release, the chief law enforcement officer of the jail or his or her
23 designee shall give notice of the inmate's discharge or release to the
24 sheriff of the county where the offender will reside.

25 **Sec. 10.** RCW 72.09.330 and 1997 c 113 s 8 are each amended to read
26 as follows:

27 (1) The department shall:

28 (a) Provide written notification to an inmate convicted of a sex
29 offense or kidnapping offense of the registration requirements of RCW
30 9A.44.130 at the time of the inmate's release from confinement and
31 shall receive and retain a signed acknowledgement of receipt; and

32 (b) Provide written notification to an inmate convicted of arson in
33 the first degree or arson in the second degree of the registration
34 requirements of section 3 of this act at the time of the inmate's
35 release from confinement and shall receive and retain a signed
36 acknowledgement of receipt.

37 (2) The department shall:

1 (a) Provide written notification to an individual convicted of a
2 sex offense or kidnapping offense from another state of the
3 registration requirements of RCW 9A.44.130 at the time the department
4 accepts supervision and has legal authority of the individual under the
5 terms and conditions of the interstate compact agreement under RCW
6 9.95.270; and

7 (b) Provide written notification to an individual convicted of
8 arson in the first degree or arson in the second degree from another
9 state of the registration requirements of section 3 of this act at the
10 time the department accepts supervision and has legal authority of the
11 individual under the terms and conditions of the interstate compact
12 agreement under RCW 9.95.270.

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