
SUBSTITUTE HOUSE BILL 2444

State of Washington

60th Legislature

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By House Appropriations Subcommittee on General Government & Audit Review (originally sponsored by Representatives Pearson, McCune, Priest, Haler, Armstrong, Kristiansen, Crouse, Rodne, Bailey, Hinkle, Hailey, Kretz, Warnick, Sump, Roach, Orcutt, Newhouse, Ahern, Alexander, Skinner, Hurst, Schindler, Walsh, Smith, Campbell, Dunn, Herrera, Kelley, and McDonald)

READ FIRST TIME 02/12/08.

1 AN ACT Relating to requiring registered sex and kidnapping
2 offenders to submit information regarding any e-mail addresses and any
3 web sites they create or operate; reenacting and amending RCW
4 9A.44.130; and creating a new section.

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

6 **Sec. 1.** RCW 9A.44.130 and 2006 c 129 s 2, 2006 c 128 s 2, 2006 c
7 127 s 2, and 2006 c 126 s 2 are each reenacted and amended to read as
8 follows:

9 (1)(a) Any adult or juvenile residing whether or not the person has
10 a fixed residence, or who is a student, is employed, or carries on a
11 vocation in this state who has been found to have committed or has been
12 convicted of any sex offense or kidnapping offense, or who has been
13 found not guilty by reason of insanity under chapter 10.77 RCW of
14 committing any sex offense or kidnapping offense, shall register with
15 the county sheriff for the county of the person's residence, or if the
16 person is not a resident of Washington, the county of the person's
17 school, or place of employment or vocation, or as otherwise specified
18 in this section. Where a person required to register under this
19 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.

6 (b) Any adult or juvenile who is required to register under (a) of
7 this subsection:

8 (i) Who is attending, or planning to attend, a public or private
9 school regulated under Title 28A RCW or chapter 72.40 RCW shall, within
10 ten days of enrolling or prior to arriving at the school to attend
11 classes, whichever is earlier, notify the sheriff for the county of the
12 person's residence of the person's intent to attend the school, and the
13 sheriff shall promptly notify the principal of the school;

14 (ii) Who is admitted to a public or private institution of higher
15 education shall, within ten days of enrolling or by the first business
16 day after arriving at the institution, whichever is earlier, notify the
17 sheriff for the county of the person's residence of the person's intent
18 to attend the institution;

19 (iii) Who gains employment at a public or private institution of
20 higher education shall, within ten days of accepting employment or by
21 the first business day after commencing work at the institution,
22 whichever is earlier, notify the sheriff for the county of the person's
23 residence of the person's employment by the institution; or

24 (iv) Whose enrollment or employment at a public or private
25 institution of higher education is terminated shall, within ten days of
26 such termination, notify the sheriff for the county of the person's
27 residence of the person's termination of enrollment or employment at
28 the institution.

29 (c) Persons required to register under this section who are
30 enrolled in a public or private institution of higher education on June
31 11, 1998, or a public or private school regulated under Title 28A RCW
32 or chapter 72.40 RCW on September 1, 2006, must notify the county
33 sheriff immediately.

34 (d) The sheriff shall notify the school's principal or
35 institution's department of public safety and shall provide that
36 department with the same information provided to a county sheriff under
37 subsection (3) of this section.

1 (e)(i) A principal receiving notice under this subsection must
2 disclose the information received from the sheriff under (b) of this
3 subsection as follows:

4 (A) If the student who is required to register as a sex offender is
5 classified as a risk level II or III, the principal shall provide the
6 information received to every teacher of any student required to
7 register under (a) of this subsection and to any other personnel who,
8 in the judgment of the principal, supervises the student or for
9 security purposes should be aware of the student's record;

10 (B) If the student who is required to register as a sex offender is
11 classified as a risk level I, the principal shall provide the
12 information received only to personnel who, in the judgment of the
13 principal, for security purposes should be aware of the student's
14 record.

15 (ii) Any information received by a principal or school personnel
16 under this subsection is confidential and may not be further
17 disseminated except as provided in RCW 28A.225.330, other statutes or
18 case law, and the family and educational and privacy rights act of
19 1994, 20 U.S.C. Sec. 1232g et seq.

20 (2) This section may not be construed to confer any powers pursuant
21 to RCW 4.24.550 upon the public safety department of any public or
22 private school or institution of higher education.

23 (3)(a) The person shall provide the following information when
24 registering: (i) Name; (ii) complete residential address; (iii) date
25 and place of birth; (iv) place of employment; (v) crime for which
26 convicted; (vi) date and place of conviction; (vii) aliases used;
27 (viii) social security number; (ix) photograph; (~~and~~) (x)
28 fingerprints; (xi) e-mail address, if any; and (xii) the uniform
29 resource locator of any personal web site created or operated by the
30 person.

31 (b) Any person who lacks a fixed residence shall provide the
32 following information when registering: (i) Name; (ii) date and place
33 of birth; (iii) place of employment; (iv) crime for which convicted;
34 (v) date and place of conviction; (vi) aliases used; (vii) social
35 security number; (viii) photograph; (ix) fingerprints; (~~and~~) (x)
36 where he or she plans to stay; (xi) e-mail address, if any; and (xii)
37 the uniform resource locator of any personal web site created or
38 operated by the person.

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

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

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

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

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

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

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

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

16 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
17 RESIDENTS. Sex offenders and kidnapping offenders who move to
18 Washington state from another state or a foreign country that are not
19 under the jurisdiction of the state department of corrections, the
20 indeterminate sentence review board, or the state department of social
21 and health services at the time of moving to Washington, must register
22 within three business days of establishing residence or reestablishing
23 residence if the person is a former Washington resident. The duty to
24 register under this subsection applies to sex offenders convicted under
25 the laws of another state or a foreign country, federal or military
26 statutes for offenses committed before, on, or after February 28, 1990,
27 or Washington state for offenses committed before, on, or after
28 February 28, 1990, and to kidnapping offenders convicted under the laws
29 of another state or a foreign country, federal or military statutes, or
30 Washington state for offenses committed before, on, or after July 27,
31 1997. Sex offenders and kidnapping offenders from other states or a
32 foreign country who, when they move to Washington, are under the
33 jurisdiction of the department of corrections, the indeterminate
34 sentence review board, or the department of social and health services
35 must register within twenty-four hours of moving to Washington. The
36 agency that has jurisdiction over the offender shall notify the
37 offender of the registration requirements before the offender moves to
38 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 (11) 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 (11) 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 signed written notice of the change of address to the county
34 sheriff within seventy-two hours of moving. If any person required to
35 register pursuant to this section moves to a new county, the person
36 must send signed written notice of the change of address at least
37 fourteen days before moving to the county sheriff in the new county of
38 residence and must register with that county sheriff within twenty-four

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

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

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

30 (b) A person who lacks a fixed residence must report weekly, in
31 person, to the sheriff of the county where he or she is registered.
32 The weekly report shall be on a day specified by the county sheriff's
33 office, and shall occur during normal business hours. The county
34 sheriff's office may require the person to list the locations where the
35 person has stayed during the last seven days. The lack of a fixed
36 residence is a factor that may be considered in determining an
37 offender's risk level and shall make the offender subject to disclosure
38 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) All offenders who are required to register pursuant to this
11 section who have a fixed residence and who are designated as a risk
12 level II or III must report, in person, every ninety days to the
13 sheriff of the county where he or she is registered. Reporting shall
14 be on a day specified by the county sheriff's office, and shall occur
15 during normal business hours. An offender who complies with the
16 ninety-day reporting requirement with no violations for a period of at
17 least five years in the community may petition the superior court to be
18 relieved of the duty to report every ninety days. The petition shall
19 be made to the superior court in the county where the offender resides
20 or reports under this section. The prosecuting attorney of the county
21 shall be named and served as respondent in any such petition. The
22 court shall relieve the petitioner of the duty to report if the
23 petitioner shows, by a preponderance of the evidence, that the
24 petitioner has complied with the reporting requirement for a period of
25 at least five years and that the offender has not been convicted of a
26 criminal violation of this section for a period of at least five years,
27 and the court determines that the reporting no longer serves a public
28 safety purpose. Failure to report, as specified, constitutes a
29 violation of this section and is punishable as provided in subsection
30 (11) of this section.

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

1 legitimate law enforcement interests, except that no order shall be
2 denied when the name change is requested for religious or legitimate
3 cultural reasons or in recognition of marriage or dissolution of
4 marriage. A sex offender under the requirement to register under this
5 section who receives an order changing his or her name shall submit a
6 copy of the order to the county sheriff of the county of the person's
7 residence and to the state patrol within five days of the entry of the
8 order.

9 (9) The county sheriff shall obtain a photograph of the individual
10 and shall obtain a copy of the individual's fingerprints. A photograph
11 may be taken at any time to update an individual's file.

12 (10) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
13 70.48.470, and 72.09.330:

14 (a) "Sex offense" means:

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

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

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

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

23 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
24 criminal attempt, criminal solicitation, or criminal conspiracy to
25 commit an offense that is classified as a sex offense under RCW
26 9.94A.030 or this subsection.

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

37 (c) "Employed" or "carries on a vocation" means employment that is
38 full-time or part-time for a period of time exceeding fourteen days, or

1 for an aggregate period of time exceeding thirty days during any
2 calendar year. A person is employed or carries on a vocation whether
3 the person's employment is financially compensated, volunteered, or for
4 the purpose of government or educational benefit.

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

9 (11)(a) A person who knowingly fails to comply with any of the
10 requirements of this section is guilty of a class C felony if the crime
11 for which the individual was convicted was a felony sex offense as
12 defined in subsection (10)(a) of this section or a federal or out-of-
13 state conviction for an offense that under the laws of this state would
14 be a felony sex offense as defined in subsection (10)(a) of this
15 section.

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

20 (12)(a) A person who knowingly fails to comply with any of the
21 requirements of this section is guilty of a class C felony if the crime
22 for which the individual was convicted was a felony kidnapping offense
23 as defined in subsection (10)(b) of this section or a federal or out-
24 of-state conviction for an offense that under the laws of this state
25 would be a felony kidnapping offense as defined in subsection (10)(b)
26 of this section.

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

31 (13) Except as may otherwise be provided by law, nothing in this
32 section shall impose any liability upon a peace officer, including a
33 county sheriff, or law enforcement agency, for failing to release
34 information authorized under this section.

35 NEW SECTION. **Sec. 2.** If specific funding for the purposes of this
36 act, referencing this act by bill or chapter number, is not provided by

1 June 30, 2008, in the omnibus appropriations act, this act is null and
2 void.

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