

ESHB 2035 - S COMM AMD

By Committee on Human Services & Corrections

NOT ADOPTED 04/16/2009

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 9A.44.130 and 2006 c 129 s 2, 2006 c 128 s 2, 2006 c  
4 127 s 2, and 2006 c 126 s 2 are each reenacted and amended to read as  
5 follows:

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

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

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

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

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

11 (iv) Whose enrollment or employment at a public or private  
12 institution of higher education is terminated shall, within ten days of  
13 such termination, notify the sheriff for the county of the person's  
14 residence of the person's termination of enrollment or employment at  
15 the institution.

16 (c) Persons required to register under this section who are  
17 enrolled in a public or private institution of higher education on June  
18 11, 1998, or a public or private school regulated under Title 28A RCW  
19 or chapter 72.40 RCW on September 1, 2006, must notify the county  
20 sheriff immediately.

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

25 (e)(i) A principal receiving notice under this subsection must  
26 disclose the information received from the sheriff under (b) of this  
27 subsection as follows:

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

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

1 (ii) Any information received by a principal or school personnel  
2 under this subsection is confidential and may not be further  
3 disseminated except as provided in RCW 28A.225.330, other statutes or  
4 case law, and the family and educational and privacy rights act of  
5 1994, 20 U.S.C. Sec. 1232g et seq.

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

9 (3)(a) ~~((The))~~ A person required to register under this section  
10 shall provide the following information when registering: (i) Name;  
11 (ii) complete residential address; (iii) date and place of birth; (iv)  
12 place of employment; (v) crime for which convicted; (vi) date and place  
13 of conviction; (vii) aliases used; (viii) social security number; (ix)  
14 photograph; and (x) fingerprints.

15 (b) ~~((Any))~~ If the person ~~((who))~~ lacks a fixed residence, the  
16 person shall provide ~~((the following))~~ information ~~((when registering:~~  
17 ~~(i) Name; (ii) date and place of birth; (iii) place of employment; (iv)~~  
18 ~~crime for which convicted; (v) date and place of conviction; (vi)~~  
19 ~~aliases used; (vii) social security number; (viii) photograph; (ix)~~  
20 ~~fingerprints; and (x))~~ as to where he or she plans to stay, instead of  
21 the person's complete residential address.

22 (c) If the person has not completed the terms of his or her  
23 sentence and received a certificate of discharge under RCW 9.94A.637 or  
24 9.96.050, or an equivalent discharge from the court of another state,  
25 law enforcement may request and the person shall be required to provide  
26 his or her electronic mail address or any other internet communication  
27 name or identity information including, but not limited to, instant  
28 message, chat, or social networking names or identities, if any; and  
29 the uniform resource locator of any personal web site created or  
30 operated by the person.

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

35 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex  
36 offense on, before, or after February 28, 1990, and who, on or after  
37 July 28, 1991, are in custody, as a result of that offense, of the  
38 state department of corrections, the state department of social and

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

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

29 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL  
30 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody  
31 but are under the jurisdiction of the indeterminate sentence review  
32 board or under the department of corrections' active supervision, as  
33 defined by the department of corrections, the state department of  
34 social and health services, or a local division of youth services, for  
35 sex offenses committed before, on, or after February 28, 1990, must  
36 register within ten days of July 28, 1991. Kidnapping offenders who,  
37 on July 27, 1997, are not in custody but are under the jurisdiction of  
38 the indeterminate sentence review board or under the department of

1 corrections' active supervision, as defined by the department of  
2 corrections, the state department of social and health services, or a  
3 local division of youth services, for kidnapping offenses committed  
4 before, on, or after July 27, 1997, must register within ten days of  
5 July 27, 1997. A change in supervision status of a sex offender who  
6 was required to register under this subsection (4)(a)(ii) as of July  
7 28, 1991, or a kidnapping offender required to register as of July 27,  
8 1997, shall not relieve the offender of the duty to register or to  
9 reregister following a change in residence. The obligation to register  
10 shall only cease pursuant to RCW 9A.44.140.

11 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on  
12 or after July 23, 1995, and kidnapping offenders who, on or after July  
13 27, 1997, as a result of that offense are in the custody of the United  
14 States bureau of prisons or other federal or military correctional  
15 agency for sex offenses committed before, on, or after February 28,  
16 1990, or kidnapping offenses committed on, before, or after July 27,  
17 1997, must register within twenty-four hours from the time of release  
18 with the county sheriff for the county of the person's residence, or if  
19 the person is not a resident of Washington, the county of the person's  
20 school, or place of employment or vocation. Sex offenders who, on July  
21 23, 1995, are not in custody but are under the jurisdiction of the  
22 United States bureau of prisons, United States courts, United States  
23 parole commission, or military parole board for sex offenses committed  
24 before, on, or after February 28, 1990, must register within ten days  
25 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not  
26 in custody but are under the jurisdiction of the United States bureau  
27 of prisons, United States courts, United States parole commission, or  
28 military parole board for kidnapping offenses committed before, on, or  
29 after July 27, 1997, must register within ten days of July 27, 1997.  
30 A change in supervision status of a sex offender who was required to  
31 register under this subsection (4)(a)(iii) as of July 23, 1995, or a  
32 kidnapping offender required to register as of July 27, 1997 shall not  
33 relieve the offender of the duty to register or to reregister following  
34 a change in residence, or if the person is not a resident of  
35 Washington, the county of the person's school, or place of employment  
36 or vocation. The obligation to register shall only cease pursuant to  
37 RCW 9A.44.140.

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

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

32 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult  
33 or juvenile who has been found not guilty by reason of insanity under  
34 chapter 10.77 RCW of (A) committing a sex offense on, before, or after  
35 February 28, 1990, and who, on or after July 23, 1995, is in custody,  
36 as a result of that finding, of the state department of social and  
37 health services, or (B) committing a kidnapping offense on, before, or  
38 after July 27, 1997, and who on or after July 27, 1997, is in custody,

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

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

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

30 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND  
31 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,  
32 who move to another state, or who work, carry on a vocation, or attend  
33 school in another state shall register a new address, fingerprints, and  
34 photograph with the new state within ten days after establishing  
35 residence, or after beginning to work, carry on a vocation, or attend  
36 school in the new state. The person must also send written notice  
37 within ten days of moving to the new state or to a foreign country to

1 the county sheriff with whom the person last registered in Washington  
2 state. The county sheriff shall promptly forward this information to  
3 the Washington state patrol.

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

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

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

25 (5)(a) If any person required to register pursuant to this section  
26 changes his or her residence address within the same county, the person  
27 must send signed written notice of the change of address to the county  
28 sheriff within seventy-two hours of moving. If any person required to  
29 register pursuant to this section moves to a new county, the person  
30 must send signed written notice of the change of address at least  
31 fourteen days before moving to the county sheriff in the new county of  
32 residence and must register with that county sheriff within twenty-four  
33 hours of moving. The person must also send signed written notice  
34 within ten days of the change of address in the new county to the  
35 county sheriff with whom the person last registered. The county  
36 sheriff with whom the person last registered shall promptly forward the  
37 information concerning the change of address to the county sheriff for  
38 the county of the person's new residence. Upon receipt of notice of



1 change of address to a new state, the county sheriff shall promptly  
2 forward the information regarding the change of address to the agency  
3 designated by the new state as the state's offender registration  
4 agency.

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

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

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

33 (c) If any person required to register pursuant to this section  
34 does not have a fixed residence, it is an affirmative defense to the  
35 charge of failure to register, that he or she provided written notice  
36 to the sheriff of the county where he or she last registered within  
37 forty-eight hours excluding weekends and holidays after ceasing to have  
38 a fixed residence and has subsequently complied with the requirements

1 of subsections (4)(a)(vii) or (viii) and (6) of this section. To  
2 prevail, the person must prove the defense by a preponderance of the  
3 evidence.

4 (7) All offenders who are required to register pursuant to this  
5 section who have a fixed residence and who are designated as a risk  
6 level II or III must report, in person, every ninety days to the  
7 sheriff of the county where he or she is registered. Reporting shall  
8 be on a day specified by the county sheriff's office, and shall occur  
9 during normal business hours. An offender who complies with the  
10 ninety-day reporting requirement with no violations for a period of at  
11 least five years in the community may petition the superior court to be  
12 relieved of the duty to report every ninety days. The petition shall  
13 be made to the superior court in the county where the offender resides  
14 or reports under this section. The prosecuting attorney of the county  
15 shall be named and served as respondent in any such petition. The  
16 court shall relieve the petitioner of the duty to report if the  
17 petitioner shows, by a preponderance of the evidence, that the  
18 petitioner has complied with the reporting requirement for a period of  
19 at least five years and that the offender has not been convicted of a  
20 criminal violation of this section for a period of at least five years,  
21 and the court determines that the reporting no longer serves a public  
22 safety purpose. Failure to report, as specified, constitutes a  
23 violation of this section and is punishable as provided in subsection  
24 (11) of this section.

25 (8) A sex offender subject to registration requirements under this  
26 section who applies to change his or her name under RCW 4.24.130 or any  
27 other law shall submit a copy of the application to the county sheriff  
28 of the county of the person's residence and to the state patrol not  
29 fewer than five days before the entry of an order granting the name  
30 change. No sex offender under the requirement to register under this  
31 section at the time of application shall be granted an order changing  
32 his or her name if the court finds that doing so will interfere with  
33 legitimate law enforcement interests, except that no order shall be  
34 denied when the name change is requested for religious or legitimate  
35 cultural reasons or in recognition of marriage or dissolution of  
36 marriage. A sex offender under the requirement to register under this  
37 section who receives an order changing his or her name shall submit a

1 copy of the order to the county sheriff of the county of the person's  
2 residence and to the state patrol within five days of the entry of the  
3 order.

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

7 (10) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,  
8 70.48.470, and 72.09.330:

9 (a) "Sex offense" means:

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

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

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

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

18 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a  
19 criminal attempt, criminal solicitation, or criminal conspiracy to  
20 commit an offense that is classified as a sex offense under RCW  
21 9.94A.030 or this subsection.

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

32 (c) "Employed" or "carries on a vocation" means employment that is  
33 full-time or part-time for a period of time exceeding fourteen days, or  
34 for an aggregate period of time exceeding thirty days during any  
35 calendar year. A person is employed or carries on a vocation whether  
36 the person's employment is financially compensated, volunteered, or for  
37 the purpose of government or educational benefit.

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

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

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

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

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

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

31 **Sec. 2.** RCW 9A.44.130 and 2008 c 230 s 1 are each amended to read  
32 as follows:

33 (1)(a) Any adult or juvenile residing whether or not the person has  
34 a fixed residence, or who is a student, is employed, or carries on a  
35 vocation in this state who has been found to have committed or has been  
36 convicted of any sex offense or kidnapping offense, or who has been  
37 found not guilty by reason of insanity under chapter 10.77 RCW of

1 committing any sex offense or kidnapping offense, shall register with  
2 the county sheriff for the county of the person's residence, or if the  
3 person is not a resident of Washington, the county of the person's  
4 school, or place of employment or vocation, or as otherwise specified  
5 in this section. Where a person required to register under this  
6 section is in custody of the state department of corrections, the state  
7 department of social and health services, a local division of youth  
8 services, or a local jail or juvenile detention facility as a result of  
9 a sex offense or kidnapping offense, the person shall also register at  
10 the time of release from custody with an official designated by the  
11 agency that has jurisdiction over the person.

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

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

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

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

30 (iv) Whose enrollment or employment at a public or private  
31 institution of higher education is terminated shall, within ten days of  
32 such termination, notify the sheriff for the county of the person's  
33 residence of the person's termination of enrollment or employment at  
34 the institution.

35 (c) Persons required to register under this section who are  
36 enrolled in a public or private institution of higher education on June  
37 11, 1998, or a public or private school regulated under Title 28A RCW

1 or chapter 72.40 RCW on September 1, 2006, must notify the county  
2 sheriff immediately.

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

7 (e)(i) A principal receiving notice under this subsection must  
8 disclose the information received from the sheriff under (b) of this  
9 subsection as follows:

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

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

21 (ii) Any information received by a principal or school personnel  
22 under this subsection is confidential and may not be further  
23 disseminated except as provided in RCW 28A.225.330, other statutes or  
24 case law, and the family and educational and privacy rights act of  
25 1994, 20 U.S.C. Sec. 1232g et seq.

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

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

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

1 ~~aliases used; (vii) social security number; (viii) photograph; (ix)~~  
2 ~~fingerprints; and (x))~~ as to where he or she plans to stay, instead of  
3 the person's complete residential address.

4 (c) If the person has not completed the terms of his or her  
5 sentence and received a certificate of discharge under RCW 9.94A.637 or  
6 9.96.050, or an equivalent discharge from the court of another state,  
7 law enforcement may request and the person shall be required to provide  
8 his or her electronic mail address or any other internet communication  
9 name or identity information including, but not limited to, instant  
10 message, chat, or social networking names or identities, if any; and  
11 the uniform resource locator of any personal web site created or  
12 operated by the person.

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

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





1 the person is not a resident of Washington, the county of the person's  
2 school, or place of employment or vocation. Sex offenders who, on July  
3 23, 1995, are not in custody but are under the jurisdiction of the  
4 United States bureau of prisons, United States courts, United States  
5 parole commission, or military parole board for sex offenses committed  
6 before, on, or after February 28, 1990, must register within ten days  
7 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not  
8 in custody but are under the jurisdiction of the United States bureau  
9 of prisons, United States courts, United States parole commission, or  
10 military parole board for kidnapping offenses committed before, on, or  
11 after July 27, 1997, must register within ten days of July 27, 1997.  
12 A change in supervision status of a sex offender who was required to  
13 register under this subsection (4)(a)(iii) as of July 23, 1995, or a  
14 kidnapping offender required to register as of July 27, 1997 shall not  
15 relieve the offender of the duty to register or to reregister following  
16 a change in residence, or if the person is not a resident of  
17 Washington, the county of the person's school, or place of employment  
18 or vocation. The obligation to register shall only cease pursuant to  
19 RCW 9A.44.140.

20 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders  
21 who are convicted of a sex offense on or after July 28, 1991, for a sex  
22 offense that was committed on or after February 28, 1990, and  
23 kidnapping offenders who are convicted on or after July 27, 1997, for  
24 a kidnapping offense that was committed on or after July 27, 1997, but  
25 who are not sentenced to serve a term of confinement immediately upon  
26 sentencing, shall report to the county sheriff to register immediately  
27 upon completion of being sentenced.

28 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON  
29 RESIDENTS. Sex offenders and kidnapping offenders who move to  
30 Washington state from another state or a foreign country that are not  
31 under the jurisdiction of the state department of corrections, the  
32 indeterminate sentence review board, or the state department of social  
33 and health services at the time of moving to Washington, must register  
34 within three business days of establishing residence or reestablishing  
35 residence if the person is a former Washington resident. The duty to  
36 register under this subsection applies to sex offenders convicted under  
37 the laws of another state or a foreign country, federal or military  
38 statutes for offenses committed before, on, or after February 28, 1990,

1 or Washington state for offenses committed before, on, or after  
2 February 28, 1990, and to kidnapping offenders convicted under the laws  
3 of another state or a foreign country, federal or military statutes, or  
4 Washington state for offenses committed before, on, or after July 27,  
5 1997. Sex offenders and kidnapping offenders from other states or a  
6 foreign country who, when they move to Washington, are under the  
7 jurisdiction of the department of corrections, the indeterminate  
8 sentence review board, or the department of social and health services  
9 must register within twenty-four hours of moving to Washington. The  
10 agency that has jurisdiction over the offender shall notify the  
11 offender of the registration requirements before the offender moves to  
12 Washington.

13 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult  
14 or juvenile who has been found not guilty by reason of insanity under  
15 chapter 10.77 RCW of (A) committing a sex offense on, before, or after  
16 February 28, 1990, and who, on or after July 23, 1995, is in custody,  
17 as a result of that finding, of the state department of social and  
18 health services, or (B) committing a kidnapping offense on, before, or  
19 after July 27, 1997, and who on or after July 27, 1997, is in custody,  
20 as a result of that finding, of the state department of social and  
21 health services, must register within twenty-four hours from the time  
22 of release with the county sheriff for the county of the person's  
23 residence. The state department of social and health services shall  
24 provide notice to the adult or juvenile in its custody of the duty to  
25 register. Any adult or juvenile who has been found not guilty by  
26 reason of insanity of committing a sex offense on, before, or after  
27 February 28, 1990, but who was released before July 23, 1995, or any  
28 adult or juvenile who has been found not guilty by reason of insanity  
29 of committing a kidnapping offense but who was released before July 27,  
30 1997, shall be required to register within twenty-four hours of  
31 receiving notice of this registration requirement. The state  
32 department of social and health services shall make reasonable attempts  
33 within available resources to notify sex offenders who were released  
34 before July 23, 1995, and kidnapping offenders who were released before  
35 July 27, 1997. Failure to register within twenty-four hours of  
36 release, or of receiving notice, constitutes a violation of this  
37 section and is punishable as provided in subsection (11) of this  
38 section.

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

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

11 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND  
12 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,  
13 who move to another state, or who work, carry on a vocation, or attend  
14 school in another state shall register a new address, fingerprints, and  
15 photograph with the new state within ten days after establishing  
16 residence, or after beginning to work, carry on a vocation, or attend  
17 school in the new state. The person must also send written notice  
18 within ten days of moving to the new state or to a foreign country to  
19 the county sheriff with whom the person last registered in Washington  
20 state. The county sheriff shall promptly forward this information to  
21 the Washington state patrol.

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

27 (c) An arrest on charges of failure to register, service of an  
28 information, or a complaint for a violation of this section, or  
29 arraignment on charges for a violation of this section, constitutes  
30 actual notice of the duty to register. Any person charged with the  
31 crime of failure to register under this section who asserts as a  
32 defense the lack of notice of the duty to register shall register  
33 immediately following actual notice of the duty through arrest,  
34 service, or arraignment. Failure to register as required under this  
35 subsection (4)(c) constitutes grounds for filing another charge of  
36 failing to register. Registering following arrest, service, or  
37 arraignment on charges shall not relieve the offender from criminal

1 liability for failure to register prior to the filing of the original  
2 charge.

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

6 (5)(a) If any person required to register pursuant to this section  
7 changes his or her residence address within the same county, the person  
8 must send signed written notice of the change of address to the county  
9 sheriff within seventy-two hours of moving. If any person required to  
10 register pursuant to this section moves to a new county, the person  
11 must send signed written notice of the change of address at least  
12 fourteen days before moving to the county sheriff in the new county of  
13 residence and must register with that county sheriff within twenty-four  
14 hours of moving. The person must also send signed written notice  
15 within ten days of the change of address in the new county to the  
16 county sheriff with whom the person last registered. The county  
17 sheriff with whom the person last registered shall promptly forward the  
18 information concerning the change of address to the county sheriff for  
19 the county of the person's new residence. Upon receipt of notice of  
20 change of address to a new state, the county sheriff shall promptly  
21 forward the information regarding the change of address to the agency  
22 designated by the new state as the state's offender registration  
23 agency.

24 (b) It is an affirmative defense to a charge that the person failed  
25 to send a notice at least fourteen days in advance of moving as  
26 required under (a) of this subsection that the person did not know the  
27 location of his or her new residence at least fourteen days before  
28 moving. The defendant must establish the defense by a preponderance of  
29 the evidence and, to prevail on the defense, must also prove by a  
30 preponderance that the defendant sent the required notice within  
31 twenty-four hours of determining the new address.

32 (6)(a) Any person required to register under this section who lacks  
33 a fixed residence shall provide signed written notice to the sheriff of  
34 the county where he or she last registered within forty-eight hours  
35 excluding weekends and holidays after ceasing to have a fixed  
36 residence. The notice shall include the information required by  
37 subsection (3)(b) of this section, except the photograph and  
38 fingerprints. The county sheriff may, for reasonable cause, require

1 the offender to provide a photograph and fingerprints. The sheriff  
2 shall forward this information to the sheriff of the county in which  
3 the person intends to reside, if the person intends to reside in  
4 another county.

5 (b) A person who lacks a fixed residence must report weekly, in  
6 person, to the sheriff of the county where he or she is registered.  
7 The weekly report shall be on a day specified by the county sheriff's  
8 office, and shall occur during normal business hours. The county  
9 sheriff's office may require the person to list the locations where the  
10 person has stayed during the last seven days. The lack of a fixed  
11 residence is a factor that may be considered in determining an  
12 offender's risk level and shall make the offender subject to disclosure  
13 of information to the public at large pursuant to RCW 4.24.550.

14 (c) If any person required to register pursuant to this section  
15 does not have a fixed residence, it is an affirmative defense to the  
16 charge of failure to register, that he or she provided written notice  
17 to the sheriff of the county where he or she last registered within  
18 forty-eight hours excluding weekends and holidays after ceasing to have  
19 a fixed residence and has subsequently complied with the requirements  
20 of subsections (4)(a)(vii) or (viii) and (6) of this section. To  
21 prevail, the person must prove the defense by a preponderance of the  
22 evidence.

23 (7) All offenders who are required to register pursuant to this  
24 section who have a fixed residence and who are designated as a risk  
25 level II or III must report, in person, every ninety days to the  
26 sheriff of the county where he or she is registered. Reporting shall  
27 be on a day specified by the county sheriff's office, and shall occur  
28 during normal business hours. An offender who complies with the  
29 ninety-day reporting requirement with no violations for a period of at  
30 least five years in the community may petition the superior court to be  
31 relieved of the duty to report every ninety days. The petition shall  
32 be made to the superior court in the county where the offender resides  
33 or reports under this section. The prosecuting attorney of the county  
34 shall be named and served as respondent in any such petition. The  
35 court shall relieve the petitioner of the duty to report if the  
36 petitioner shows, by a preponderance of the evidence, that the  
37 petitioner has complied with the reporting requirement for a period of  
38 at least five years and that the offender has not been convicted of a

1 criminal violation of this section for a period of at least five years,  
2 and the court determines that the reporting no longer serves a public  
3 safety purpose. Failure to report, as specified, constitutes a  
4 violation of this section and is punishable as provided in subsection  
5 (11) of this section.

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

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

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

27 (a) "Sex offense" means:

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

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

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

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

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

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

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

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

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

23 (11)(a) A person who knowingly fails to comply with any of the  
24 requirements of this section is guilty of a class B felony if the crime  
25 for which the individual was convicted was a felony sex offense as  
26 defined in subsection (10)(a) of this section or a federal or out-of-  
27 state conviction for an offense that under the laws of this state would  
28 be a felony sex offense as defined in subsection (10)(a) of this  
29 section.

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

34 (12)(a) A person who knowingly fails to comply with any of the  
35 requirements of this section is guilty of a class C felony if the crime  
36 for which the individual was convicted was a felony kidnapping offense  
37 as defined in subsection (10)(b) of this section or a federal or out-

1 of-state conviction for an offense that under the laws of this state  
2 would be a felony kidnapping offense as defined in subsection (10)(b)  
3 of this section.

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

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

12 NEW SECTION. **Sec. 3.** If specific funding for the purposes of this  
13 act, referencing this act by bill or chapter number, is not provided by  
14 June 30, 2009, in the omnibus appropriations act, this act is null and  
15 void.

16 NEW SECTION. **Sec. 4.** Section 2 of this act takes effect ninety  
17 days after adjournment sine die of the 2010 legislative session.

18 NEW SECTION. **Sec. 5.** Section 1 of this act expires ninety days  
19 after adjournment sine die of the 2010 legislative session."

**ESHB 2035** - S COMM AMD

By Committee on Human Services & Corrections

**NOT ADOPTED 04/16/2009**

20 On page 1, line 3 of the title, after "operate;" strike the  
21 remainder of the title and insert "amending RCW 9A.44.130; reenacting  
22 and amending RCW 9A.44.130; creating a new section; providing an  
23 effective date; and providing an expiration date."

--- END ---