
HOUSE BILL 1072

State of Washington

61st Legislature

2009 Regular Session

By Representatives Simpson, Kelley, Pearson, Chase, VanDeWege, Hudgins, Seaquist, Morrell, and Williams

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1 AN ACT Relating to prohibiting certain sex offenders on community
2 custody from accessing the internet; adding new sections to chapter
3 9.94A RCW; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** (1) In a prosecution for a sex offense, the
6 prosecuting attorney shall file a special allegation of internet
7 facilitation whenever sufficient admissible evidence exists, which,
8 when considered with the most plausible, reasonably foreseeable defense
9 that could be raised under the evidence, would justify a finding by a
10 reasonable and objective fact-finder that the defendant used the
11 internet to facilitate the commission of the offense.

12 (2) Once a special allegation has been made under this section, the
13 state has the burden to prove beyond a reasonable doubt that the
14 defendant used the internet to facilitate the commission of the
15 offense. If a jury is had, the jury shall, if it finds the defendant
16 guilty, also find a special verdict as to whether the defendant used
17 the internet to facilitate the commission of the offense. If no jury
18 is had, the court shall make a finding of fact as to whether the

1 defendant used the internet to facilitate the commission of the
2 offense.

3 (3) The prosecuting attorney shall not withdraw a special
4 allegation filed under this section without the approval of the court
5 through an order of dismissal of the allegation. The court may not
6 dismiss the special allegation unless it finds that the order is
7 necessary to correct an error in the initial charging decision or that
8 there are evidentiary problems that make proving the special allegation
9 doubtful.

10 NEW SECTION. **Sec. 2.** When sentencing an offender convicted of a
11 sex offense committed on or after the effective date of this section
12 with a finding of internet facilitation under section 1 of this act,
13 the court, as a condition of any term of community custody imposed
14 under RCW 9.94A.507, 9.94A.545, 9.94A.670, or 9.94A.715, shall:

15 (1) Prohibit the offender from accessing or using a computer, or
16 any other device with internet capability, without the prior written
17 approval of the department;

18 (2) Require the offender to submit to unannounced inspections of
19 his or her computer, or any other device with internet capability, by
20 a community corrections officer or a computer or information technology
21 specialist employed by, or under contract with, the department. The
22 inspection may include, but is not limited to, the retrieval and
23 copying of all data from the computer or device and any internal or
24 external peripherals, and removal of the data, computer, device, or
25 peripheral, to conduct a more thorough inspection;

26 (3) Require the offender to submit to the installation on the
27 offender's computer or other device with internet capability, at the
28 offender's expense, one or more hardware or software systems to monitor
29 the offender's internet use; and

30 (4) Require the offender to submit to any other appropriate
31 restrictions, as determined by the department, concerning his or her
32 use or access to a computer or other device with internet capability.

33 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act are each added
34 to chapter 9.94A RCW.

1 NEW SECTION. **Sec. 4.** This act takes effect August 1, 2009.

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