
SUBSTITUTE HOUSE BILL 2035

State of Washington

61st Legislature

2009 Regular Session

By House Public Safety & Emergency Preparedness (originally sponsored by Representatives Klippert, O'Brien, Shea, Haler, Roach, Armstrong, Pearson, McCune, Condotta, Orwall, Ross, Hurst, Smith, Kristiansen, Kretz, Orcutt, Kelley, Warnick, and Angel)

READ FIRST TIME 02/20/09.

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; amending RCW 9A.44.130; reenacting
4 and amending RCW 9A.44.130; creating a new section; providing an
5 effective date; and providing an expiration date.

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

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

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

1 section is in custody of the state department of corrections, the state
2 department of social and health services, a local division of youth
3 services, or a local jail or juvenile detention facility as a result of
4 a sex offense or kidnapping offense, the person shall also register at
5 the time of release from custody with an official designated by the
6 agency that has jurisdiction over the person.

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

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

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

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

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

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

35 (d) The sheriff shall notify the school's principal or
36 institution's department of public safety and shall provide that
37 department with the same information provided to a county sheriff under
38 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)~~(i)~~ The person shall provide the following information when
24 registering: ~~((+i+))~~ (A) Name; ~~((+ii+))~~ (B) complete residential
25 address; ~~((+iii+))~~ (C) date and place of birth; ~~((+iv+))~~ (D) place of
26 employment; ~~((+v+))~~ (E) crime for which convicted; ~~((+vi+))~~ (F) date
27 and place of conviction; ~~((+vii+))~~ (G) aliases used; ~~((+viii+))~~ (H)
28 social security number; ~~((+ix+))~~ (I) photograph; and ~~((+x+))~~ (J)
29 fingerprints.

30 (ii) Law enforcement may request the person's electronic mail
31 address information or any other internet communication name or
32 identity information including, but not limited to, instant message,
33 chat, or social networking names or identities, if any; and the uniform
34 resource locator of any personal web site created or operated by the
35 person, and if requested by law enforcement, the person shall provide
36 the information.

37 (b) Any person who lacks a fixed residence shall provide the
38 following information when registering: (i) Name; (ii) date and place

1 of birth; (iii) place of employment; (iv) crime for which convicted;
2 (v) date and place of conviction; (vi) aliases used; (vii) social
3 security number; (viii) photograph; (ix) fingerprints; ((and)) (x)
4 where he or she plans to stay; (xi) the person's electronic mail
5 address information or any other internet communication name or
6 identity information including, but not limited to, instant message,
7 chat, or social networking names or identities, if any; and (xii) the
8 uniform resource locator of any personal web site created or operated
9 by the person.

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

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

36 When the agency with jurisdiction intends to release an offender
37 with a duty to register under this section, and the agency has
38 knowledge that the offender is eligible for developmental disability

1 services from the department of social and health services, the agency
2 shall notify the division of developmental disabilities of the release.
3 Notice shall occur not more than thirty days before the offender is to
4 be released. The agency and the division shall assist the offender in
5 meeting the initial registration requirement under this section.
6 Failure to provide such assistance shall not constitute a defense for
7 any violation of this section.

8 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
9 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
10 but are under the jurisdiction of the indeterminate sentence review
11 board or under the department of corrections' active supervision, as
12 defined by the department of corrections, the state department of
13 social and health services, or a local division of youth services, for
14 sex offenses committed before, on, or after February 28, 1990, must
15 register within ten days of July 28, 1991. Kidnapping offenders who,
16 on July 27, 1997, are not in custody but are under the jurisdiction of
17 the indeterminate sentence review board or under the department of
18 corrections' active supervision, as defined by the department of
19 corrections, the state department of social and health services, or a
20 local division of youth services, for kidnapping offenses committed
21 before, on, or after July 27, 1997, must register within ten days of
22 July 27, 1997. A change in supervision status of a sex offender who
23 was required to register under this subsection (4)(a)(ii) as of July
24 28, 1991, or a kidnapping offender required to register as of July 27,
25 1997, shall not relieve the offender of the duty to register or to
26 reregister following a change in residence. The obligation to register
27 shall only cease pursuant to RCW 9A.44.140.

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

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

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

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

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

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

36 (vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks
37 a fixed residence and leaves the county in which he or she is
38 registered and enters and remains within a new county for twenty-four

1 hours is required to register with the county sheriff not more than
2 twenty-four hours after entering the county and provide the information
3 required in subsection (3)(b) of this section.

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

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

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

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

37 (d) The deadlines for the duty to register under this section do

1 not relieve any sex offender of the duty to register under this section
2 as it existed prior to July 28, 1991.

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

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

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

1 the person intends to reside, if the person intends to reside in
2 another county.

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

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

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

1 safety purpose. Failure to report, as specified, constitutes a
2 violation of this section and is punishable as provided in subsection
3 (11) of this section.

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

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

23 (10) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
24 70.48.470, and 72.09.330:

25 (a) "Sex offense" means:

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

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

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

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

34 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
35 criminal attempt, criminal solicitation, or criminal conspiracy to
36 commit an offense that is classified as a sex offense under RCW
37 9.94A.030 or this subsection.

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

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

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

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

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

32 (12)(a) A person who knowingly fails to comply with any of the
33 requirements of this section is guilty of a class C felony if the crime
34 for which the individual was convicted was a felony kidnapping offense
35 as defined in subsection (10)(b) of this section or a federal or out-
36 of-state conviction for an offense that under the laws of this state
37 would be a felony kidnapping offense as defined in subsection (10)(b)
38 of this section.

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

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

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

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

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

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

35 (ii) Who is admitted to a public or private institution of higher
36 education shall, within ten days of enrolling or by the first business

1 day after arriving at the institution, whichever is earlier, notify the
2 sheriff for the county of the person's residence of the person's intent
3 to attend the institution;

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

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

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

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

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

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

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

37 (ii) Any information received by a principal or school personnel
38 under this subsection is confidential and may not be further

1 disseminated except as provided in RCW 28A.225.330, other statutes or
2 case law, and the family and educational and privacy rights act of
3 1994, 20 U.S.C. Sec. 1232g et seq.

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

7 (3)(a)(i) The person shall provide the following information when
8 registering: ~~((+i))~~ (A) Name; ~~((+ii))~~ (B) complete residential
9 address; ~~((+iii))~~ (C) date and place of birth; ~~((+iv))~~ (D) place of
10 employment; ~~((+v))~~ (E) crime for which convicted; ~~((+vi))~~ (F) date
11 and place of conviction; ~~((+vii))~~ (G) aliases used; ~~((+viii))~~ (H)
12 social security number; ~~((+ix))~~ (I) photograph; and ~~((+x))~~ (J)
13 fingerprints.

14 (ii) Law enforcement may request the person's electronic mail
15 address information or any other internet communication name or
16 identity information including, but not limited to, instant message,
17 chat, or social networking names or identities, if any; and the uniform
18 resource locator of any personal web site created or operated by the
19 person, and if requested by law enforcement, the person shall provide
20 the information.

21 (b) Any person who lacks a fixed residence shall provide the
22 following information when registering: (i) Name; (ii) date and place
23 of birth; (iii) place of employment; (iv) crime for which convicted;
24 (v) date and place of conviction; (vi) aliases used; (vii) social
25 security number; (viii) photograph; (ix) fingerprints; ~~((and))~~ (x)
26 where he or she plans to stay; (xi) the person's electronic mail
27 address information or any other internet communication name or
28 identity information including, but not limited to, instant message,
29 chat, or social networking names or identities, if any; and (xii) the
30 uniform resource locator of any personal web site created or operated
31 by the person.

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

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

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

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

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

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

12 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
13 or after July 23, 1995, and kidnapping offenders who, on or after July
14 27, 1997, as a result of that offense are in the custody of the United
15 States bureau of prisons or other federal or military correctional
16 agency for sex offenses committed before, on, or after February 28,
17 1990, or kidnapping offenses committed on, before, or after July 27,
18 1997, must register within twenty-four hours from the time of release
19 with the county sheriff for the county of the person's residence, or if
20 the person is not a resident of Washington, the county of the person's
21 school, or place of employment or vocation. Sex offenders who, on July
22 23, 1995, are not in custody but are under the jurisdiction of the
23 United States bureau of prisons, United States courts, United States
24 parole commission, or military parole board for sex offenses committed
25 before, on, or after February 28, 1990, must register within ten days
26 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not
27 in custody but are under the jurisdiction of the United States bureau
28 of prisons, United States courts, United States parole commission, or
29 military parole board for kidnapping offenses committed before, on, or
30 after July 27, 1997, must register within ten days of July 27, 1997.
31 A change in supervision status of a sex offender who was required to
32 register under this subsection (4)(a)(iii) as of July 23, 1995, or a
33 kidnapping offender required to register as of July 27, 1997 shall not
34 relieve the offender of the duty to register or to reregister following
35 a change in residence, or if the person is not a resident of
36 Washington, the county of the person's school, or place of employment
37 or vocation. The obligation to register shall only cease pursuant to
38 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 B 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 NEW SECTION. **Sec. 3.** If specific funding for the purposes of this
32 act, referencing this act by bill or chapter number, is not provided by
33 June 30, 2009, in the omnibus appropriations act, this act is null and
34 void.

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

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

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