
HOUSE BILL 2945

State of Washington

61st Legislature

2010 Regular Session

By Representative Dickerson

Read first time 01/19/10. Referred to Committee on Human Services.

1 AN ACT Relating to petitions for relief from the duty to register
2 for sex offenders and kidnapping offenders; and amending RCW 9A.44.140.

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

4 **Sec. 1.** RCW 9A.44.140 and 2002 c 25 s 1 are each amended to read
5 as follows:

6 (1) The duty to register under RCW 9A.44.130 shall end:

7 (a) For a person convicted of a class A felony or an offense listed
8 in subsection (5) of this section, or a person convicted of any sex
9 offense or kidnapping offense who has one or more prior convictions for
10 a sex offense or kidnapping offense: Such person may only be relieved
11 of the duty to register under subsection (3) or (4) of this section.

12 (b) For a person convicted of a class B felony, and the person does
13 not have one or more prior convictions for a sex offense or kidnapping
14 offense and the person's current offense is not listed in subsection
15 (5) of this section: Fifteen years after the last date of release from
16 confinement, if any, (including full-time residential treatment)
17 pursuant to the conviction, or entry of the judgment and sentence, if
18 the person has spent fifteen consecutive years in the community without
19 being convicted of any new offenses.

1 (c) For a person convicted of a class C felony, a violation of RCW
2 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to
3 commit a class C felony, and the person does not have one or more prior
4 convictions for a sex offense or kidnapping offense and the person's
5 current offense is not listed in subsection (5) of this section: Ten
6 years after the last date of release from confinement, if any,
7 (including full-time residential treatment) pursuant to the conviction,
8 or entry of the judgment and sentence, if the person has spent ten
9 consecutive years in the community without being convicted of any new
10 offenses. If a court grants a petition for relief pursuant to
11 subsection (4) of this section, the duty to register under this
12 subsection shall end on the date the petition is granted.

13 (2) The provisions of subsection (1) of this section shall apply
14 equally to a person who has been found not guilty by reason of insanity
15 under chapter 10.77 RCW of a sex offense or kidnapping offense.

16 (3)(a) Except as provided in (b) of this subsection and subsection
17 (4) of this section, any person having a duty to register under RCW
18 9A.44.130 may petition the superior court to be relieved of that duty,
19 if the person has spent ten consecutive years in the community without
20 being convicted of any new offenses. The petition shall be made to the
21 court in which the petitioner was convicted of the offense that
22 subjects him or her to the duty to register, or, in the case of
23 convictions in other states, a foreign country, or a federal or
24 military court, to the court in Thurston county. The prosecuting
25 attorney of the county shall be named and served as the respondent in
26 any such petition. The court shall consider the nature of the
27 registrable offense committed, and the criminal and relevant
28 noncriminal behavior of the petitioner both before and after
29 conviction, and may consider other factors. Except as provided in
30 subsection (4) of this section, the court may relieve the petitioner of
31 the duty to register only if the petitioner shows, with clear and
32 convincing evidence, that future registration of the petitioner will
33 not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540,
34 46.20.187, 70.48.470, and 72.09.330.

35 (b)(i) The court may not relieve a person of the duty to register
36 if the person has been determined to be a sexually violent predator as
37 defined in RCW 71.09.020, or has been convicted of a sex offense or

1 kidnapping offense that is a class A felony and that was committed with
2 forcible compulsion on or after June 8, 2000.

3 (ii) The court may not relieve a person of the duty to register if
4 the person has been convicted of one aggravated offense or more than
5 one sexually violent offense, as defined in subsection (5) of this
6 section, and the offense or offenses were committed on or after March
7 12, 2002.

8 (c) Any person subject to (b) of this subsection or subsection (5)
9 of this section may petition the court to be exempted from any
10 community notification requirements that the person may be subject to
11 fifteen years after the later of the entry of the judgment and sentence
12 or the last date of release from confinement, including full-time
13 residential treatment, pursuant to the conviction, if the person has
14 spent the time in the community without being convicted of any new
15 offense.

16 (4) An offender having a duty to register under RCW 9A.44.130 for
17 a sex offense or kidnapping offense committed when the offender was a
18 juvenile may petition the superior court to be relieved of that duty.
19 The court shall consider the nature of the registrable offense
20 committed, and the criminal and relevant noncriminal behavior of the
21 petitioner both before and after adjudication, and may consider other
22 factors. The court may grant a petition for relief from the duty to
23 register under this subsection even if the petitioner has one prior
24 conviction for failure to register for a sex offense or kidnapping
25 offense or one prior conviction for an anticipatory offense of failure
26 to register for a sex offense or kidnapping offense under chapter 9A.28
27 RCW within the previous ten-year period of petitioning the court for
28 relief. If the petitioner has more than one conviction for failure to
29 register or for an anticipatory offense of failure to register, he or
30 she must remain in the community for ten years without being convicted
31 of any new offense before the court may grant a petition for relief.

32 (a) The court may relieve the petitioner of the duty to register
33 for a sex offense or kidnapping offense that was committed while the
34 petitioner was fifteen years of age or older only if the petitioner
35 shows, with clear and convincing evidence, that future registration of
36 the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
37 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

1 (b) The court may relieve the petitioner of the duty to register
2 for a sex offense or kidnapping offense that was committed while the
3 petitioner was under the age of fifteen if the petitioner (i) has not
4 been adjudicated of any additional sex offenses or kidnapping offenses
5 during the twenty-four months following the adjudication for the
6 offense giving rise to the duty to register, and (ii) proves by a
7 preponderance of the evidence that future registration of the
8 petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
9 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

10 This subsection shall not apply to juveniles prosecuted as adults.

11 (5)(a) A person who has been convicted of an aggravated offense, or
12 has been convicted of one or more prior sexually violent offenses or
13 criminal offenses against a victim who is a minor, as defined in (b) of
14 this subsection may only be relieved of the duty to register under
15 subsection (3)(b) of this section. This provision shall apply to
16 convictions for crimes committed on or after July 22, 2001.

17 (b) Unless the context clearly requires otherwise, the following
18 definitions apply only to the federal lifetime registration
19 requirements under this subsection:

20 (i) "Aggravated offense" means an adult conviction that meets the
21 definition of 18 U.S.C. Sec. 2241, which is limited to the following:

22 (A) Any sex offense involving sexual intercourse or sexual contact
23 where the victim is under twelve years of age;

24 (B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape
25 of a child in the first degree), or RCW 9A.44.083 (child molestation in
26 the first degree);

27 (C) Any of the following offenses when committed by forcible
28 compulsion or by the offender administering, by threat or force or
29 without the knowledge or permission of that person, a drug, intoxicant,
30 or other similar substance that substantially impairs the ability of
31 that person to appraise or control conduct: RCW 9A.44.050 (rape in the
32 second degree), RCW 9A.44.100 (indecent liberties), RCW 9A.44.160
33 (custodial sexual misconduct in the first degree), RCW 9A.64.020
34 (incest), or RCW 9.68A.040 (sexual exploitation of a minor);

35 (D) Any of the following offenses when committed by forcible
36 compulsion or by the offender administering, by threat or force or
37 without the knowledge or permission of that person, a drug, intoxicant,
38 or other similar substance that substantially impairs the ability of

1 that person to appraise or control conduct, if the victim is twelve
2 years of age or over but under sixteen years of age and the offender is
3 eighteen years of age or over and is more than forty-eight months older
4 than the victim: RCW 9A.44.076 (rape of a child in the second degree),
5 RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086
6 (child molestation in the second degree), or RCW 9A.44.089 (child
7 molestation in the third degree);

8 (E) A felony with a finding of sexual motivation under RCW
9 9.94A.835 where the victim is under twelve years of age or that is
10 committed by forcible compulsion or by the offender administering, by
11 threat or force or without the knowledge or permission of that person,
12 a drug, intoxicant, or other similar substance that substantially
13 impairs the ability of that person to appraise or control conduct;

14 (F) An offense that is, under chapter 9A.28 RCW, an attempt or
15 solicitation to commit such an offense; or

16 (G) An offense defined by federal law or the laws of another state
17 that is equivalent to the offenses listed in (b)(i)(A) through (F) of
18 this subsection.

19 (ii) "Sexually violent offense" means an adult conviction that
20 meets the definition of 42 U.S.C. Sec. 14071(a)(1)(A), which is limited
21 to the following:

22 (A) An aggravated offense;

23 (B) An offense that is not an aggravated offense but meets the
24 definition of 18 U.S.C. Sec. 2242, which is limited to RCW 9A.44.050(1)
25 (b) through (f) (rape in the second degree) and RCW 9A.44.100(1) (b)
26 through (f) (indecent liberties);

27 (C) A felony with a finding of sexual motivation under RCW
28 9.94A.835 where the victim is incapable of appraising the nature of the
29 conduct or physically incapable of declining participation in, or
30 communicating unwillingness to engage in, the conduct;

31 (D) An offense that is, under chapter 9A.28 RCW, an attempt or
32 solicitation to commit such an offense; or

33 (E) An offense defined by federal law or the laws of another state
34 that is equivalent to the offenses listed in (b)(ii)(A) through (D) of
35 this subsection.

36 (iii) "Criminal offense against a victim who is a minor" means, in
37 addition to any aggravated offense or sexually violent offense where

1 the victim was under eighteen years of age, an adult conviction for the
2 following offenses where the victim is under eighteen years of age:

3 (A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape
4 of a child in the second degree), RCW 9A.44.079 (rape of a child in the
5 third degree), RCW 9A.44.086 (child molestation in the second degree),
6 RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093
7 (sexual misconduct with a minor in the first degree), RCW 9A.44.096
8 (sexual misconduct with a minor in the second degree), RCW 9A.44.160
9 (custodial sexual misconduct in the first degree), RCW 9A.64.020
10 (incest), RCW 9.68A.040 (sexual exploitation of a minor), RCW 9.68A.090
11 (communication with a minor for immoral purposes), or RCW 9.68A.100
12 (~~((patronizing a juvenile prostitute))~~) (commercial sexual abuse of a
13 minor);

14 (B) RCW 9A.40.020 (kidnapping in the first degree), RCW 9A.40.030
15 (kidnapping in the second degree), or RCW 9A.40.040 (unlawful
16 imprisonment), where the victim is a minor and the offender is not the
17 minor's parent;

18 (C) A felony with a finding of sexual motivation under RCW
19 9.94A.835 where the victim is a minor;

20 (D) An offense that is, under chapter 9A.28 RCW, an attempt or
21 solicitation to commit such an offense; or

22 (E) An offense defined by federal law or the laws of another state
23 that is equivalent to the offenses listed in (b)(iii)(A) through (D) of
24 this subsection.

25 (6) Unless relieved of the duty to register pursuant to this
26 section, a violation of RCW 9A.44.130 is an ongoing offense for
27 purposes of the statute of limitations under RCW 9A.04.080.

28 (7) Nothing in RCW 9.94A.637 relating to discharge of an offender
29 shall be construed as operating to relieve the offender of his or her
30 duty to register pursuant to RCW 9A.44.130.

31 (8) For purposes of determining whether a person has been convicted
32 of more than one sex offense, failure to register as a sex offender or
33 kidnapping offender is not a sex or kidnapping offense.

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