
SENATE BILL 5203

State of Washington

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By Senators Regala, Hargrove, Stevens, and Shin

Read first time 01/18/11. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to improving the administration and efficiency of
2 sex and kidnapping offender registration; amending RCW 4.24.550,
3 9A.44.128, 9A.44.132, 9A.44.142, and 43.43.540; reenacting and amending
4 RCW 9A.44.130; and adding a new section to chapter 9A.44 RCW.

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

6 **Sec. 1.** RCW 4.24.550 and 2008 c 98 s 1 are each amended to read as
7 follows:

8 (1) In addition to the disclosure under subsection (5) of this
9 section, public agencies are authorized to release information to the
10 public regarding sex offenders and kidnapping offenders when the agency
11 determines that disclosure of the information is relevant and necessary
12 to protect the public and counteract the danger created by the
13 particular offender. This authorization applies to information
14 regarding: (a) Any person adjudicated or convicted of a sex offense
15 (~~as defined in RCW 9A.44.130 or a kidnapping offense as defined by RCW~~
16 ~~9A.44.130~~); (b) any person under the jurisdiction of the indeterminate
17 sentence review board as the result of a sex offense or kidnapping
18 offense; (c) any person committed as a sexually violent predator under
19 chapter 71.09 RCW or as a sexual psychopath under chapter 71.06 RCW;

1 (d) any person found not guilty of a sex offense or kidnapping offense
2 by reason of insanity under chapter 10.77 RCW; and (e) any person found
3 incompetent to stand trial for a sex offense or kidnapping offense and
4 subsequently committed under chapter 71.05 or 71.34 RCW.

5 (2) Except for the information specifically required under
6 subsection (5) of this section, the extent of the public disclosure of
7 relevant and necessary information shall be rationally related to: (a)
8 The level of risk posed by the offender to the community; (b) the
9 locations where the offender resides, expects to reside, or is
10 regularly found; and (c) the needs of the affected community members
11 for information to enhance their individual and collective safety.

12 (3) Except for the information specifically required under
13 subsection (5) of this section, local law enforcement agencies shall
14 consider the following guidelines in determining the extent of a public
15 disclosure made under this section: (a) For offenders classified as
16 risk level I, the agency shall share information with other appropriate
17 law enforcement agencies and, if the offender is a student, the public
18 or private school regulated under Title 28A RCW or chapter 72.40 RCW
19 which the offender is attending, or planning to attend. The agency may
20 disclose, upon request, relevant, necessary, and accurate information
21 to any victim or witness to the offense and to any individual community
22 member who lives near the residence where the offender resides, expects
23 to reside, or is regularly found; (b) for offenders classified as risk
24 level II, the agency may also disclose relevant, necessary, and
25 accurate information to public and private schools, child day care
26 centers, family day care providers, public libraries, businesses and
27 organizations that serve primarily children, women, or vulnerable
28 adults, and neighbors and community groups near the residence where the
29 offender resides, expects to reside, or is regularly found; (c) for
30 offenders classified as risk level III, the agency may also disclose
31 relevant, necessary, and accurate information to the public at large;
32 and (d) because more localized notification is not feasible and
33 homeless and transient offenders may present unique risks to the
34 community, the agency may also disclose relevant, necessary, and
35 accurate information to the public at large for offenders registered as
36 homeless or transient.

37 (4) The county sheriff with whom an offender classified as risk
38 level III is registered shall cause to be published by legal notice,

1 advertising, or news release a sex offender community notification that
2 conforms to the guidelines established under RCW 4.24.5501 in at least
3 one legal newspaper with general circulation in the area of the sex
4 offender's registered address or location. (~~The county sheriff shall
5 also cause to be published consistent with this subsection a current
6 list of level III registered sex offenders, twice yearly.~~) Unless the
7 information is posted on the web site described in subsection (5) of
8 this section, this list shall be maintained by the county sheriff on a
9 publicly accessible web site and shall be updated at least once per
10 month.

11 (5)(a) When funded by federal grants or other sources, the
12 Washington association of sheriffs and police chiefs shall create and
13 maintain a statewide registered kidnapping and sex offender web site,
14 which shall be available to the public. The web site shall post all
15 level III and level II registered sex offenders, level I registered sex
16 offenders during the time they are out of compliance with registration
17 requirements under RCW 9A.44.130, and all registered kidnapping
18 offenders in the state of Washington.

19 (i) For level III offenders, the web site shall contain, but is not
20 limited to, the registered sex offender's name, relevant criminal
21 convictions, address by hundred block, physical description, and
22 photograph. The web site shall provide mapping capabilities that
23 display the sex offender's address by hundred block on a map. The web
24 site shall allow citizens to search for registered sex offenders within
25 the state of Washington by county, city, zip code, last name, (~~type of
26 conviction,~~) and address by hundred block.

27 (ii) For level II offenders, and level I sex offenders during the
28 time they are out of compliance with registration requirements under
29 RCW 9A.44.130, the web site shall contain, but is not limited to, the
30 same information and functionality as described in (a)(i) of this
31 subsection, provided that it is permissible under state and federal
32 law. If it is not permissible, the web site shall be limited to the
33 information and functionality that is permissible under state and
34 federal law.

35 (iii) For kidnapping offenders, the web site shall contain, but is
36 not limited to, the same information and functionality as described in
37 (a)(i) of this subsection, provided that it is permissible under state

1 and federal law. If it is not permissible, the web site shall be
2 limited to the information and functionality that is permissible under
3 state and federal law.

4 (b) Until the implementation of (a) of this subsection, the
5 Washington association of sheriffs and police chiefs shall create a web
6 site available to the public that provides electronic links to county-
7 operated web sites that offer sex offender registration information.

8 (6) Local law enforcement agencies that disseminate information
9 pursuant to this section shall: (a) Review available risk level
10 classifications made by the department of corrections, the department
11 of social and health services, and the indeterminate sentence review
12 board; (b) assign risk level classifications to all offenders about
13 whom information will be disseminated; and (c) make a good faith effort
14 to notify the public and residents (~~(at least fourteen days before the~~
15 ~~offender is released from confinement or, where an offender moves from~~
16 ~~another jurisdiction, as soon as possible after the agency learns of~~
17 ~~the offender's move, except that in no case may this notification~~
18 ~~provision be construed to require an extension of an offender's release~~
19 ~~date)) within a reasonable period of time after the offender registers
20 with the agency. The juvenile court shall provide local law
21 enforcement officials with all relevant information on offenders
22 allowed to remain in the community in a timely manner.~~

23 (7) An appointed or elected public official, public employee, or
24 public agency as defined in RCW 4.24.470, or units of local government
25 and its employees, as provided in RCW 36.28A.010, are immune from civil
26 liability for damages for any discretionary risk level classification
27 decisions or release of relevant and necessary information, unless it
28 is shown that the official, employee, or agency acted with gross
29 negligence or in bad faith. The immunity in this section applies to
30 risk level classification decisions and the release of relevant and
31 necessary information regarding any individual for whom disclosure is
32 authorized. The decision of a local law enforcement agency or official
33 to classify an offender to a risk level other than the one assigned by
34 the department of corrections, the department of social and health
35 services, or the indeterminate sentence review board, or the release of
36 any relevant and necessary information based on that different
37 classification shall not, by itself, be considered gross negligence or
38 bad faith. The immunity provided under this section applies to the

1 release of relevant and necessary information to other public
2 officials, public employees, or public agencies, and to the general
3 public.

4 (8) Except as may otherwise be provided by law, nothing in this
5 section shall impose any liability upon a public official, public
6 employee, or public agency for failing to release information
7 authorized under this section.

8 (9) Nothing in this section implies that information regarding
9 persons designated in subsection (1) of this section is confidential
10 except as may otherwise be provided by law.

11 (10) When a local law enforcement agency or official classifies an
12 offender differently than the offender is classified by the end of
13 sentence review committee or the department of social and health
14 services at the time of the offender's release from confinement, the
15 law enforcement agency or official shall notify the end of sentence
16 review committee or the department of social and health services and
17 submit its reasons supporting the change in classification. (~~Upon~~
18 ~~implementation of subsection (5)(a) of this section, notification of~~
19 ~~the change shall also be sent to the Washington association of sheriffs~~
20 ~~and police chiefs.))~~

21 **Sec. 2.** RCW 9A.44.128 and 2010 c 267 s 1 are each amended to read
22 as follows:

23 For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200,
24 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

25 (1) "Business day" means any day other than Saturday, Sunday, or a
26 legal local, state, or federal holiday.

27 (2) "Conviction" means any adult conviction or juvenile
28 adjudication for a sex offense or kidnapping offense.

29 (3) "Disqualifying offense" means a conviction for: Any offense
30 that is a felony; a sex offense as defined in this section; a crime
31 against children or persons as defined in RCW 43.43.830(5) and
32 9.94A.411(2)(a); an offense with a domestic violence designation as
33 provided in RCW 10.99.020; permitting the commercial sexual abuse of a
34 minor as defined in RCW 9.68A.103; or any violation of chapter 9A.88
35 RCW.

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

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

5 (5) "In the community" means residing outside of confinement or
6 incarceration;

7 (6) "Institution of higher education" means any public or private
8 institution dedicated to postsecondary education, including any
9 college, university, community college, trade, or professional school.

10 (7) "Kidnapping offense" means:

11 (a) The crimes of kidnapping in the first degree, kidnapping in the
12 second degree, and unlawful imprisonment, as defined in chapter 9A.40
13 RCW, where the victim is a minor and the offender is not the minor's
14 parent;

15 (b) Any offense that is, under chapter 9A.28 RCW, a criminal
16 attempt, criminal solicitation, or criminal conspiracy to commit an
17 offense that is classified as a kidnapping offense under this
18 subsection; and

19 (c) Any federal or out-of-state conviction for: An offense for
20 which the person would be required to register as a kidnapping offender
21 (~~while~~) if residing in the state of conviction, unless a court in the
22 person's state of conviction has made an individualized determination
23 that the person should not be required to register; or, if not required
24 to register in the state of conviction, an offense that under the laws
25 of this state would be classified as a kidnapping offense under this
26 subsection(~~(, unless a court in the person's state of conviction has~~
27 ~~made an individualized determination that the person should not be~~
28 ~~required to register)).~~

29 ~~((+6+))~~ (8) "Lacks a fixed residence" means the person does not
30 have a living situation that meets the definition of residence and
31 includes, but is not limited to, a shelter program designed to provide
32 temporary living accommodations for the homeless, an outdoor sleeping
33 location, or locations where the person does not have permission to
34 stay.

35 (9) "Residence" means a building that a person uses as living
36 quarters for four or more days or nights of the week. Using a building
37 as living quarters means to conduct activities consistent with the
38 common understanding of residing, such as sleeping; eating; keeping

1 personal belongings; receiving mail; paying utilities, rent, or
2 mortgage; or engaging in leisure activities. A nonpermanent structure
3 including, but not limited to, a motor home, travel trailer, camper, or
4 boat may qualify as a residence provided it is used as living quarters
5 four or more days of the week, primarily kept at one location with a
6 physical address, and the location it is kept at is either owned or
7 rented by the person or used by the person with the permission of the
8 owner or renter.

9 (10) "Sex offense" means:

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

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

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

15 (d) Any federal or out-of-state conviction for: An offense for
16 which the person would be required to register as a sex offender while
17 residing in the state of conviction; or, if not required to register in
18 the state of conviction, an offense that under the laws of this state
19 would be classified as a sex offense under this subsection, unless a
20 court in the person's state of conviction has made an individualized
21 determination that the person should not be required to register; and

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

26 ~~((7))~~ (11) "School" means a public or private school regulated
27 under Title 28A RCW or chapter 72.40 RCW.

28 (12) "Student" means a person who is enrolled, on a full-time or
29 part-time basis, in any ~~(public or private educational institution.~~
30 ~~An educational institution includes any secondary school, trade or~~
31 ~~professional institution,)~~ school or institution of higher education.

32 **Sec. 3.** RCW 9A.44.130 and 2010 c 267 s 2 and 2010 c 265 s 1 are
33 each reenacted and amended to read as follows:

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

1 found not guilty by reason of insanity under chapter 10.77 RCW of
2 committing any sex offense or kidnapping offense, shall register with
3 the county sheriff for the county of the person's residence, or if the
4 person is not a resident of Washington, the county of the person's
5 school, or place of employment or vocation, or as otherwise specified
6 in this section. When a person required to register under this section
7 is in custody of the state department of corrections, the state
8 department of social and health services, a local division of youth
9 services, or a local jail or juvenile detention facility as a result of
10 a sex offense or kidnapping offense, the person shall also register at
11 the time of release from custody with an official designated by the
12 agency that has jurisdiction over the person.

13 (b) Any adult or juvenile who is required to register under (a) of
14 this subsection must give notice to the county sheriff of the county
15 with whom the person is registered within three business days:

16 (i) Prior to arriving at a school or institution of higher
17 education to attend classes;

18 (ii) Prior to starting work at an institution of higher education;

19 (iii) After any termination of enrollment or employment at a school
20 or institution of higher education;

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

27 ~~(ii) Who is admitted to a public or private institution of higher~~
28 ~~education shall, within three business days prior to arriving at the~~
29 ~~institution, notify the sheriff for the county of the person's~~
30 ~~residence of the person's intent to attend the institution;~~

31 ~~(iii) Who gains employment at a public or private institution of~~
32 ~~higher education shall, within three business days prior to commencing~~
33 ~~work at the institution, notify the sheriff for the county of the~~
34 ~~person's residence of the person's employment by the institution; or~~

35 ~~(iv) Whose enrollment or employment at a public or private~~
36 ~~institution of higher education is terminated shall, within three~~
37 ~~business days of such termination, notify the sheriff for the county of~~

1 the person's residence of the person's termination of enrollment or
2 employment at the institution.

3 (c) 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 (d)(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)) (2)(a) ((The)) A person ((shall)) required to register under
30 this section must provide the following information when registering:
31 (i) Name and any aliases used; (ii) complete and accurate residential
32 address or, if the person lacks a fixed residence, where he or she
33 plans to stay; (iii) date and place of birth; (iv) place of employment;
34 (v) crime for which convicted; (vi) date and place of conviction; (vii)
35 ((aliases used; (viii))) social security number; ((ix)) (viii)
36 photograph; and ((x)) (ix) fingerprints.

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

1 ~~place of birth; (iii) place of employment; (iv) crime for which~~
2 ~~convicted; (v) date and place of conviction; (vi) aliases used; (vii)~~
3 ~~social security number; (viii) photograph; (ix) fingerprints; and (x)~~
4 ~~where he or she plans to stay)) may be required to update any of the~~
5 ~~information required in this subsection in conjunction with any address~~
6 ~~verification conducted by the county sheriff or as part of any notice~~
7 ~~required by this section.~~

8 ((+4)) (3)(a) Offenders shall register with the county sheriff
9 within the following deadlines:

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

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

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

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

1 A change in supervision status of a sex offender who was required to
2 register under this subsection (~~(+4)~~) (3)(a)(iii) as of July 23, 1995,
3 or a kidnapping offender required to register as of July 27, 1997 shall
4 not relieve the offender of the duty to register or to reregister
5 following a change in residence, or if the person is not a resident of
6 Washington, the county of the person's school, or place of employment
7 or vocation.

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

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

1 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
2 or juvenile who has been found not guilty by reason of insanity under
3 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
4 February 28, 1990, and who, on or after July 23, 1995, is in custody,
5 as a result of that finding, of the state department of social and
6 health services, or (B) committing a kidnapping offense on, before, or
7 after July 27, 1997, and who on or after July 27, 1997, is in custody,
8 as a result of that finding, of the state department of social and
9 health services, must register within three business days from the time
10 of release with the county sheriff for the county of the person's
11 residence. The state department of social and health services shall
12 provide notice to the adult or juvenile in its custody of the duty to
13 register. Any adult or juvenile who has been found not guilty by
14 reason of insanity of committing a sex offense on, before, or after
15 February 28, 1990, but who was released before July 23, 1995, or any
16 adult or juvenile who has been found not guilty by reason of insanity
17 of committing a kidnapping offense but who was released before July 27,
18 1997, shall be required to register within three business days of
19 receiving notice of this registration requirement.

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 three business days after entering the county and provide the
25 information required in subsection (~~((3)(b))~~) (2)(a) 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 three business days after
35 establishing residence, or after beginning to work, carry on a
36 vocation, or attend school in the new state. The person must also send
37 written notice within three business days of moving to the new state or

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

4 (b) The county sheriff shall not be required to determine whether
5 the person is living within the county.

6 (c) An arrest on charges of failure to register, service of an
7 information, or a complaint for a violation of RCW 9A.44.132, or
8 arraignment on charges for a violation of RCW 9A.44.132, constitutes
9 actual notice of the duty to register. Any person charged with the
10 crime of failure to register under RCW 9A.44.132 who asserts as a
11 defense the lack of notice of the duty to register shall register
12 within three business days following actual notice of the duty through
13 arrest, service, or arraignment. Failure to register as required under
14 this subsection (~~((+4))~~) (3)(c) constitutes grounds for filing another
15 charge of failing to register. Registering following arrest, service,
16 or arraignment on charges shall not relieve the offender from criminal
17 liability for failure to register prior to the filing of the original
18 charge.

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

22 (~~((+5))~~) (4)(a) If any person required to register pursuant to this
23 section changes his or her residence address within the same county,
24 the person must provide, by certified mail, with return receipt
25 requested or in person, signed written notice of the change of address
26 to the county sheriff within three business days of moving.

27 (b) If any person required to register pursuant to this section
28 moves to a new county, the person must register with that county
29 sheriff within three business days of moving. Within three business
30 days, the person must also provide, by certified mail, with return
31 receipt requested or in person, signed written notice of the change of
32 address in the new county to the county sheriff with whom the person
33 last registered. The county sheriff with whom the person last
34 registered shall promptly forward the information concerning the change
35 of address to the county sheriff for the county of the person's new
36 residence. Upon receipt of notice of change of address to a new state,
37 the county sheriff shall promptly forward the information regarding the

1 change of address to the agency designated by the new state as the
2 state's offender registration agency.

3 ~~((+6+))~~ (5)(a) Any person required to register under this section
4 who lacks a fixed residence shall provide signed written notice to the
5 sheriff of the county where he or she last registered within three
6 business days after ceasing to have a fixed residence. The notice
7 shall include the information required by subsection ~~((+3+)(b+))~~ (2)(a)
8 of this section, except the photograph and fingerprints. The county
9 sheriff may, for reasonable cause, require the offender to provide a
10 photograph and fingerprints. The sheriff shall forward this
11 information to the sheriff of the county in which the person intends to
12 reside, if the person intends to reside in another county.

13 (b) A person who lacks a fixed residence must report weekly, in
14 person, to the sheriff of the county where he or she is registered.
15 The weekly report shall be on a day specified by the county sheriff's
16 office, and shall occur during normal business hours. The person must
17 keep an accurate accounting of where he or she stays during the week
18 and provide it to the county sheriff upon request. The lack of a fixed
19 residence is a factor that may be considered in determining an
20 offender's risk level and shall make the offender subject to disclosure
21 of information to the public at large pursuant to RCW 4.24.550.

22 (c) If any person required to register pursuant to this section
23 does not have a fixed residence, it is an affirmative defense to the
24 charge of failure to register, that he or she provided written notice
25 to the sheriff of the county where he or she last registered within
26 three business days of ceasing to have a fixed residence and has
27 subsequently complied with the requirements of subsections ~~((+4+))~~
28 (3)(a)(vii) or (viii) and ~~((+6+))~~ (5) of this section. To prevail, the
29 person must prove the defense by a preponderance of the evidence.

30 ~~((+7+))~~ (6) A sex offender subject to registration requirements
31 under this section who applies to change his or her name under RCW
32 4.24.130 or any other law shall submit a copy of the application to the
33 county sheriff of the county of the person's residence and to the state
34 patrol not fewer than five days before the entry of an order granting
35 the name change. No sex offender under the requirement to register
36 under this section at the time of application shall be granted an order
37 changing his or her name if the court finds that doing so will
38 interfere with legitimate law enforcement interests, except that no

1 order shall be denied when the name change is requested for religious
2 or legitimate cultural reasons or in recognition of marriage or
3 dissolution of marriage. A sex offender under the requirement to
4 register under this section who receives an order changing his or her
5 name shall submit a copy of the order to the county sheriff of the
6 county of the person's residence and to the state patrol within three
7 business days of the entry of the order.

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

11 ~~(9))~~ (7) Except as may otherwise be provided by law, nothing in
12 this section shall impose any liability upon a peace officer, including
13 a county sheriff, or law enforcement agency, for failing to release
14 information authorized under this section.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 9A.44 RCW
16 to read as follows:

17 (1) Upon receiving notice from a registered person pursuant to RCW
18 9A.44.130 that the person will be attending a school or institution of
19 higher education or will be employed with an institution of higher
20 education, the sheriff must promptly notify the school district and the
21 school principal or institution's department of public safety and shall
22 provide that school or department with the person's: (a) Name and any
23 aliases used; (b) complete residential address; (c) date and place of
24 birth; (d) place of employment; (e) crime for which convicted; (f) date
25 and place of conviction; (g) social security number; (h) photograph;
26 and (i) risk level classification.

27 (2) A principal or department receiving notice under this
28 subsection must disclose the information received from the sheriff as
29 follows:

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

35 (b) If the student is classified as a risk level I, the principal
36 or department shall provide the information received only to personnel

1 who, in the judgment of the principal or department, for security
2 purposes should be aware of the student's record.

3 (3) The sheriff shall notify the applicable school district and
4 school principal or institution's department of public safety whenever
5 a student's risk level classification is changed or the sheriff is
6 notified of a change in the student's address.

7 (4) Any information received by school or institution personnel
8 under this subsection is confidential and may not be further
9 disseminated except as provided in RCW 28A.225.330, other statutes or
10 case law, and the family and educational and privacy rights act of
11 1994, 20 U.S.C. Sec. 1232g et seq.

12 **Sec. 5.** RCW 9A.44.132 and 2010 c 267 s 3 are each amended to read
13 as follows:

14 (1) A person commits the crime of failure to register as a sex
15 offender if the person has a duty to register under RCW 9A.44.130 for
16 a felony sex offense (~~(as defined in that section)~~) and knowingly fails
17 to comply with any of the requirements of RCW 9A.44.130.

18 (a) Except as provided in (b) of this subsection, the failure to
19 register as a sex offender pursuant to this subsection is a class C
20 felony.

21 (b) If a person has been convicted (~~(in this state)~~) of a felony
22 failure to register as a sex offender in this state or an equivalent
23 offense pursuant to the laws of another state on two or more prior
24 occasions, the failure to register under this subsection is a class B
25 felony.

26 (2) A person is guilty of failure to register as a sex offender if
27 the person has a duty to register under RCW 9A.44.130 for a sex offense
28 other than a felony and knowingly fails to comply with any of the
29 requirements of RCW 9A.44.130. The failure to register as a sex
30 offender under this subsection is a gross misdemeanor.

31 (3) A person commits the crime of failure to register as a
32 kidnapping offender if the person has a duty to register under RCW
33 9A.44.130 for a kidnapping offense and knowingly fails to comply with
34 any of the requirements of RCW 9A.44.130.

35 (a) If the person has a duty to register for a felony kidnapping
36 offense, the failure to register as a kidnapping offender is a class C
37 felony.

1 (b) If the person has a duty to register for a kidnapping offense
2 other than a felony, the failure to register as a kidnapping offender
3 is a gross misdemeanor.

4 (4) Unless relieved of the duty to register pursuant to RCW
5 9A.44.141 and 9A.44.142, a violation of this section is an ongoing
6 offense for purposes of the statute of limitations under RCW 9A.04.080.

7 **Sec. 6.** RCW 9A.44.142 and 2010 c 267 s 6 are each amended to read
8 as follows:

9 (1) A person who is required to register under RCW 9A.44.130 may
10 petition the superior court to be relieved of the duty to register:

11 (a) If the person has a duty to register for a sex offense or
12 kidnapping offense committed when the offender was a juvenile,
13 regardless of whether the conviction was in this state, as provided in
14 RCW 9A.44.143;

15 (b) If the person is required to register for a conviction in this
16 state and is not prohibited from petitioning for relief from
17 registration under subsection (2) of this section, when the person has
18 spent ten consecutive years in the community without being convicted of
19 a disqualifying offense during that time period; (~~and~~) or

20 (c) If the person is required to register for a federal or out-of-
21 state conviction, when the person has spent fifteen consecutive years
22 in the community without being convicted of a disqualifying offense
23 during that time period.

24 (2)(a) A person may not petition for relief from registration if
25 the person has been:

26 (i) Determined to be a sexually violent predator as defined in RCW
27 71.09.020;

28 (ii) Convicted as an adult of a sex offense or kidnapping offense
29 that is a class A felony and that was committed with forcible
30 compulsion on or after June 8, 2000; or

31 (iii) Until July 1, 2012, convicted of one aggravated offense or
32 more than one sexually violent offense, as defined in subsection (5) of
33 this section, and the offense or offenses were committed on or after
34 March 12, 2002. After July 1, 2012, this subsection (2)(a)(iii) shall
35 have no further force and effect.

36 (b) Any person who may not be relieved of the duty to register may
37 petition the court to be exempted from any community notification

1 requirements that the person may be subject to fifteen years after the
2 later of the entry of the judgment and sentence or the last date of
3 release from confinement, including full-time residential treatment,
4 pursuant to the conviction, if the person has spent the time in the
5 community without being convicted of a disqualifying offense.

6 (3) A petition for relief from registration or exemption from
7 notification under this section shall be made to the court in which the
8 petitioner was convicted of the offense that subjects him or her to the
9 duty to register or, in the case of convictions in other states, a
10 foreign country, or a federal or military court, to the court in
11 ((Thurston)) the county of the person's residence. The prosecuting
12 attorney of the county shall be named and served as the respondent in
13 any such petition.

14 (4)(a) The court may relieve a petitioner of the duty to register
15 only if the petitioner shows by clear and convincing evidence that the
16 petitioner is sufficiently rehabilitated to warrant removal from the
17 central registry of sex offenders and kidnapping offenders.

18 (b) In determining whether the petitioner is sufficiently
19 rehabilitated to warrant removal from the registry, the following
20 factors are provided as guidance to assist the court in making its
21 determination:

22 (i) The nature of the registrable offense committed including the
23 number of victims and the length of the offense history;

24 (ii) Any subsequent criminal history;

25 (iii) The petitioner's compliance with supervision requirements;

26 (iv) The length of time since the charged incident(s) occurred;

27 (v) Any input from community corrections officers, law enforcement,
28 or treatment providers;

29 (vi) Participation in sex offender treatment;

30 (vii) Participation in other treatment and rehabilitative programs;

31 (viii) The offender's stability in employment and housing;

32 (ix) The offender's community and personal support system;

33 (x) Any risk assessments or evaluations prepared by a qualified
34 professional;

35 (xi) Any updated polygraph examination;

36 (xii) Any input of the victim;

37 (xiii) Any other factors the court may consider relevant.

1 (5)(a) A person who has been convicted of an aggravated offense, or
2 has been convicted of one or more prior sexually violent offenses or
3 criminal offenses against a victim who is a minor, as defined in (b) of
4 this subsection:

5 (i) Until July 1, 2012, may not be relieved of the duty to
6 register;

7 (ii) After July 1, 2012, may petition the court to be relieved of
8 the duty to register as provided in this section;

9 (iii) This provision shall apply to convictions for crimes
10 committed on or after July 22, 2001.

11 (b) Unless the context clearly requires otherwise, the following
12 definitions apply only to the federal lifetime registration
13 requirements under this subsection:

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

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

18 (B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape
19 of a child in the first degree), or RCW 9A.44.083 (child molestation in
20 the first degree);

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

29 (D) Any of the following offenses when committed by forcible
30 compulsion or by the offender administering, by threat or force or
31 without the knowledge or permission of that person, a drug, intoxicant,
32 or other similar substance that substantially impairs the ability of
33 that person to appraise or control conduct, if the victim is twelve
34 years of age or over but under sixteen years of age and the offender is
35 eighteen years of age or over and is more than forty-eight months older
36 than the victim: RCW 9A.44.076 (rape of a child in the second degree),
37 RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086

1 (child molestation in the second degree), or RCW 9A.44.089 (child
2 molestation in the third degree);

3 (E) A felony with a finding of sexual motivation under RCW
4 9.94A.835 where the victim is under twelve years of age or that is
5 committed by forcible compulsion or by the offender administering, by
6 threat or force or without the knowledge or permission of that person,
7 a drug, intoxicant, or other similar substance that substantially
8 impairs the ability of that person to appraise or control conduct;

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

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

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

17 (A) An aggravated offense;

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

22 (C) A felony with a finding of sexual motivation under RCW
23 9.94A.835 where the victim is incapable of appraising the nature of the
24 conduct or physically incapable of declining participation in, or
25 communicating unwillingness to engage in, the conduct;

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

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

31 (iii) "Criminal offense against a victim who is a minor" means, in
32 addition to any aggravated offense or sexually violent offense where
33 the victim was under eighteen years of age, an adult conviction for the
34 following offenses where the victim is under eighteen years of age:

35 (A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape
36 of a child in the second degree), RCW 9A.44.079 (rape of a child in the
37 third degree), RCW 9A.44.086 (child molestation in the second degree),
38 RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093

1 (sexual misconduct with a minor in the first degree), RCW 9A.44.096
2 (sexual misconduct with a minor in the second degree), RCW 9A.44.160
3 (custodial sexual misconduct in the first degree), RCW 9A.64.020
4 (incest), RCW 9.68A.040 (sexual exploitation of a minor), RCW 9.68A.090
5 (communication with a minor for immoral purposes), or RCW 9.68A.100
6 (commercial sexual abuse of a minor);

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

11 (C) A felony with a finding of sexual motivation under RCW
12 9.94A.835 where the victim is a minor;

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

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

18 **Sec. 7.** RCW 43.43.540 and 2006 c 136 s 1 are each amended to read
19 as follows:

20 (1) The county sheriff shall ~~((+1+))~~ forward ~~((the))~~ registration
21 information, photographs, and fingerprints obtained pursuant to RCW
22 9A.44.130, including the sex offender's risk level classification and
23 any notice of change of address, to the Washington state patrol within
24 five working days~~((+and))~~.

25 (2) ~~Upon implementation of RCW 4.24.550(5)(a), the Washington state~~
26 ~~patrol ((will forward the information necessary to operate the~~
27 ~~registered sex offender web site described in RCW 4.24.550(5)(a) to the~~
28 ~~Washington association of sheriffs and police chiefs within five~~
29 ~~working days of receiving the information, including any notice of~~
30 ~~change of address or change in risk level notification. The state~~
31 ~~patrol)) shall maintain a central registry of sex offenders and~~
32 kidnapping offenders required to register under RCW 9A.44.130 and shall
33 adopt rules consistent with chapters 10.97, 10.98, and 43.43 RCW as are
34 necessary to carry out the purposes of RCW 9A.44.130, 9A.44.140,
35 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The
36 Washington state patrol shall reimburse the counties for the costs of

1 processing the offender registration, including taking the offender's
2 fingerprints and ((the)) photograph((s)).

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