

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5203

62nd Legislature
2011 Regular Session

Passed by the Senate April 15, 2011
YEAS 48 NAYS 0

President of the Senate

Passed by the House April 7, 2011
YEAS 92 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5203** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5203

AS AMENDED BY THE HOUSE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By Senate Human Services & Corrections (originally sponsored by
Senators Regala, Hargrove, Stevens, and Shin)

READ FIRST TIME 02/21/11.

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.44.141, 9A.44.142, and 43.43.540; reenacting
4 and amending RCW 9A.44.130; and adding a new section to chapter 9A.44
5 RCW.

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

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

9 (1) In addition to the disclosure under subsection (5) of this
10 section, public agencies are authorized to release information to the
11 public regarding sex offenders and kidnapping offenders when the agency
12 determines that disclosure of the information is relevant and necessary
13 to protect the public and counteract the danger created by the
14 particular offender. This authorization applies to information
15 regarding: (a) Any person adjudicated or convicted of a sex offense as
16 defined in RCW ((9A.44.130)) 9A.44.128 or a kidnapping offense as
17 defined by RCW ((9A.44.130)) 9A.44.128; (b) any person under the
18 jurisdiction of the indeterminate sentence review board as the result
19 of a sex offense or kidnapping offense; (c) any person committed as a

1 sexually violent predator under chapter 71.09 RCW or as a sexual
2 psychopath under chapter 71.06 RCW; (d) any person found not guilty of
3 a sex offense or kidnapping offense by reason of insanity under chapter
4 10.77 RCW; and (e) any person found incompetent to stand trial for a
5 sex offense or kidnapping offense and subsequently committed under
6 chapter 71.05 or 71.34 RCW.

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

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

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

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

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

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

37 (iii) For kidnapping offenders, the web site shall contain, but is
38 not limited to, the same information and functionality as described in

1 (a)(i) of this subsection, provided that it is permissible under state
2 and federal law. If it is not permissible, the web site shall be
3 limited to the information and functionality that is permissible under
4 state and federal law.

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

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

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

1 bad faith. The immunity provided under this section applies to the
2 release of relevant and necessary information to other public
3 officials, public employees, or public agencies, and to the general
4 public.

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

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

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

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

24 For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200,
25 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

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

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

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

1 (4) "Employed" or "carries on a vocation" means employment that is
2 full time or part time for a period of time exceeding fourteen days, or
3 for an aggregate period of time exceeding thirty days during any
4 calendar year. A person is employed or carries on a vocation whether
5 the person's employment is financially compensated, volunteered, or for
6 the purpose of government or educational benefit.

7 (5) "Fixed residence" means a building that a person lawfully and
8 habitually uses as living quarters a majority of the week. Uses as
9 living quarters means to conduct activities consistent with the common
10 understanding of residing, such as sleeping; eating; keeping personal
11 belongings; receiving mail; and paying utilities, rent, or mortgage.
12 A nonpermanent structure including, but not limited to, a motor home,
13 travel trailer, camper, or boat may qualify as a residence provided it
14 is lawfully and habitually used as living quarters a majority of the
15 week, primarily kept at one location with a physical address, and the
16 location it is kept at is either owned or rented by the person or used
17 by the person with the permission of the owner or renter. A shelter
18 program may qualify as a residence provided it is a shelter program
19 designed to provide temporary living accommodations for the homeless,
20 provides an offender with a personally assigned living space, and the
21 offender is permitted to store belongings in the living space.

22 (6) "In the community" means residing outside of confinement or
23 incarceration for a disqualifying offense.

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

27 (8) "Kidnapping offense" means:

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

32 (b) Any offense that is, under chapter 9A.28 RCW, a criminal
33 attempt, criminal solicitation, or criminal conspiracy to commit an
34 offense that is classified as a kidnapping offense under this
35 subsection; and

36 (c) Any federal or out-of-state conviction for: An offense for
37 which the person would be required to register as a kidnapping offender
38 ((while)) if residing in the state of conviction; or, if not required

1 to register in the state of conviction, an offense that under the laws
2 of this state would be classified as a kidnapping offense under this
3 subsection(~~(, unless a court in the person's state of conviction has~~
4 ~~made an individualized determination that the person should not be~~
5 ~~required to register))).~~

6 ~~((+6))~~ (9) "Lacks a fixed residence" means the person does not
7 have a living situation that meets the definition of a fixed residence
8 and includes, but is not limited to, a shelter program designed to
9 provide temporary living accommodations for the homeless, an outdoor
10 sleeping location, or locations where the person does not have
11 permission to stay.

12 (10) "Sex offense" means:

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

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

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

18 (d) 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 (e) Any (~~federal or~~) out-of-state conviction for(~~(+)~~) an offense
23 for which the person would be required to register as a sex offender
24 while residing in the state of conviction; or, if not required to
25 register in the state of conviction, an offense that under the laws of
26 this state would be classified as a sex offense under this
27 subsection(~~(, unless a court in the person's state of conviction has~~
28 made an individualized determination that the person should not be
29 required to register; and

30 ~~(e) Any gross misdemeanor that is, under chapter 9A.28 RCW, a~~
31 ~~criminal attempt, criminal solicitation, or criminal conspiracy to~~
32 ~~commit an offense that is classified as a sex offense under RCW~~
33 ~~9.94A.030 or this subsection));~~

34 (f) Any federal conviction classified as a sex offense under 42
35 U.S.C. Sec. 16911 (SORNA);

36 (g) Any military conviction for a sex offense. This includes sex
37 offenses under the uniform code of military justice, as specified by
38 the United States secretary of defense;

1 (h) Any conviction in a foreign country for a sex offense if it was
2 obtained with sufficient safeguards for fundamental fairness and due
3 process for the accused under guidelines or regulations established
4 pursuant to 42 U.S.C. Sec. 16912.

5 ~~((7))~~ (11) "School" means a public or private school regulated
6 under Title 28A RCW or chapter 72.40 RCW.

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

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

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

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

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

34 (ii) Prior to starting work at an institution of higher education;
35 or

36 (iii) After any termination of enrollment or employment at a school
37 or institution of higher education.

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

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

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

15 ~~(iv) Whose enrollment or employment at a public or private~~
16 ~~institution of higher education is terminated shall, within three~~
17 ~~business days of such termination, notify the sheriff for the county of~~
18 ~~the person's residence of the person's termination of enrollment or~~
19 ~~employment at the institution.~~

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

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

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

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

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

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

9 ~~(3)) (2)(a) ((The)) A person ((shall)) required to register under~~

10 this section must provide the following information when registering:
11 (i) Name and any aliases used; (ii) complete and accurate residential
12 address or, if the person lacks a fixed residence, where he or she
13 plans to stay; (iii) date and place of birth; (iv) place of employment;
14 (v) crime for which convicted; (vi) date and place of conviction; (vii)
15 ~~((aliases used; (viii)))~~ social security number; ~~((ix))~~ (viii)
16 photograph; and ~~((x))~~ (ix) fingerprints.

17 (b) ~~((Any)) A person ((who lacks a fixed residence shall provide~~
18 ~~the following information when registering: (i) Name; (ii) date and~~
19 ~~place of birth; (iii) place of employment; (iv) crime for which~~
20 ~~convicted; (v) date and place of conviction; (vi) aliases used; (vii)~~
21 ~~social security number; (viii) photograph; (ix) fingerprints; and (x)~~
22 ~~where he or she plans to stay)) may be required to update any of the~~
23 information required in this subsection in conjunction with any address
24 verification conducted by the county sheriff or as part of any notice
25 required by this section.

26 (c) A photograph or copy of an individual's fingerprints may be
27 taken at any time to update an individual's file.

28 ~~((4)) (3)(a)~~ Offenders shall register with the county sheriff
29 within the following deadlines:

30 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
31 offense on, before, or after February 28, 1990, and who, on or after
32 July 28, 1991, are in custody, as a result of that offense, of the
33 state department of corrections, the state department of social and
34 health services, a local division of youth services, or a local jail or
35 juvenile detention facility, and (B) kidnapping offenders who on or
36 after July 27, 1997, are in custody of the state department of
37 corrections, the state department of social and health services, a
38 local division of youth services, or a local jail or juvenile detention

1 facility, must register at the time of release from custody with an
2 official designated by the agency that has jurisdiction over the
3 offender. The agency shall within three days forward the registration
4 information to the county sheriff for the county of the offender's
5 anticipated residence. The offender must also register within three
6 business days from the time of release with the county sheriff for the
7 county of the person's residence, or if the person is not a resident of
8 Washington, the county of the person's school, or place of employment
9 or vocation. The agency that has jurisdiction over the offender shall
10 provide notice to the offender of the duty to register.

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

21 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
22 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
23 but are under the jurisdiction of the indeterminate sentence review
24 board or under the department of corrections' active supervision, as
25 defined by the department of corrections, the state department of
26 social and health services, or a local division of youth services, for
27 sex offenses committed before, on, or after February 28, 1990, must
28 register within ten days of July 28, 1991. Kidnapping offenders who,
29 on July 27, 1997, are not in custody but are under the jurisdiction of
30 the indeterminate sentence review board or under the department of
31 corrections' active supervision, as defined by the department of
32 corrections, the state department of social and health services, or a
33 local division of youth services, for kidnapping offenses committed
34 before, on, or after July 27, 1997, must register within ten days of
35 July 27, 1997. A change in supervision status of a sex offender who
36 was required to register under this subsection (~~(+4)~~) (3)(a)(ii) as of
37 July 28, 1991, or a kidnapping offender required to register as of July

1 27, 1997, shall not relieve the offender of the duty to register or to
2 reregister following a change in residence.

3 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
4 or after July 23, 1995, and kidnapping offenders who, on or after July
5 27, 1997, as a result of that offense are in the custody of the United
6 States bureau of prisons or other federal or military correctional
7 agency for sex offenses committed before, on, or after February 28,
8 1990, or kidnapping offenses committed on, before, or after July 27,
9 1997, must register within three business days from the time of release
10 with the county sheriff for the county of the person's residence, or if
11 the person is not a resident of Washington, the county of the person's
12 school, or place of employment or vocation. Sex offenders who, on July
13 23, 1995, are not in custody but are under the jurisdiction of the
14 United States bureau of prisons, United States courts, United States
15 parole commission, or military parole board for sex offenses committed
16 before, on, or after February 28, 1990, must register within ten days
17 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not
18 in custody but are under the jurisdiction of the United States bureau
19 of prisons, United States courts, United States parole commission, or
20 military parole board for kidnapping offenses committed before, on, or
21 after July 27, 1997, must register within ten days of July 27, 1997.
22 A change in supervision status of a sex offender who was required to
23 register under this subsection (~~((4))~~) (3)(a)(iii) as of July 23, 1995,
24 or a kidnapping offender required to register as of July 27, 1997 shall
25 not relieve the offender of the duty to register or to reregister
26 following a change in residence, or if the person is not a resident of
27 Washington, the county of the person's school, or place of employment
28 or vocation.

29 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
30 who are convicted of a sex offense on or after July 28, 1991, for a sex
31 offense that was committed on or after February 28, 1990, and
32 kidnapping offenders who are convicted on or after July 27, 1997, for
33 a kidnapping offense that was committed on or after July 27, 1997, but
34 who are not sentenced to serve a term of confinement immediately upon
35 sentencing, shall report to the county sheriff to register within three
36 business days of being sentenced.

37 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
38 RESIDENTS. Sex offenders and kidnapping offenders who move to

1 Washington state from another state or a foreign country that are not
2 under the jurisdiction of the state department of corrections, the
3 indeterminate sentence review board, or the state department of social
4 and health services at the time of moving to Washington, must register
5 within three business days of establishing residence or reestablishing
6 residence if the person is a former Washington resident. The duty to
7 register under this subsection applies to sex offenders convicted under
8 the laws of another state or a foreign country, federal or military
9 statutes for offenses committed before, on, or after February 28, 1990,
10 or Washington state for offenses committed before, on, or after
11 February 28, 1990, and to kidnapping offenders convicted under the laws
12 of another state or a foreign country, federal or military statutes, or
13 Washington state for offenses committed before, on, or after July 27,
14 1997. Sex offenders and kidnapping offenders from other states or a
15 foreign country who, when they move to Washington, are under the
16 jurisdiction of the department of corrections, the indeterminate
17 sentence review board, or the department of social and health services
18 must register within three business days of moving to Washington. The
19 agency that has jurisdiction over the offender shall notify the
20 offender of the registration requirements before the offender moves to
21 Washington.

22 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
23 or juvenile who has been found not guilty by reason of insanity under
24 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
25 February 28, 1990, and who, on or after July 23, 1995, is in custody,
26 as a result of that finding, of the state department of social and
27 health services, or (B) committing a kidnapping offense on, before, or
28 after July 27, 1997, and who on or after July 27, 1997, is in custody,
29 as a result of that finding, of the state department of social and
30 health services, must register within three business days from the time
31 of release with the county sheriff for the county of the person's
32 residence. The state department of social and health services shall
33 provide notice to the adult or juvenile in its custody of the duty to
34 register. Any adult or juvenile who has been found not guilty by
35 reason of insanity of committing a sex offense on, before, or after
36 February 28, 1990, but who was released before July 23, 1995, or any
37 adult or juvenile who has been found not guilty by reason of insanity

1 of committing a kidnapping offense but who was released before July 27,
2 1997, shall be required to register within three business days of
3 receiving notice of this registration requirement.

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

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

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

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

27 (c) An arrest on charges of failure to register, service of an
28 information, or a complaint for a violation of RCW 9A.44.132, or
29 arraignment on charges for a violation of RCW 9A.44.132, constitutes
30 actual notice of the duty to register. Any person charged with the
31 crime of failure to register under RCW 9A.44.132 who asserts as a
32 defense the lack of notice of the duty to register shall register
33 within three business days following actual notice of the duty through
34 arrest, service, or arraignment. Failure to register as required under
35 this subsection ~~((4))~~ (3)(c) constitutes grounds for filing another
36 charge of failing to register. Registering following arrest, service,
37 or arraignment on charges shall not relieve the offender from criminal

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

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

6 ~~((+5))~~ (4)(a) If any person required to register pursuant to this
7 section changes his or her residence address within the same county,
8 the person must provide, by certified mail, with return receipt
9 requested or in person, signed written notice of the change of address
10 to the county sheriff within three business days of moving.

11 (b) If any person required to register pursuant to this section
12 moves to a new county, the person must register with that county
13 sheriff within three business days of moving. Within three business
14 days, the person must also provide, by certified mail, with return
15 receipt requested or in person, signed written notice of the change of
16 address in the new county to the county sheriff with whom the person
17 last registered. The county sheriff with whom the person last
18 registered shall promptly forward the information concerning the change
19 of address to the county sheriff for the county of the person's new
20 residence. Upon receipt of notice of change of address to a new state,
21 the county sheriff shall promptly forward the information regarding the
22 change of address to the agency designated by the new state as the
23 state's offender registration agency.

24 ~~((+6))~~ (5)(a) Any person required to register under this section
25 who lacks a fixed residence shall provide signed written notice to the
26 sheriff of the county where he or she last registered within three
27 business days after ceasing to have a fixed residence. The notice
28 shall include the information required by subsection ~~((+3)(b))~~ (2)(a)
29 of this section, except the photograph and fingerprints. The county
30 sheriff may, for reasonable cause, require the offender to provide a
31 photograph and fingerprints. The sheriff shall forward this
32 information to the sheriff of the county in which the person intends to
33 reside, if the person intends to reside in another county.

34 (b) A person who lacks a fixed residence must report weekly, in
35 person, to the sheriff of the county where he or she is registered.
36 The weekly report shall be on a day specified by the county sheriff's
37 office, and shall occur during normal business hours. The person must
38 keep an accurate accounting of where he or she stays during the week

1 and provide it to the county sheriff upon request. The lack of a fixed
2 residence is a factor that may be considered in determining an
3 offender's risk level and shall make the offender subject to disclosure
4 of information to the public at large pursuant to RCW 4.24.550.

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

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

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

32 ~~(9))~~ (7) Except as may otherwise be provided by law, nothing in
33 this section shall impose any liability upon a peace officer, including
34 a county sheriff, or law enforcement agency, for failing to release
35 information authorized under this section.

36 NEW SECTION. Sec. 4. A new section is added to chapter 9A.44 RCW
37 to read as follows:

1 (1) Upon receiving notice from a registered person pursuant to RCW
2 9A.44.130 that the person will be attending a school or institution of
3 higher education or will be employed with an institution of higher
4 education, the sheriff must promptly notify the school district and the
5 school principal or institution's department of public safety and shall
6 provide that school or department with the person's: (a) Name and any
7 aliases used; (b) complete residential address; (c) date and place of
8 birth; (d) place of employment; (e) crime for which convicted; (f) date
9 and place of conviction; (g) social security number; (h) photograph;
10 and (i) risk level classification.

11 (2) A principal or department receiving notice under this
12 subsection must disclose the information received from the sheriff as
13 follows:

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

19 (b) If the student is classified as a risk level I, the principal
20 or department shall provide the information received only to personnel
21 who, in the judgment of the principal or department, for security
22 purposes should be aware of the student's record.

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

27 (4) Any information received by school or institution personnel
28 under this subsection is confidential and may not be further
29 disseminated except as provided in RCW 28A.225.330, other statutes or
30 case law, and the family and educational and privacy rights act of
31 1994, 20 U.S.C. Sec. 1232g et seq.

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

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

1 (a) (~~Except as provided in (b) of this subsection,~~) The failure
2 to register as a sex offender pursuant to this subsection is a class C
3 felony if:

4 (i) It is the person's first conviction for a felony failure to
5 register; or

6 (ii) The person has previously been convicted of a felony failure
7 to register as a sex offender in this state or pursuant to the laws of
8 another state.

9 (b) If a person has been convicted (~~in this state~~) of a felony
10 failure to register as a sex offender in this state or pursuant to the
11 laws of another state on two or more prior occasions, the failure to
12 register under this subsection is a class B felony.

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

18 (3) A person commits the crime of failure to register as a
19 kidnapping offender if the person has a duty to register under RCW
20 9A.44.130 for a kidnapping offense and knowingly fails to comply with
21 any of the requirements of RCW 9A.44.130.

22 (a) If the person has a duty to register for a felony kidnapping
23 offense, the failure to register as a kidnapping offender is a class C
24 felony.

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

28 (4) Unless relieved of the duty to register pursuant to RCW
29 9A.44.141 and 9A.44.142, a violation of this section is an ongoing
30 offense for purposes of the statute of limitations under RCW 9A.04.080.

31 **Sec. 6.** RCW 9A.44.141 and 2010 c 267 s 5 are each amended to read
32 as follows:

33 (1) Upon the request of a person who is listed in the Washington
34 state patrol central registry of sex offenders and kidnapping
35 offenders, the county sheriff shall investigate whether a person's duty
36 to register has ended by operation of law pursuant to RCW 9A.44.140.

1 (a) Using available records, the county sheriff shall verify that
2 the offender has spent the requisite time in the community and has not
3 been convicted of a disqualifying offense.

4 (b) If the county sheriff determines the person's duty to register
5 has ended by operation of law, the county sheriff shall request the
6 Washington state patrol remove the person's name from the central
7 registry.

8 (2) Nothing in this subsection prevents a county sheriff from
9 investigating, upon his or her own initiative, whether a person's duty
10 to register has ended by operation of law pursuant to RCW 9A.44.140.

11 (3)(a) A person who is listed in the central registry as the result
12 of a federal or out-of-state conviction may request the county sheriff
13 to investigate whether the person should be removed from the registry
14 if:

15 (i) A court in the person's state of conviction has made an
16 individualized determination that the person should not be required to
17 register; and

18 (ii) The person provides proof of relief from registration to the
19 county sheriff.

20 (b) If the county sheriff determines the person has been relieved
21 of the duty to register in his or her state of conviction, the county
22 sheriff shall request the Washington state patrol remove the person's
23 name from the central registry.

24 (4) An appointed or elected public official, public employee, or
25 public agency as defined in RCW 4.24.470, or units of local government
26 and its employees, as provided in RCW 36.28A.010, are immune from civil
27 liability for damages for removing or requesting the removal of a
28 person from the central registry of sex offenders and kidnapping
29 offenders or the failure to remove or request removal of a person
30 within the time frames provided in RCW 9A.44.140.

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

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

35 (a) If the person has a duty to register for a sex offense or
36 kidnapping offense committed when the offender was a juvenile,

1 regardless of whether the conviction was in this state, as provided in
2 RCW 9A.44.143;

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

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

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

14 (i) Determined to be a sexually violent predator as defined in RCW
15 71.09.020;

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

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

24 (b) Any person who may not be relieved of the duty to register may
25 petition the court to be exempted from any community notification
26 requirements that the person may be subject to fifteen years after the
27 later of the entry of the judgment and sentence or the last date of
28 release from confinement, including full-time residential treatment,
29 pursuant to the conviction, if the person has spent the time in the
30 community without being convicted of a disqualifying offense.

31 (3) A petition for relief from registration or exemption from
32 notification under this section shall be made to the court in which the
33 petitioner was convicted of the offense that subjects him or her to the
34 duty to register or, in the case of convictions in other states, a
35 foreign country, or a federal or military court, to the court in
36 (~~Thurston~~) the county where the person is registered at the time the
37 petition is sought. The prosecuting attorney of the county shall be
38 named and served as the respondent in any such petition.

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

5 (b) In determining whether the petitioner is sufficiently
6 rehabilitated to warrant removal from the registry, the following
7 factors are provided as guidance to assist the court in making its
8 determination:

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

11 (ii) Any subsequent criminal history;

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

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

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

16 (vi) Participation in sex offender treatment;

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

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

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

20 (x) Any risk assessments or evaluations prepared by a qualified
21 professional;

22 (xi) Any updated polygraph examination;

23 (xii) Any input of the victim;

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

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

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

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

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

35 (b) Unless the context clearly requires otherwise, the following
36 definitions apply only to the federal lifetime registration
37 requirements under this subsection:

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

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

5 (B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape
6 of a child in the first degree), or RCW 9A.44.083 (child molestation in
7 the first degree);

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

16 (D) Any of the following offenses when committed by forcible
17 compulsion or by the offender administering, by threat or force or
18 without the knowledge or permission of that person, a drug, intoxicant,
19 or other similar substance that substantially impairs the ability of
20 that person to appraise or control conduct, if the victim is twelve
21 years of age or over but under sixteen years of age and the offender is
22 eighteen years of age or over and is more than forty-eight months older
23 than the victim: RCW 9A.44.076 (rape of a child in the second degree),
24 RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086
25 (child molestation in the second degree), or RCW 9A.44.089 (child
26 molestation in the third degree);

27 (E) A felony with a finding of sexual motivation under RCW
28 9.94A.835 where the victim is under twelve years of age or that is
29 committed by forcible compulsion or by the offender administering, by
30 threat or force or without the knowledge or permission of that person,
31 a drug, intoxicant, or other similar substance that substantially
32 impairs the ability of that person to appraise or control conduct;

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

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

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

4 (A) An aggravated offense;

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

9 (C) A felony with a finding of sexual motivation under RCW
10 9.94A.835 where the victim is incapable of appraising the nature of the
11 conduct or physically incapable of declining participation in, or
12 communicating unwillingness to engage in, the conduct;

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)(ii)(A) through (D) of
17 this subsection.

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

22 (A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape
23 of a child in the second degree), RCW 9A.44.079 (rape of a child in the
24 third degree), RCW 9A.44.086 (child molestation in the second degree),
25 RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093
26 (sexual misconduct with a minor in the first degree), RCW 9A.44.096
27 (sexual misconduct with a minor in the second degree), RCW 9A.44.160
28 (custodial sexual misconduct in the first degree), RCW 9A.64.020
29 (incest), RCW 9.68A.040 (sexual exploitation of a minor), RCW 9.68A.090
30 (communication with a minor for immoral purposes), or RCW 9.68A.100
31 (commercial sexual abuse of a minor);

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

36 (C) A felony with a finding of sexual motivation under RCW
37 9.94A.835 where the victim is a minor;

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

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

6 **Sec. 8.** RCW 43.43.540 and 2006 c 136 s 1 are each amended to read
7 as follows:

8 (1) The county sheriff shall ~~((+1+))~~ forward ~~((the))~~ registration
9 information, photographs, and fingerprints obtained pursuant to RCW
10 9A.44.130, including the sex offender's risk level classification and
11 any notice of change of address, to the Washington state patrol within
12 five working days~~((+and))~~.

13 (2) Upon implementation of RCW 4.24.550(5)(a), the Washington state
14 ~~patrol ((will forward the information necessary to operate the~~
15 ~~registered sex offender web site described in RCW 4.24.550(5)(a) to the~~
16 ~~Washington association of sheriffs and police chiefs within five~~
17 ~~working days of receiving the information, including any notice of~~
18 ~~change of address or change in risk level notification. The state~~
19 ~~patrol))~~ shall maintain a central registry of sex offenders and
20 kidnapping offenders required to register under RCW 9A.44.130 and shall
21 adopt rules consistent with chapters 10.97, 10.98, and 43.43 RCW as are
22 necessary to carry out the purposes of RCW 9A.44.130, 9A.44.140,
23 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The
24 Washington state patrol shall reimburse the counties for the costs of
25 processing the offender registration, including taking the offender's
26 fingerprints and ~~((the))~~ photograph~~((s))~~.

--- END ---