
SENATE BILL 5735

State of Washington

63rd Legislature

2013 Regular Session

By Senators Hargrove, Carrell, and Darneille

Read first time 02/13/13. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to registered sex or kidnapping offenders; amending
2 RCW 4.24.550, 9A.44.128, 9A.44.130, 9A.44.132, 9A.44.140, 9A.44.142,
3 9A.44.143, 43.43.754, 9.94A.030, 28A.300.147, and 72.09.345; reenacting
4 and amending RCW 9.94A.515; adding new sections to chapter 28A.320 RCW;
5 prescribing penalties; and providing an effective date.

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

7 **Sec. 1.** RCW 4.24.550 and 2011 c 337 s 1 are each amended to read
8 as 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.44.128 or a kidnapping offense as defined by RCW
17 9A.44.128; (b) any person under the jurisdiction of the indeterminate
18 sentence review board as the result of a sex offense or kidnapping
19 offense; (c) any person committed as a sexually violent predator under

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

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

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

1 (4) In addition to publication on the statewide registered sex and
2 kidnapping offender web site pursuant to subsection (5) of this
3 section, the county sheriff with whom an offender classified as risk
4 level III is registered shall ((cause to be published by)) release a
5 sex offender community notification that conforms to the guidelines
6 established under RCW 4.24.5501 by means including, but not limited to,
7 legal notice, advertising, or news release ((a sex offender community
8 notification that conforms to the guidelines established under RCW
9 4.24.5501 in at least one legal newspaper with general circulation in
10 the area of the sex offender's registered address or location. Unless
11 the information is posted on the web site described in subsection (5)
12 of this section, this list shall be maintained by the county sheriff on
13 a publicly accessible web site and shall be updated at least once per
14 month)).

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

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

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

1 information and functionality that is permissible under state and
2 federal law.

3 (iii) For kidnapping offenders, the web site shall contain, but is
4 not limited to, the same information and functionality as described in
5 (a)(i) of this subsection, provided that it is permissible under state
6 and federal law. If it is not permissible, the web site shall be
7 limited to the information and functionality that is permissible under
8 state and federal law.

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

13 (6)(a) Local law enforcement agencies (~~that disseminate~~
14 ~~information pursuant to this section~~) responsible for the registration
15 and dissemination of information regarding offenders required to
16 register under RCW 9A.44.130 shall assign a risk level classification
17 to all offenders after consideration of: ((a) Review) (i) Any
18 available risk level classifications ((made)) provided by the
19 department of corrections, the department of social and health
20 services, and the indeterminate sentence review board; ((b) assign
21 risk level classifications to all offenders about whom information will
22 be disseminated)) (ii) the agency's own application of a risk
23 assessment tool; and (iii) other information and aggravating or
24 mitigating factors known to the agency and deemed rationally related to
25 the risk posed by the offender to the community at large.

26 (b) A sex offender shall be classified as a risk level I if his or
27 her risk assessment and other information or factors deemed relevant by
28 the local law enforcement agency indicate he or she is a low risk
29 offender within the community at large. A sex offender shall be
30 classified as a risk level II if his or her risk assessment and other
31 information or factors deemed relevant by the local law enforcement
32 agency indicate he or she is a moderate risk offender within the
33 community at large. A sex offender shall be classified as a risk level
34 III if his or her risk assessment and other information or factors
35 deemed relevant by the local law enforcement agency indicate he or she
36 is a high risk offender within the community at large.

37 (c) The agency shall make a good faith effort to notify the public

1 and residents within a reasonable period of time after the offender
2 registers with the agency.

3 (d) The juvenile court shall provide local law enforcement
4 officials with all relevant information on offenders allowed to remain
5 in the community in a timely manner.

6 (7) An appointed or elected public official, public employee, or
7 public agency as defined in RCW 4.24.470, or units of local government
8 and its employees, as provided in RCW 36.28A.010, are immune from civil
9 liability for damages for any discretionary risk level classification
10 decisions or release of relevant and necessary information, unless it
11 is shown that the official, employee, or agency acted with gross
12 negligence or in bad faith. The immunity in this section applies to
13 risk level classification decisions and the release of relevant and
14 necessary information regarding any individual for whom disclosure is
15 authorized. The decision of a local law enforcement agency or official
16 to classify an offender to a risk level other than the one assigned by
17 the department of corrections, the department of social and health
18 services, or the indeterminate sentence review board, or the release of
19 any relevant and necessary information based on that different
20 classification shall not, by itself, be considered gross negligence or
21 bad faith. The immunity provided under this section applies to the
22 release of relevant and necessary information to other public
23 officials, public employees, or public agencies, and to the general
24 public.

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

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

32 (10) When a local law enforcement agency or official classifies an
33 offender differently than the offender is classified by the end of
34 sentence review committee or the department of social and health
35 services at the time of the offender's release from confinement, the
36 law enforcement agency or official shall notify the end of sentence
37 review committee ~~((or))~~, the department of social and health services,

1 and the Washington state patrol and submit its reasons supporting the
2 change in classification.

3 **Sec. 2.** RCW 9A.44.128 and 2012 c 134 s 2 are each amended to read
4 as follows:

5 For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200,
6 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

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

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

11 (3) "Disqualifying offense" means a conviction for: Any offense
12 that is a felony; a sex offense as defined in this section; a crime
13 against children or persons as defined in RCW 43.43.830(~~((+5))~~)(7) and
14 9.94A.411(2)(a); an offense with a domestic violence designation as
15 provided in RCW 10.99.020; permitting the commercial sexual abuse of a
16 minor as defined in RCW 9.68A.103; or any violation of chapter 9A.88
17 RCW.

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

24 (5) "Fixed residence" means a building that a person lawfully and
25 habitually uses as living quarters a majority of the week. Uses as
26 living quarters means to conduct activities consistent with the common
27 understanding of residing, such as sleeping; eating; keeping personal
28 belongings; receiving mail; and paying utilities, rent, or mortgage.
29 A nonpermanent structure including, but not limited to, a motor home,
30 travel trailer, camper, or boat may qualify as a residence provided it
31 is lawfully and habitually used as living quarters a majority of the
32 week, primarily kept at one location with a physical address, and the
33 location it is kept at is either owned or rented by the person or used
34 by the person with the permission of the owner or renter. A shelter
35 program may qualify as a residence provided it is a shelter program
36 designed to provide temporary living accommodations for the homeless,

1 provides an offender with a personally assigned living space, and the
2 offender is permitted to store belongings in the living space.

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

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

8 (8) "Kidnapping offense" means:

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

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

17 (c) Any federal or out-of-state conviction for: An offense for
18 which the person would be required to register as a kidnapping offender
19 if residing in the state of conviction; or, if not required to register
20 in the state of conviction, an offense that under the laws of this
21 state would be classified as a kidnapping offense under this
22 subsection.

23 (9) "Lacks a fixed residence" means the person does not have a
24 living situation that meets the definition of a fixed residence and
25 includes, but is not limited to, a shelter program designed to provide
26 temporary living accommodations for the homeless, an outdoor sleeping
27 location, or locations where the person does not have permission to
28 stay.

29 (10) "Sex offense" means:

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

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

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

35 (d) A violation under RCW 9A.88.070 (promoting prostitution in the
36 first degree) or RCW 9A.88.080 (promoting prostitution in the second
37 degree) if the person has a prior conviction for one of these offenses;

1 (e) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
2 criminal attempt, criminal solicitation, or criminal conspiracy to
3 commit an offense that is classified as a sex offense under RCW
4 9.94A.030 or this subsection;

5 (f) Any out-of-state conviction for an offense for which the person
6 would be required to register as a sex offender while residing in the
7 state of conviction; or, if not required to register in the state of
8 conviction, an offense that under the laws of this state would be
9 classified as a sex offense under this subsection;

10 (g) Any federal conviction classified as a sex offense under 42
11 U.S.C. Sec. 16911 (SORNA);

12 (h) Any military conviction for a sex offense. This includes sex
13 offenses under the uniform code of military justice, as specified by
14 the United States secretary of defense;

15 (i) Any conviction in a foreign country for a sex offense if it was
16 obtained with sufficient safeguards for fundamental fairness and due
17 process for the accused under guidelines or regulations established
18 pursuant to 42 U.S.C. Sec. 16912.

19 (11) "School" means a public or private school regulated under
20 Title 28A RCW or chapter 72.40 RCW.

21 (12) "Student" means a person who is enrolled, on a full-time or
22 part-time basis, in any school or institution of higher education.

23 **Sec. 3.** RCW 9A.44.130 and 2011 c 337 s 3 are each amended to read
24 as follows:

25 (1)(a) Any adult or juvenile residing whether or not the person has
26 a fixed residence, or who is a student, is employed, or carries on a
27 vocation in this state who has been found to have committed or has been
28 convicted of any sex offense or kidnapping offense, or who has been
29 found not guilty by reason of insanity under chapter 10.77 RCW of
30 committing any sex offense or kidnapping offense, shall register with
31 the county sheriff for the county of the person's residence, or if the
32 person is not a resident of Washington, the county of the person's
33 school, or place of employment or vocation, or as otherwise specified
34 in this section. When a person required to register under this section
35 is in custody of the state department of corrections, the state
36 department of social and health services, a local division of youth
37 services, or a local jail or juvenile detention facility as a result of

1 a sex offense or kidnapping offense, the person shall also register at
2 the time of release from custody with an official designated by the
3 agency that has jurisdiction over the person.

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

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

9 (ii) Prior to starting work at an institution of higher education;
10 or

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

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

20 (b) A person may be required to update any of the information
21 required in this subsection in conjunction with any address
22 verification conducted by the county sheriff or as part of any notice
23 required by this section.

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

26 (3) Any person required to register under this section who intends
27 to travel outside the United States must notify the county sheriff of
28 the county with whom the person is registered at least twenty-one days
29 prior to travel. The notice shall include the following information:
30 (a) Name; (b) passport number and country; (c) destination; (d)
31 itinerary details including departure and return dates; (e) means of
32 travel; and (f) purpose of travel. If the offender does not
33 subsequently travel outside the United States, the offender must notify
34 the county sheriff within three days of the departure date provided in
35 the notification. The county sheriff shall notify the United States
36 marshals service as soon as practicable after receipt of the
37 notification.

1 (4)(a) Offenders shall register with the county sheriff within the
2 following deadlines:

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

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

32 When a person required to register under this section is in the
33 custody of the state department of corrections, a local division of
34 youth services, or a local jail or juvenile detention facility, and has
35 been approved for partial confinement as defined in RCW 9.94A.030, the
36 person must register at the time of transfer to partial confinement
37 with the official designated by the agency that has jurisdiction over
38 the offender. The agency shall within three days forward the

1 registration information to the county sheriff for the county in which
2 the offender is in partial confinement. The offender must also
3 register within three business days from the time of the termination of
4 partial confinement or release from confinement with the county sheriff
5 for the county of the person's residence. The agency that has
6 jurisdiction over the offender shall provide notice to the offender of
7 the duty to register.

8 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
9 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
10 but are under the jurisdiction of the indeterminate sentence review
11 board or under the department of corrections' active supervision, as
12 defined by the department of corrections, the state department of
13 social and health services, or a local division of youth services, for
14 sex offenses committed before, on, or after February 28, 1990, must
15 register within ten days of July 28, 1991. Kidnapping offenders who,
16 on July 27, 1997, are not in custody but are under the jurisdiction of
17 the indeterminate sentence review board or under the department of
18 corrections' active supervision, as defined by the department of
19 corrections, the state department of social and health services, or a
20 local division of youth services, for kidnapping offenses committed
21 before, on, or after July 27, 1997, must register within ten days of
22 July 27, 1997. A change in supervision status of a sex offender who
23 was required to register under this subsection (~~(+3+)~~) (4)(a)(ii) as of
24 July 28, 1991, or a kidnapping offender required to register as of July
25 27, 1997, shall not relieve the offender of the duty to register or to
26 reregister following a change in residence.

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

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

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

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

1 foreign country who, when they move to Washington, are under the
2 jurisdiction of the department of corrections, the indeterminate
3 sentence review board, or the department of social and health services
4 must register within three business days of moving to Washington. The
5 agency that has jurisdiction over the offender shall notify the
6 offender of the registration requirements before the offender moves to
7 Washington.

8 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
9 or juvenile who has been found not guilty by reason of insanity under
10 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
11 February 28, 1990, and who, on or after July 23, 1995, is in custody,
12 as a result of that finding, of the state department of social and
13 health services, or (B) committing a kidnapping offense on, before, or
14 after July 27, 1997, and who on or after July 27, 1997, is in custody,
15 as a result of that finding, of the state department of social and
16 health services, must register within three business days from the time
17 of release with the county sheriff for the county of the person's
18 residence. The state department of social and health services shall
19 provide notice to the adult or juvenile in its custody of the duty to
20 register. Any adult or juvenile who has been found not guilty by
21 reason of insanity of committing a sex offense on, before, or after
22 February 28, 1990, but who was released before July 23, 1995, or any
23 adult or juvenile who has been found not guilty by reason of insanity
24 of committing a kidnapping offense but who was released before July 27,
25 1997, shall be required to register within three business days of
26 receiving notice of this registration requirement.

27 (vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks
28 a fixed residence and leaves the county in which he or she is
29 registered and enters and remains within a new county for twenty-four
30 hours is required to register with the county sheriff not more than
31 three business days after entering the county and provide the
32 information required in subsection (2)(a) of this section.

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

37 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND
38 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,

1 who move to another state, or who work, carry on a vocation, or attend
2 school in another state shall register a new address, fingerprints, and
3 photograph with the new state within three business days after
4 establishing residence, or after beginning to work, carry on a
5 vocation, or attend school in the new state. The person must also send
6 written notice within three business days of moving to the new state or
7 to a foreign country to the county sheriff with whom the person last
8 registered in Washington state. The county sheriff shall promptly
9 forward this information to the Washington state patrol.

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

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

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

28 (~~((+4+))~~) (5)(a) If any person required to register pursuant to this
29 section changes his or her residence address within the same county,
30 the person must provide, by certified mail, with return receipt
31 requested or in person, signed written notice of the change of address
32 to the county sheriff within three business days of moving.

33 (b) If any person required to register pursuant to this section
34 moves to a new county, the person must register with that county
35 sheriff within three business days of moving. Within three business
36 days, the person must also provide, by certified mail, with return
37 receipt requested or in person, signed written notice of the change of
38 address in the new county to the county sheriff with whom the person

1 last registered. The county sheriff with whom the person last
2 registered shall promptly forward the information concerning the change
3 of address to the county sheriff for the county of the person's new
4 residence. Upon receipt of notice of change of address to a new state,
5 the county sheriff shall promptly forward the information regarding the
6 change of address to the agency designated by the new state as the
7 state's offender registration agency.

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

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

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

35 ~~((+6))~~ (7) A sex offender subject to registration requirements
36 under this section who applies to change his or her name under RCW
37 4.24.130 or any other law shall submit a copy of the application to the
38 county sheriff of the county of the person's residence and to the state

1 patrol not fewer than five days before the entry of an order granting
2 the name change. No sex offender under the requirement to register
3 under this section at the time of application shall be granted an order
4 changing his or her name if the court finds that doing so will
5 interfere with legitimate law enforcement interests, except that no
6 order shall be denied when the name change is requested for religious
7 or legitimate cultural reasons or in recognition of marriage or
8 dissolution of marriage. A sex offender under the requirement to
9 register under this section who receives an order changing his or her
10 name shall submit a copy of the order to the county sheriff of the
11 county of the person's residence and to the state patrol within three
12 business days of the entry of the order.

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

17 **Sec. 4.** RCW 9A.44.132 and 2011 c 337 s 5 are each amended to read
18 as follows:

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

23 (a) The failure to register as a sex offender pursuant to this
24 subsection is a class C felony if:

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

27 (ii) The person has previously been convicted of a felony failure
28 to register as a sex offender in this state or pursuant to the laws of
29 another state, or pursuant to federal law.

30 (b) If a person has been convicted of a felony failure to register
31 as a sex offender in this state or pursuant to the laws of another
32 state, or pursuant to federal law, on two or more prior occasions, the
33 failure to register under this subsection is a class B felony.

34 (2) A person is guilty of failure to register as a sex offender if
35 the person has a duty to register under RCW 9A.44.130 for a sex offense
36 other than a felony and knowingly fails to comply with any of the

1 requirements of RCW 9A.44.130. The failure to register as a sex
2 offender under this subsection is a gross misdemeanor.

3 (3) A person commits the crime of failure to register as a
4 kidnapping offender if the person has a duty to register under RCW
5 9A.44.130 for a kidnapping offense and knowingly fails to comply with
6 any of the requirements of RCW 9A.44.130.

7 (a) If the person has a duty to register for a felony kidnapping
8 offense, the failure to register as a kidnapping offender is a class C
9 felony.

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

13 (4) A person is guilty of failure to provide DNA as a sex offender
14 if the person has a duty to register under RCW 9A.44.130 and the person
15 willfully refuses to comply with a legal request for a DNA sample as
16 required under RCW 43.43.754(1)(b). The failure to provide DNA as a
17 sex offender under this subsection is a gross misdemeanor.

18 (5) Unless relieved of the duty to register pursuant to RCW
19 9A.44.141 and 9A.44.142, a violation of this section is an ongoing
20 offense for purposes of the statute of limitations under RCW 9A.04.080.

21 **Sec. 5.** RCW 9A.44.140 and 2010 c 267 s 4 are each amended to read
22 as follows:

23 The duty to register under RCW 9A.44.130 shall continue for the
24 duration provided in this section.

25 (1) For a person convicted in this state of a class A felony (~~or~~
26 ~~an offense listed in RCW 9A.44.142(5))~~), or a person convicted (~~in~~
27 ~~this state~~) of any sex offense or kidnapping offense who has one or
28 more prior convictions for a sex offense or kidnapping offense, the
29 duty to register shall continue indefinitely.

30 (2) For a person convicted in this state of a class B felony who
31 does not have one or more prior convictions for a sex offense or
32 kidnapping offense (~~and whose current offense is not listed in RCW~~
33 ~~9A.44.142(5))~~), the duty to register shall end fifteen years after the
34 last date of release from confinement, if any, (including full-time
35 residential treatment) pursuant to the conviction, or entry of the
36 judgment and sentence, if the person has spent fifteen consecutive

1 years in the community without being convicted of a disqualifying
2 offense during that time period.

3 (3) For a person convicted in this state of a class C felony, a
4 violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation,
5 or conspiracy to commit a class C felony, and the person does not have
6 one or more prior convictions for a sex offense or kidnapping offense
7 (~~and the person's current offense is not listed in RCW 9A.44.142(5)~~),
8 the duty to register shall end ten years after the last date of release
9 from confinement, if any, (including full-time residential treatment)
10 pursuant to the conviction, or entry of the judgment and sentence, if
11 the person has spent ten consecutive years in the community without
12 being convicted of a disqualifying offense during that time period.

13 (4) For a person required to register for a federal or out-of-state
14 conviction, the duty to register shall continue indefinitely.

15 (5) Nothing in this section prevents a person from being relieved
16 of the duty to register under RCW 9A.44.142 and 9A.44.143.

17 (6) If an offender is relieved of the duty to register pursuant to
18 this section or RCW 9A.44.141, 9A.44.142, or 9A.44.143, the relief of
19 registration does not constitute a certificate of rehabilitation for
20 the purposes of restoration of firearm possession under RCW 9.41.040.
21 This subsection is intended to supersede the decision in State v.
22 RPH.173, Wash 2d. 199 (2011).

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

26 (~~(+7)~~) (8) For purposes of determining whether a person has been
27 convicted of more than one sex offense, failure to register as a sex
28 offender or kidnapping offender is not a sex or kidnapping offense.

29 (~~(+8)~~) (9) The provisions of this section and RCW 9A.44.141
30 through 9A.44.143 apply equally to a person who has been found not
31 guilty by reason of insanity under chapter 10.77 RCW of a sex offense
32 or kidnapping offense.

33 (10) A person may not petition for relief from registration if the
34 person has been determined to be a sexually violent predator as defined
35 in RCW 71.09.020.

36 **Sec. 6.** RCW 9A.44.142 and 2011 c 337 s 7 are each amended to read
37 as follows:

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

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

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

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

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

18 (i) Determined to be a sexually violent predator as defined in RCW
19 71.09.020; or

20 (ii) Convicted as an adult of a sex offense or kidnapping offense
21 that is a class A felony and that was committed with forcible
22 compulsion on or after June 8, 2000(~~or~~

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

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

35 (3) A petition for relief from registration or exemption from
36 notification under this section shall be made to the court in which the
37 petitioner was convicted of the offense that subjects him or her to the
38 duty to register or, in the case of convictions in other states, a

1 foreign country, or a federal or military court, to the court in the
2 county where the person is registered at the time the petition is
3 sought. The prosecuting attorney of the county shall be named and
4 served as the respondent in any such petition.

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

9 (b) In determining whether the petitioner is sufficiently
10 rehabilitated to warrant removal from the registry, the following
11 factors are provided as guidance to assist the court in making its
12 determination:

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

15 (ii) Any subsequent criminal history;

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

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

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

20 (vi) Participation in sex offender treatment;

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

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

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

24 (x) Any risk assessments or evaluations prepared by a qualified
25 professional;

26 (xi) Any updated polygraph examination;

27 (xii) Any input of the victim;

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

29 ~~((5)(a) A person who has been convicted of an aggravated offense,
30 or has been convicted of one or more prior sexually violent offenses or
31 criminal offenses against a victim who is a minor, as defined in (b) of
32 this subsection:~~

33 ~~(i) Until July 1, 2012, may not be relieved of the duty to
34 register;~~

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

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

1 ~~(b) Unless the context clearly requires otherwise, the following~~
2 ~~definitions apply only to the federal lifetime registration~~
3 ~~requirements under this subsection:~~

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

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

8 ~~(B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape~~
9 ~~of a child in the first degree), or RCW 9A.44.083 (child molestation in~~
10 ~~the first degree);~~

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

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

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

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

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

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

7 ~~(A) An aggravated offense;~~

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

12 ~~(C) A felony with a finding of sexual motivation under RCW~~
13 ~~9.94A.835 where the victim is incapable of appraising the nature of the~~
14 ~~conduct or physically incapable of declining participation in, or~~
15 ~~communicating unwillingness to engage in, the conduct;~~

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

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

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

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

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

1 ~~(C) A felony with a finding of sexual motivation under RCW~~
2 ~~9.94A.835 where the victim is a minor;~~

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

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

8 **Sec. 7.** RCW 9A.44.143 and 2011 c 338 s 1 are each amended to read
9 as follows:

10 (1) An offender having a duty to register under RCW 9A.44.130 for
11 a sex offense or kidnapping offense committed when the offender was a
12 juvenile, and who has not been determined to be a sexually violent
13 predator as defined in RCW 71.09.020 may petition the superior court to
14 be relieved of that duty as provided in this section.

15 (2) For class A sex offenses or kidnapping offenses committed when
16 the petitioner was fifteen years of age or older, the court may relieve
17 the petitioner of the duty to register if:

18 (a) At least sixty months have passed since the petitioner's
19 adjudication and completion of any term of confinement for the offense
20 giving rise to the duty to register and the petitioner has not been
21 adjudicated or convicted of any additional sex offenses or kidnapping
22 offenses within the sixty months before the petition;

23 (b) The petitioner has not been adjudicated or convicted of a
24 violation of RCW 9A.44.132 (failure to register) during the sixty
25 months prior to filing the petition; and

26 (c) The petitioner shows by a preponderance of the evidence that
27 the petitioner is sufficiently rehabilitated to warrant removal from
28 the central registry of sex offenders and kidnapping offenders.

29 (3) For all other sex offenses or kidnapping offenses committed by
30 a juvenile not included in subsection (2) of this section, the court
31 may relieve the petitioner of the duty to register if:

32 (a) At least twenty-four months have passed since the petitioner's
33 adjudication and completion of any term of confinement for the offense
34 giving rise to the duty to register and the petitioner has not been
35 adjudicated or convicted of any additional sex offenses or kidnapping
36 offenses within the twenty-four months before the petition;

1 (b) The petitioner has not been adjudicated or convicted of a
2 violation of RCW 9A.44.132 (failure to register) during the twenty-four
3 months prior to filing the petition; and

4 (c) The petitioner shows by a preponderance of the evidence that
5 the petitioner is sufficiently rehabilitated to warrant removal from
6 the central registry of sex offenders and kidnapping offenders.

7 (4) A petition for relief from registration under this section
8 shall be made to the court in which the petitioner was convicted of the
9 offense that subjects him or her to the duty to register or, in the
10 case of convictions in other states, a foreign country, or a federal or
11 military court, or to the court in ((Thurston)) the county in which the
12 juvenile is registered at the time a petition is sought. The
13 prosecuting attorney of the county shall be named and served as the
14 respondent in any such petition.

15 (5) In determining whether the petitioner is sufficiently
16 rehabilitated to warrant removal from the central registry of sex
17 offenders and kidnapping offenders, the following factors are provided
18 as guidance to assist the court in making its determination, to the
19 extent the factors are applicable considering the age and circumstances
20 of the petitioner:

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

23 (b) Any subsequent criminal history;

24 (c) The petitioner's compliance with supervision requirements;

25 (d) The length of time since the charged incident(s) occurred;

26 (e) Any input from community corrections officers, juvenile parole
27 or probation officers, law enforcement, or treatment providers;

28 (f) Participation in sex offender treatment;

29 (g) Participation in other treatment and rehabilitative programs;

30 (h) The offender's stability in employment and housing;

31 (i) The offender's community and personal support system;

32 (j) Any risk assessments or evaluations prepared by a qualified
33 professional;

34 (k) Any updated polygraph examination;

35 (l) Any input of the victim;

36 (m) Any other factors the court may consider relevant.

37 (6) A juvenile prosecuted and convicted of a sex offense or

1 kidnapping offense as an adult pursuant to RCW 13.40.110 or 13.04.030
2 may not petition to the superior court under this section.

3 (7) An adult prosecuted for an offense committed as juvenile once
4 the juvenile court has lost jurisdiction due to the passage of time
5 between the date of the offense and the date of filing of charges may
6 petition the superior court under the provisions of this section.

7 **Sec. 8.** RCW 43.43.754 and 2008 c 97 s 2 are each amended to read
8 as follows:

9 (1) A biological sample must be collected for purposes of DNA
10 identification analysis from:

11 (a) Every adult or juvenile individual convicted of a felony, or
12 any of the following crimes (or equivalent juvenile offenses):

13 Assault in the fourth degree with sexual motivation (RCW 9A.36.041,
14 9.94A.835)

15 Communication with a minor for immoral purposes (RCW 9.68A.090)

16 Custodial sexual misconduct in the second degree (RCW 9A.44.170)

17 Failure to register (RCW 9A.44.130 prior to July 22, 2011, and RCW
18 9A.44.132)

19 Harassment (RCW 9A.46.020)

20 Patronizing a prostitute (RCW 9A.88.110)

21 Sexual misconduct with a minor in the second degree (RCW 9A.44.096)

22 Stalking (RCW 9A.46.110)

23 Violation of a sexual assault protection order granted under
24 chapter 7.90 RCW; and

25 (b) Every adult or juvenile individual who is required to register
26 under RCW 9A.44.130 prior to July 22, 2011, and RCW 9A.44.132.

27 (2) If the Washington state patrol crime laboratory already has a
28 DNA sample from an individual for a qualifying offense, a subsequent
29 submission is not required to be submitted.

30 (3) Biological samples shall be collected in the following manner:

31 (a) For persons convicted of any offense listed in subsection
32 (1)(a) of this section or adjudicated guilty of an equivalent juvenile
33 offense who do not serve a term of confinement in a department of
34 corrections facility, and do serve a term of confinement in a city or
35 county jail facility, the city or county shall be responsible for
36 obtaining the biological samples.

1 (b) The local police department or sheriff's office shall be
2 responsible for obtaining the biological samples for:

3 (i) Persons convicted of any offense listed in subsection (1)(a) of
4 this section or adjudicated guilty of an equivalent juvenile offense
5 who do not serve a term of confinement in a department of corrections
6 facility, and do not serve a term of confinement in a city or county
7 jail facility; and

8 (ii) Persons who are required to register under RCW (~~9A.44.030~~)
9 9A.44.130.

10 (c) For persons convicted of any offense listed in subsection
11 (1)(a) of this section or adjudicated guilty of an equivalent juvenile
12 offense, who are serving or who are to serve a term of confinement in
13 a department of corrections facility or a department of social and
14 health services facility, the facility holding the person shall be
15 responsible for obtaining the biological samples. For those persons
16 incarcerated before June 12, 2008, who have not yet had a biological
17 sample collected, priority shall be given to those persons who will be
18 released the soonest.

19 (4) Any biological sample taken pursuant to RCW 43.43.752 through
20 43.43.758 may be retained by the forensic laboratory services bureau,
21 and shall be used solely for the purpose of providing DNA or other
22 tests for identification analysis and prosecution of a criminal offense
23 or for the identification of human remains or missing persons. Nothing
24 in this section prohibits the submission of results derived from the
25 biological samples to the federal bureau of investigation combined DNA
26 index system.

27 (5) The forensic laboratory services bureau of the Washington state
28 patrol is responsible for testing performed on all biological samples
29 that are collected under subsection (1) of this section, to the extent
30 allowed by funding available for this purpose. The director shall give
31 priority to testing on samples collected from those adults or juveniles
32 convicted of a felony or adjudicated guilty of an equivalent juvenile
33 offense that is defined as a sex offense or a violent offense in RCW
34 9.94A.030. Known duplicate samples may be excluded from testing unless
35 testing is deemed necessary or advisable by the director.

36 (6) This section applies to:

37 (a) All adults and juveniles to whom this section applied prior to
38 June 12, 2008;

1 (b) All adults and juveniles to whom this section did not apply
2 prior to June 12, 2008, who:

3 (i) Are convicted on or after June 12, 2008, of an offense listed
4 in subsection (1)(a) of this section; or

5 (ii) Were convicted prior to June 12, 2008, of an offense listed in
6 subsection (1)(a) of this section and are still incarcerated on or
7 after June 12, 2008; and

8 (c) All adults and juveniles who are required to register under RCW
9 9A.44.130 on or after June 12, 2008, whether convicted before, on, or
10 after June 12, 2008.

11 (7) This section creates no rights in a third person. No cause of
12 action may be brought based upon the noncollection or nonanalysis or
13 the delayed collection or analysis of a biological sample authorized to
14 be taken under RCW 43.43.752 through 43.43.758.

15 (8) The detention, arrest, or conviction of a person based upon a
16 database match or database information is not invalidated if it is
17 determined that the sample was obtained or placed in the database by
18 mistake, or if the conviction or juvenile adjudication that resulted in
19 the collection of the biological sample was subsequently vacated or
20 otherwise altered in any future proceeding including but not limited to
21 posttrial or postfact-finding motions, appeals, or collateral attacks.

22 (9) A person required to register under RCW 9A.44.130 shall be
23 guilty of refusal to provide DNA if the person willfully refuses to
24 comply with a legal request for a DNA sample as required under this
25 section. Refusal to provide DNA is a gross misdemeanor.

26 **Sec. 9.** RCW 9.94A.515 and 2012 c 176 s 3 and 2012 c 162 s 1 are
27 each reenacted and amended to read as follows:

28

29

30

31

32

33

34

TABLE 2	
CRIMES INCLUDED WITHIN	
EACH SERIOUSNESS LEVEL	
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)

1 Malicious explosion 1 (RCW
2 70.74.280(1))
3 Murder 1 (RCW 9A.32.030)
4 XIV Murder 2 (RCW 9A.32.050)
5 Trafficking 1 (RCW 9A.40.100(1))
6 XIII Malicious explosion 2 (RCW
7 70.74.280(2))
8 Malicious placement of an explosive 1
9 (RCW 70.74.270(1))
10 XII Assault 1 (RCW 9A.36.011)
11 Assault of a Child 1 (RCW 9A.36.120)
12 Malicious placement of an imitation
13 device 1 (RCW 70.74.272(1)(a))
14 Promoting Commercial Sexual Abuse
15 of a Minor (RCW 9.68A.101)
16 Rape 1 (RCW 9A.44.040)
17 Rape of a Child 1 (RCW 9A.44.073)
18 Trafficking 2 (RCW 9A.40.100(2))
19 XI Manslaughter 1 (RCW 9A.32.060)
20 Rape 2 (RCW 9A.44.050)
21 Rape of a Child 2 (RCW 9A.44.076)
22 Vehicular Homicide, by being under
23 the influence of intoxicating liquor
24 or any drug (RCW 46.61.520)
25 X Child Molestation 1 (RCW 9A.44.083)
26 Criminal Mistreatment 1 (RCW
27 9A.42.020)
28 Indecent Liberties (with forcible
29 compulsion) (RCW
30 9A.44.100(1)(a))
31 Kidnapping 1 (RCW 9A.40.020)
32 Leading Organized Crime (RCW
33 9A.82.060(1)(a))
34 Malicious explosion 3 (RCW
35 70.74.280(3))
36 Sexually Violent Predator Escape
37 (RCW 9A.76.115)

1 IX Abandonment of Dependent Person 1
2 (RCW 9A.42.060)
3 Assault of a Child 2 (RCW 9A.36.130)
4 Explosive devices prohibited (RCW
5 70.74.180)
6 Hit and Run--Death (RCW
7 46.52.020(4)(a))
8 Homicide by Watercraft, by being
9 under the influence of intoxicating
10 liquor or any drug (RCW
11 79A.60.050)
12 Inciting Criminal Profiteering (RCW
13 9A.82.060(1)(b))
14 Malicious placement of an explosive 2
15 (RCW 70.74.270(2))
16 Robbery 1 (RCW 9A.56.200)
17 Sexual Exploitation (RCW 9.68A.040)
18 VIII Arson 1 (RCW 9A.48.020)
19 Commercial Sexual Abuse of a Minor
20 (RCW 9.68A.100)
21 Homicide by Watercraft, by the
22 operation of any vessel in a
23 reckless manner (RCW
24 79A.60.050)
25 Manslaughter 2 (RCW 9A.32.070)
26 Promoting Prostitution 1 (RCW
27 9A.88.070)
28 Theft of Ammonia (RCW 69.55.010)
29 Vehicular Homicide, by the operation
30 of any vehicle in a reckless manner
31 (RCW 46.61.520)
32 VII Burglary 1 (RCW 9A.52.020)
33 Child Molestation 2 (RCW 9A.44.086)
34 Civil Disorder Training (RCW
35 9A.48.120)

1 Dealing in depictions of minor engaged
2 in sexually explicit conduct 1
3 (RCW 9.68A.050(1))
4 Drive-by Shooting (RCW 9A.36.045)
5 Homicide by Watercraft, by disregard
6 for the safety of others (RCW
7 79A.60.050)
8 Indecent Liberties (without forcible
9 compulsion) (RCW 9A.44.100(1)
10 (b) and (c))
11 Introducing Contraband 1 (RCW
12 9A.76.140)
13 Malicious placement of an explosive 3
14 (RCW 70.74.270(3))
15 Negligently Causing Death By Use of a
16 Signal Preemption Device (RCW
17 46.37.675)
18 Sending, bringing into state depictions
19 of minor engaged in sexually
20 explicit conduct 1 (RCW
21 9.68A.060(1))
22 Unlawful Possession of a Firearm in
23 the first degree (RCW 9.41.040(1))
24 Use of a Machine Gun in Commission
25 of a Felony (RCW 9.41.225)
26 Vehicular Homicide, by disregard for
27 the safety of others (RCW
28 46.61.520)
29 VI Bail Jumping with Murder 1 (RCW
30 9A.76.170(3)(a))
31 Bribery (RCW 9A.68.010)
32 Incest 1 (RCW 9A.64.020(1))
33 Intimidating a Judge (RCW 9A.72.160)
34 Intimidating a Juror/Witness (RCW
35 9A.72.110, 9A.72.130)
36 Malicious placement of an imitation
37 device 2 (RCW 70.74.272(1)(b))

1 Possession of Depictions of a Minor
2 Engaged in Sexually Explicit
3 Conduct 1 (RCW 9.68A.070(1))
4 Rape of a Child 3 (RCW 9A.44.079)
5 Theft of a Firearm (RCW 9A.56.300)
6 Unlawful Storage of Ammonia (RCW
7 69.55.020)
8 V Abandonment of Dependent Person 2
9 (RCW 9A.42.070)
10 Advancing money or property for
11 extortionate extension of credit
12 (RCW 9A.82.030)
13 Bail Jumping with class A Felony
14 (RCW 9A.76.170(3)(b))
15 Child Molestation 3 (RCW 9A.44.089)
16 Criminal Mistreatment 2 (RCW
17 9A.42.030)
18 Custodial Sexual Misconduct 1 (RCW
19 9A.44.160)
20 Dealing in Depictions of Minor
21 Engaged in Sexually Explicit
22 Conduct 2 (RCW 9.68A.050(2))
23 Domestic Violence Court Order
24 Violation (RCW 10.99.040,
25 10.99.050, 26.09.300, 26.10.220,
26 26.26.138, 26.50.110, 26.52.070,
27 or 74.34.145)
28 Driving While Under the Influence
29 (RCW 46.61.502(6))
30 Extortion 1 (RCW 9A.56.120)
31 Extortionate Extension of Credit (RCW
32 9A.82.020)
33 Extortionate Means to Collect
34 Extensions of Credit (RCW
35 9A.82.040)
36 Incest 2 (RCW 9A.64.020(2))
37 Kidnapping 2 (RCW 9A.40.030)

1 Perjury 1 (RCW 9A.72.020)
2 Persistent prison misbehavior (RCW
3 9.94.070)
4 Physical Control of a Vehicle While
5 Under the Influence (RCW
6 46.61.504(6))
7 Possession of a Stolen Firearm (RCW
8 9A.56.310)
9 Rape 3 (RCW 9A.44.060)
10 Rendering Criminal Assistance 1
11 (RCW 9A.76.070)
12 Sending, Bringing into State Depictions
13 of Minor Engaged in Sexually
14 Explicit Conduct 2 (RCW
15 9.68A.060(2))
16 Sexual Misconduct with a Minor 1
17 (RCW 9A.44.093)
18 Sexually Violating Human Remains
19 (RCW 9A.44.105)
20 Stalking (RCW 9A.46.110)
21 Taking Motor Vehicle Without
22 Permission 1 (RCW 9A.56.070)
23 IV Arson 2 (RCW 9A.48.030)
24 Assault 2 (RCW 9A.36.021)
25 Assault 3 (of a Peace Officer with a
26 Projectile Stun Gun) (RCW
27 9A.36.031(1)(h))
28 Assault by Watercraft (RCW
29 79A.60.060)
30 Bribing a Witness/Bribe Received by
31 Witness (RCW 9A.72.090,
32 9A.72.100)
33 Cheating 1 (RCW 9.46.1961)
34 Commercial Bribery (RCW 9A.68.060)
35 Counterfeiting (RCW 9.16.035(4))
36 Endangerment with a Controlled
37 Substance (RCW 9A.42.100)

1 Escape 1 (RCW 9A.76.110)
2 Hit and Run--Injury (RCW
3 46.52.020(4)(b))
4 Hit and Run with Vessel--Injury
5 Accident (RCW 79A.60.200(3))
6 Identity Theft 1 (RCW 9.35.020(2))
7 Indecent Exposure to Person Under
8 Age Fourteen (subsequent sex
9 offense) (RCW 9A.88.010)
10 Influencing Outcome of Sporting Event
11 (RCW 9A.82.070)
12 Malicious Harassment (RCW
13 9A.36.080)
14 Possession of Depictions of a Minor
15 Engaged in Sexually Explicit
16 Conduct 2 (RCW 9.68A.070(2))
17 Residential Burglary (RCW
18 9A.52.025)
19 Robbery 2 (RCW 9A.56.210)
20 Theft of Livestock 1 (RCW 9A.56.080)
21 Threats to Bomb (RCW 9.61.160)
22 Trafficking in Stolen Property 1 (RCW
23 9A.82.050)
24 Unlawful factoring of a credit card or
25 payment card transaction (RCW
26 9A.56.290(4)(b))
27 Unlawful transaction of health
28 coverage as a health care service
29 contractor (RCW 48.44.016(3))
30 Unlawful transaction of health
31 coverage as a health maintenance
32 organization (RCW 48.46.033(3))
33 Unlawful transaction of insurance
34 business (RCW 48.15.023(3))
35 Unlicensed practice as an insurance
36 professional (RCW 48.17.063(2))

1 Use of Proceeds of Criminal
2 Profiteering (RCW 9A.82.080 (1)
3 and (2))
4 Vehicular Assault, by being under the
5 influence of intoxicating liquor or
6 any drug, or by the operation or
7 driving of a vehicle in a reckless
8 manner (RCW 46.61.522)
9 Viewing of Depictions of a Minor
10 Engaged in Sexually Explicit
11 Conduct 1 (RCW 9.68A.075(1))
12 Willful Failure to Return from
13 Furlough (RCW 72.66.060)
14 III Animal Cruelty 1 (Sexual Conduct or
15 Contact) (RCW 16.52.205(3))
16 Assault 3 (Except Assault 3 of a Peace
17 Officer With a Projectile Stun
18 Gun) (RCW 9A.36.031 except
19 subsection (1)(h))
20 Assault of a Child 3 (RCW 9A.36.140)
21 Bail Jumping with class B or C Felony
22 (RCW 9A.76.170(3)(c))
23 Burglary 2 (RCW 9A.52.030)
24 Communication with a Minor for
25 Immoral Purposes (RCW
26 9.68A.090)
27 Criminal Gang Intimidation (RCW
28 9A.46.120)
29 Custodial Assault (RCW 9A.36.100)
30 Cyberstalking (subsequent conviction
31 or threat of death) (RCW
32 9.61.260(3))
33 Escape 2 (RCW 9A.76.120)
34 Extortion 2 (RCW 9A.56.130)
35 Harassment (RCW 9A.46.020)
36 Intimidating a Public Servant (RCW
37 9A.76.180)

1 Introducing Contraband 2 (RCW
2 9A.76.150)
3 Malicious Injury to Railroad Property
4 (RCW 81.60.070)
5 Mortgage Fraud (RCW 19.144.080)
6 Negligently Causing Substantial Bodily
7 Harm By Use of a Signal
8 Preemption Device (RCW
9 46.37.674)
10 Organized Retail Theft 1 (RCW
11 9A.56.350(2))
12 Perjury 2 (RCW 9A.72.030)
13 Possession of Incendiary Device (RCW
14 9.40.120)
15 Possession of Machine Gun or Short-
16 Barreled Shotgun or Rifle (RCW
17 9.41.190)
18 Promoting Prostitution 2 (RCW
19 9A.88.080)
20 Retail Theft with Extenuating
21 Circumstances 1 (RCW
22 9A.56.360(2))
23 Securities Act violation (RCW
24 21.20.400)
25 Tampering with a Witness (RCW
26 9A.72.120)
27 Telephone Harassment (subsequent
28 conviction or threat of death)
29 (RCW 9.61.230(2))
30 Theft of Livestock 2 (RCW 9A.56.083)
31 Theft with the Intent to Resell 1 (RCW
32 9A.56.340(2))
33 Trafficking in Stolen Property 2 (RCW
34 9A.82.055)
35 Unlawful Hunting of Big Game 1
36 (RCW 77.15.410(3)(b))

1 Unlawful Imprisonment (RCW
2 9A.40.040)
3 Unlawful possession of firearm in the
4 second degree (RCW 9A.41.040(2))
5 Unlawful Taking of Endangered Fish
6 or Wildlife 1 (RCW
7 77.15.120(3)(b))
8 Unlawful Trafficking in Fish, Shellfish,
9 or Wildlife 1 (RCW
10 77.15.260(3)(b))
11 Unlawful Use of a Nondesignated
12 Vessel (RCW 77.15.530(4))
13 Vehicular Assault, by the operation or
14 driving of a vehicle with disregard
15 for the safety of others (RCW
16 46.61.522)
17 Willful Failure to Return from Work
18 Release (RCW 72.65.070)
19 II Commercial Fishing Without a License
20 1 (RCW 77.15.500(3)(b))
21 Computer Trespass 1 (RCW
22 9A.52.110)
23 Counterfeiting (RCW 9.16.035(3))
24 Engaging in Fish Dealing Activity
25 Unlicensed 1 (RCW 77.15.620(3))
26 Escape from Community Custody
27 (RCW 72.09.310)
28 Failure to Register as a Sex Offender
29 (second or subsequent offense)
30 (RCW 9A.44.130 prior to July 22,
31 2011, and RCW 9A.44.132)
32 Health Care False Claims (RCW
33 48.80.030)
34 Identity Theft 2 (RCW 9.35.020(3))
35 Improperly Obtaining Financial
36 Information (RCW 9.35.010)

1 Malicious Mischief 1 (RCW
2 9A.48.070)
3 Organized Retail Theft 2 (RCW
4 9A.56.350(3))
5 Possession of Stolen Property 1 (RCW
6 9A.56.150)
7 Possession of a Stolen Vehicle (RCW
8 9A.56.068)
9 Retail Theft with Extenuating
10 Circumstances 2 (RCW
11 9A.56.360(3))
12 Theft 1 (RCW 9A.56.030)
13 Theft of a Motor Vehicle (RCW
14 9A.56.065)
15 Theft of Rental, Leased, or Lease-
16 purchased Property (valued at one
17 thousand five hundred dollars or
18 more) (RCW 9A.56.096(5)(a))
19 Theft with the Intent to Resell 2 (RCW
20 9A.56.340(3))
21 Trafficking in Insurance Claims (RCW
22 48.30A.015)
23 Unlawful factoring of a credit card or
24 payment card transaction (RCW
25 9A.56.290(4)(a))
26 Unlawful Participation of Non-Indians
27 in Indian Fishery (RCW
28 77.15.570(2))
29 Unlawful Practice of Law (RCW
30 2.48.180)
31 Unlicensed Practice of a Profession or
32 Business (RCW 18.130.190(7))
33 Unlawful Purchase or Use of a License
34 (RCW 77.15.650(3)(b))
35 Unlawful Trafficking in Fish, Shellfish,
36 or Wildlife 2 (RCW
37 77.15.260(3)(a))

1 Voyeurism (RCW 9A.44.115)
2 I Attempting to Elude a Pursuing Police
3 Vehicle (RCW 46.61.024)
4 False Verification for Welfare (RCW
5 74.08.055)
6 Forgery (RCW 9A.60.020)
7 Fraudulent Creation or Revocation of a
8 Mental Health Advance Directive
9 (RCW 9A.60.060)
10 Malicious Mischief 2 (RCW
11 9A.48.080)
12 Mineral Trespass (RCW 78.44.330)
13 Possession of Stolen Property 2 (RCW
14 9A.56.160)
15 Reckless Burning 1 (RCW 9A.48.040)
16 Spotlighting Big Game 1 (RCW
17 77.15.450(3)(b))
18 Suspension of Department Privileges 1
19 (RCW 77.15.670(3)(b))
20 Taking Motor Vehicle Without
21 Permission 2 (RCW 9A.56.075)
22 Theft 2 (RCW 9A.56.040)
23 Theft of Rental, Leased, or Lease-
24 purchased Property (valued at two
25 hundred fifty dollars or more but
26 less than one thousand five
27 hundred dollars) (RCW
28 9A.56.096(5)(b))
29 Transaction of insurance business
30 beyond the scope of licensure
31 (RCW 48.17.063)
32 Unlawful Fish and Shellfish Catch
33 Accounting (RCW
34 77.15.630(3)(b))
35 Unlawful Issuance of Checks or Drafts
36 (RCW 9A.56.060)

1 Unlawful Possession of Fictitious
2 Identification (RCW 9A.56.320)
3 Unlawful Possession of Instruments of
4 Financial Fraud (RCW 9A.56.320)
5 Unlawful Possession of Payment
6 Instruments (RCW 9A.56.320)
7 Unlawful Possession of a Personal
8 Identification Device (RCW
9 9A.56.320)
10 Unlawful Production of Payment
11 Instruments (RCW 9A.56.320)
12 Unlawful Release of Deleterious Exotic
13 Wildlife (RCW 77.15.250(2)(b))
14 Unlawful Trafficking in Food Stamps
15 (RCW 9.91.142)
16 Unlawful Use of Food Stamps (RCW
17 9.91.144)
18 Unlawful Use of Net to Take Fish 1
19 (RCW 77.15.580(3)(b))
20 Unlawful Use of Prohibited Aquatic
21 Animal Species (RCW
22 77.15.253(3))
23 Vehicle Prowl 1 (RCW 9A.52.095)
24 Violating Commercial Fishing Area or
25 Time 1 (RCW 77.15.550(3)(b))

26 **Sec. 10.** RCW 9.94A.030 and 2012 c 143 s 1 are each amended to read
27 as follows:

28 Unless the context clearly requires otherwise, the definitions in
29 this section apply throughout this chapter.

30 (1) "Board" means the indeterminate sentence review board created
31 under chapter 9.95 RCW.

32 (2) "Collect," or any derivative thereof, "collect and remit," or
33 "collect and deliver," when used with reference to the department,
34 means that the department, either directly or through a collection
35 agreement authorized by RCW 9.94A.760, is responsible for monitoring
36 and enforcing the offender's sentence with regard to the legal

1 financial obligation, receiving payment thereof from the offender, and,
2 consistent with current law, delivering daily the entire payment to the
3 superior court clerk without depositing it in a departmental account.

4 (3) "Commission" means the sentencing guidelines commission.

5 (4) "Community corrections officer" means an employee of the
6 department who is responsible for carrying out specific duties in
7 supervision of sentenced offenders and monitoring of sentence
8 conditions.

9 (5) "Community custody" means that portion of an offender's
10 sentence of confinement in lieu of earned release time or imposed as
11 part of a sentence under this chapter and served in the community
12 subject to controls placed on the offender's movement and activities by
13 the department.

14 (6) "Community protection zone" means the area within eight hundred
15 eighty feet of the facilities and grounds of a public or private
16 school.

17 (7) "Community restitution" means compulsory service, without
18 compensation, performed for the benefit of the community by the
19 offender.

20 (8) "Confinement" means total or partial confinement.

21 (9) "Conviction" means an adjudication of guilt pursuant to Title
22 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
23 acceptance of a plea of guilty.

24 (10) "Crime-related prohibition" means an order of a court
25 prohibiting conduct that directly relates to the circumstances of the
26 crime for which the offender has been convicted, and shall not be
27 construed to mean orders directing an offender affirmatively to
28 participate in rehabilitative programs or to otherwise perform
29 affirmative conduct. However, affirmative acts necessary to monitor
30 compliance with the order of a court may be required by the department.

31 (11) "Criminal history" means the list of a defendant's prior
32 convictions and juvenile adjudications, whether in this state, in
33 federal court, or elsewhere.

34 (a) The history shall include, where known, for each conviction (i)
35 whether the defendant has been placed on probation and the length and
36 terms thereof; and (ii) whether the defendant has been incarcerated and
37 the length of incarceration.

1 (b) A conviction may be removed from a defendant's criminal history
2 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or
3 a similar out-of-state statute, or if the conviction has been vacated
4 pursuant to a governor's pardon.

5 (c) The determination of a defendant's criminal history is distinct
6 from the determination of an offender score. A prior conviction that
7 was not included in an offender score calculated pursuant to a former
8 version of the sentencing reform act remains part of the defendant's
9 criminal history.

10 (12) "Criminal street gang" means any ongoing organization,
11 association, or group of three or more persons, whether formal or
12 informal, having a common name or common identifying sign or symbol,
13 having as one of its primary activities the commission of criminal
14 acts, and whose members or associates individually or collectively
15 engage in or have engaged in a pattern of criminal street gang
16 activity. This definition does not apply to employees engaged in
17 concerted activities for their mutual aid and protection, or to the
18 activities of labor and bona fide nonprofit organizations or their
19 members or agents.

20 (13) "Criminal street gang associate or member" means any person
21 who actively participates in any criminal street gang and who
22 intentionally promotes, furthers, or assists in any criminal act by the
23 criminal street gang.

24 (14) "Criminal street gang-related offense" means any felony or
25 misdemeanor offense, whether in this state or elsewhere, that is
26 committed for the benefit of, at the direction of, or in association
27 with any criminal street gang, or is committed with the intent to
28 promote, further, or assist in any criminal conduct by the gang, or is
29 committed for one or more of the following reasons:

30 (a) To gain admission, prestige, or promotion within the gang;

31 (b) To increase or maintain the gang's size, membership, prestige,
32 dominance, or control in any geographical area;

33 (c) To exact revenge or retribution for the gang or any member of
34 the gang;

35 (d) To obstruct justice, or intimidate or eliminate any witness
36 against the gang or any member of the gang;

37 (e) To directly or indirectly cause any benefit, aggrandizement,

1 gain, profit, or other advantage for the gang, its reputation,
2 influence, or membership; or

3 (f) To provide the gang with any advantage in, or any control or
4 dominance over any criminal market sector, including, but not limited
5 to, manufacturing, delivering, or selling any controlled substance
6 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
7 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
8 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
9 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
10 9.68 RCW).

11 (15) "Day fine" means a fine imposed by the sentencing court that
12 equals the difference between the offender's net daily income and the
13 reasonable obligations that the offender has for the support of the
14 offender and any dependents.

15 (16) "Day reporting" means a program of enhanced supervision
16 designed to monitor the offender's daily activities and compliance with
17 sentence conditions, and in which the offender is required to report
18 daily to a specific location designated by the department or the
19 sentencing court.

20 (17) "Department" means the department of corrections.

21 (18) "Determinate sentence" means a sentence that states with
22 exactitude the number of actual years, months, or days of total
23 confinement, of partial confinement, of community custody, the number
24 of actual hours or days of community restitution work, or dollars or
25 terms of a legal financial obligation. The fact that an offender
26 through earned release can reduce the actual period of confinement
27 shall not affect the classification of the sentence as a determinate
28 sentence.

29 (19) "Disposable earnings" means that part of the earnings of an
30 offender remaining after the deduction from those earnings of any
31 amount required by law to be withheld. For the purposes of this
32 definition, "earnings" means compensation paid or payable for personal
33 services, whether denominated as wages, salary, commission, bonuses, or
34 otherwise, and, notwithstanding any other provision of law making the
35 payments exempt from garnishment, attachment, or other process to
36 satisfy a court-ordered legal financial obligation, specifically
37 includes periodic payments pursuant to pension or retirement programs,

1 or insurance policies of any type, but does not include payments made
2 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
3 or Title 74 RCW.

4 (20) "Domestic violence" has the same meaning as defined in RCW
5 10.99.020 and 26.50.010.

6 (21) "Drug offender sentencing alternative" is a sentencing option
7 available to persons convicted of a felony offense other than a violent
8 offense or a sex offense and who are eligible for the option under RCW
9 9.94A.660.

10 (22) "Drug offense" means:

11 (a) Any felony violation of chapter 69.50 RCW except possession of
12 a controlled substance (RCW 69.50.4013) or forged prescription for a
13 controlled substance (RCW 69.50.403);

14 (b) Any offense defined as a felony under federal law that relates
15 to the possession, manufacture, distribution, or transportation of a
16 controlled substance; or

17 (c) Any out-of-state conviction for an offense that under the laws
18 of this state would be a felony classified as a drug offense under (a)
19 of this subsection.

20 (23) "Earned release" means earned release from confinement as
21 provided in RCW 9.94A.728.

22 (24) "Escape" means:

23 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
24 first degree (RCW 9A.76.110), escape in the second degree (RCW
25 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
26 willful failure to return from work release (RCW 72.65.070), or willful
27 failure to be available for supervision by the department while in
28 community custody (RCW 72.09.310); or

29 (b) Any federal or out-of-state conviction for an offense that
30 under the laws of this state would be a felony classified as an escape
31 under (a) of this subsection.

32 (25) "Felony traffic offense" means:

33 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
34 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
35 run injury-accident (RCW 46.52.020(4)), felony driving while under the
36 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or
37 felony physical control of a vehicle while under the influence of
38 intoxicating liquor or any drug (RCW 46.61.504(6)); or

1 (b) Any federal or out-of-state conviction for an offense that
2 under the laws of this state would be a felony classified as a felony
3 traffic offense under (a) of this subsection.

4 (26) "Fine" means a specific sum of money ordered by the sentencing
5 court to be paid by the offender to the court over a specific period of
6 time.

7 (27) "First-time offender" means any person who has no prior
8 convictions for a felony and is eligible for the first-time offender
9 waiver under RCW 9.94A.650.

10 (28) "Home detention" means a program of partial confinement
11 available to offenders wherein the offender is confined in a private
12 residence subject to electronic surveillance.

13 (29) "Homelessness" or "homeless" means a condition where an
14 individual lacks a fixed, regular, and adequate nighttime residence and
15 who has a primary nighttime residence that is:

16 (a) A supervised, publicly or privately operated shelter designed
17 to provide temporary living accommodations;

18 (b) A public or private place not designed for, or ordinarily used
19 as, a regular sleeping accommodation for human beings; or

20 (c) A private residence where the individual stays as a transient
21 invitee.

22 (30) "Legal financial obligation" means a sum of money that is
23 ordered by a superior court of the state of Washington for legal
24 financial obligations which may include restitution to the victim,
25 statutorily imposed crime victims' compensation fees as assessed
26 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
27 court-appointed attorneys' fees, and costs of defense, fines, and any
28 other financial obligation that is assessed to the offender as a result
29 of a felony conviction. Upon conviction for vehicular assault while
30 under the influence of intoxicating liquor or any drug, RCW
31 46.61.522(1)(b), or vehicular homicide while under the influence of
32 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
33 obligations may also include payment to a public agency of the expense
34 of an emergency response to the incident resulting in the conviction,
35 subject to RCW 38.52.430.

36 (31) "Minor child" means a biological or adopted child of the
37 offender who is under age eighteen at the time of the offender's
38 current offense.

1 (32) "Most serious offense" means any of the following felonies or
2 a felony attempt to commit any of the following felonies:

3 (a) Any felony defined under any law as a class A felony or
4 criminal solicitation of or criminal conspiracy to commit a class A
5 felony;

6 (b) Assault in the second degree;

7 (c) Assault of a child in the second degree;

8 (d) Child molestation in the second degree;

9 (e) Controlled substance homicide;

10 (f) Extortion in the first degree;

11 (g) Incest when committed against a child under age fourteen;

12 (h) Indecent liberties;

13 (i) Kidnapping in the second degree;

14 (j) Leading organized crime;

15 (k) Manslaughter in the first degree;

16 (l) Manslaughter in the second degree;

17 (m) Promoting prostitution in the first degree;

18 (n) Rape in the third degree;

19 (o) Robbery in the second degree;

20 (p) Sexual exploitation;

21 (q) Vehicular assault, when caused by the operation or driving of
22 a vehicle by a person while under the influence of intoxicating liquor
23 or any drug or by the operation or driving of a vehicle in a reckless
24 manner;

25 (r) Vehicular homicide, when proximately caused by the driving of
26 any vehicle by any person while under the influence of intoxicating
27 liquor or any drug as defined by RCW 46.61.502, or by the operation of
28 any vehicle in a reckless manner;

29 (s) Any other class B felony offense with a finding of sexual
30 motivation;

31 (t) Any other felony with a deadly weapon verdict under RCW
32 9.94A.825;

33 (u) Any felony offense in effect at any time prior to December 2,
34 1993, that is comparable to a most serious offense under this
35 subsection, or any federal or out-of-state conviction for an offense
36 that under the laws of this state would be a felony classified as a
37 most serious offense under this subsection;

1 (v)(i) A prior conviction for indecent liberties under RCW
2 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
3 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
4 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
5 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

6 (ii) A prior conviction for indecent liberties under RCW
7 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
8 if: (A) The crime was committed against a child under the age of
9 fourteen; or (B) the relationship between the victim and perpetrator is
10 included in the definition of indecent liberties under RCW
11 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
12 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
13 through July 27, 1997;

14 (w) Any out-of-state conviction for a felony offense with a finding
15 of sexual motivation if the minimum sentence imposed was ten years or
16 more; provided that the out-of-state felony offense must be comparable
17 to a felony offense under this title and Title 9A RCW and the out-of-
18 state definition of sexual motivation must be comparable to the
19 definition of sexual motivation contained in this section.

20 (33) "Nonviolent offense" means an offense which is not a violent
21 offense.

22 (34) "Offender" means a person who has committed a felony
23 established by state law and is eighteen years of age or older or is
24 less than eighteen years of age but whose case is under superior court
25 jurisdiction under RCW 13.04.030 or has been transferred by the
26 appropriate juvenile court to a criminal court pursuant to RCW
27 13.40.110. In addition, for the purpose of community custody
28 requirements under this chapter, "offender" also means a misdemeanor
29 or gross misdemeanor probationer ordered by a superior court to
30 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
31 supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011.
32 Throughout this chapter, the terms "offender" and "defendant" are used
33 interchangeably.

34 (35) "Partial confinement" means confinement for no more than one
35 year in a facility or institution operated or utilized under contract
36 by the state or any other unit of government, or, if home detention or
37 work crew has been ordered by the court or home detention has been
38 ordered by the department as part of the parenting program, in an

1 approved residence, for a substantial portion of each day with the
2 balance of the day spent in the community. Partial confinement
3 includes work release, home detention, work crew, and a combination of
4 work crew and home detention.

5 (36) "Pattern of criminal street gang activity" means:

6 (a) The commission, attempt, conspiracy, or solicitation of, or any
7 prior juvenile adjudication of or adult conviction of, two or more of
8 the following criminal street gang-related offenses:

9 (i) Any "serious violent" felony offense as defined in this
10 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
11 Child 1 (RCW 9A.36.120);

12 (ii) Any "violent" offense as defined by this section, excluding
13 Assault of a Child 2 (RCW 9A.36.130);

14 (iii) Deliver or Possession with Intent to Deliver a Controlled
15 Substance (chapter 69.50 RCW);

16 (iv) Any violation of the firearms and dangerous weapon act
17 (chapter 9.41 RCW);

18 (v) Theft of a Firearm (RCW 9A.56.300);

19 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

20 (vii) Malicious Harassment (RCW 9A.36.080);

21 (viii) Harassment where a subsequent violation or deadly threat is
22 made (RCW 9A.46.020(2)(b));

23 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

24 (x) Any felony conviction by a person eighteen years of age or
25 older with a special finding of involving a juvenile in a felony
26 offense under RCW 9.94A.833;

27 (xi) Residential Burglary (RCW 9A.52.025);

28 (xii) Burglary 2 (RCW 9A.52.030);

29 (xiii) Malicious Mischief 1 (RCW 9A.48.070);

30 (xiv) Malicious Mischief 2 (RCW 9A.48.080);

31 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);

32 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

33 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

34 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
35 9A.56.075);

36 (xix) Extortion 1 (RCW 9A.56.120);

37 (xx) Extortion 2 (RCW 9A.56.130);

38 (xxi) Intimidating a Witness (RCW 9A.72.110);

1 (xxii) Tampering with a Witness (RCW 9A.72.120);

2 (xxiii) Reckless Endangerment (RCW 9A.36.050);

3 (xxiv) Coercion (RCW 9A.36.070);

4 (xxv) Harassment (RCW 9A.46.020); or

5 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

6 (b) That at least one of the offenses listed in (a) of this
7 subsection shall have occurred after July 1, 2008;

8 (c) That the most recent committed offense listed in (a) of this
9 subsection occurred within three years of a prior offense listed in (a)
10 of this subsection; and

11 (d) Of the offenses that were committed in (a) of this subsection,
12 the offenses occurred on separate occasions or were committed by two or
13 more persons.

14 (37) "Persistent offender" is an offender who:

15 (a)(i) Has been convicted in this state of any felony considered a
16 most serious offense; and

17 (ii) Has, before the commission of the offense under (a) of this
18 subsection, been convicted as an offender on at least two separate
19 occasions, whether in this state or elsewhere, of felonies that under
20 the laws of this state would be considered most serious offenses and
21 would be included in the offender score under RCW 9.94A.525; provided
22 that of the two or more previous convictions, at least one conviction
23 must have occurred before the commission of any of the other most
24 serious offenses for which the offender was previously convicted; or

25 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
26 of a child in the first degree, child molestation in the first degree,
27 rape in the second degree, rape of a child in the second degree, or
28 indecent liberties by forcible compulsion; (B) any of the following
29 offenses with a finding of sexual motivation: Murder in the first
30 degree, murder in the second degree, homicide by abuse, kidnapping in
31 the first degree, kidnapping in the second degree, assault in the first
32 degree, assault in the second degree, assault of a child in the first
33 degree, assault of a child in the second degree, or burglary in the
34 first degree; or (C) an attempt to commit any crime listed in this
35 subsection (37)(b)(i); and

36 (ii) Has, before the commission of the offense under (b)(i) of this
37 subsection, been convicted as an offender on at least one occasion,
38 whether in this state or elsewhere, of an offense listed in (b)(i) of

1 this subsection or any federal or out-of-state offense or offense under
2 prior Washington law that is comparable to the offenses listed in
3 (b)(i) of this subsection. A conviction for rape of a child in the
4 first degree constitutes a conviction under (b)(i) of this subsection
5 only when the offender was sixteen years of age or older when the
6 offender committed the offense. A conviction for rape of a child in
7 the second degree constitutes a conviction under (b)(i) of this
8 subsection only when the offender was eighteen years of age or older
9 when the offender committed the offense.

10 (38) "Predatory" means: (a) The perpetrator of the crime was a
11 stranger to the victim, as defined in this section; (b) the perpetrator
12 established or promoted a relationship with the victim prior to the
13 offense and the victimization of the victim was a significant reason
14 the perpetrator established or promoted the relationship; or (c) the
15 perpetrator was: (i) A teacher, counselor, volunteer, or other person
16 in authority in any public or private school and the victim was a
17 student of the school under his or her authority or supervision. For
18 purposes of this subsection, "school" does not include home-based
19 instruction as defined in RCW 28A.225.010; (ii) a coach, trainer,
20 volunteer, or other person in authority in any recreational activity
21 and the victim was a participant in the activity under his or her
22 authority or supervision; (iii) a pastor, elder, volunteer, or other
23 person in authority in any church or religious organization, and the
24 victim was a member or participant of the organization under his or her
25 authority; or (iv) a teacher, counselor, volunteer, or other person in
26 authority providing home-based instruction and the victim was a student
27 receiving home-based instruction while under his or her authority or
28 supervision. For purposes of this subsection: (A) "Home-based
29 instruction" has the same meaning as defined in RCW 28A.225.010; and
30 (B) "teacher, counselor, volunteer, or other person in authority" does
31 not include the parent or legal guardian of the victim.

32 (39) "Private school" means a school regulated under chapter
33 28A.195 or 28A.205 RCW.

34 (40) "Public school" has the same meaning as in RCW 28A.150.010.

35 (41) "Repetitive domestic violence offense" means any:

36 (a)(i) Domestic violence assault that is not a felony offense under
37 RCW 9A.36.041;

1 (ii) Domestic violence violation of a no-contact order under
2 chapter 10.99 RCW that is not a felony offense;

3 (iii) Domestic violence violation of a protection order under
4 chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;

5 (iv) Domestic violence harassment offense under RCW 9A.46.020 that
6 is not a felony offense; or

7 (v) Domestic violence stalking offense under RCW 9A.46.110 that is
8 not a felony offense; or

9 (b) Any federal, out-of-state, tribal court, military, county, or
10 municipal conviction for an offense that under the laws of this state
11 would be classified as a repetitive domestic violence offense under (a)
12 of this subsection.

13 (42) "Restitution" means a specific sum of money ordered by the
14 sentencing court to be paid by the offender to the court over a
15 specified period of time as payment of damages. The sum may include
16 both public and private costs.

17 (43) "Risk assessment" means the application of the risk instrument
18 recommended to the department by the Washington state institute for
19 public policy as having the highest degree of predictive accuracy for
20 assessing an offender's risk of reoffense.

21 (44) "Serious traffic offense" means:

22 (a) Nonfelony driving while under the influence of intoxicating
23 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
24 while under the influence of intoxicating liquor or any drug (RCW
25 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
26 attended vehicle (RCW 46.52.020(5)); or

27 (b) Any federal, out-of-state, county, or municipal conviction for
28 an offense that under the laws of this state would be classified as a
29 serious traffic offense under (a) of this subsection.

30 (45) "Serious violent offense" is a subcategory of violent offense
31 and means:

32 (a)(i) Murder in the first degree;

33 (ii) Homicide by abuse;

34 (iii) Murder in the second degree;

35 (iv) Manslaughter in the first degree;

36 (v) Assault in the first degree;

37 (vi) Kidnapping in the first degree;

38 (vii) Rape in the first degree;

1 (viii) Assault of a child in the first degree; or
2 (ix) An attempt, criminal solicitation, or criminal conspiracy to
3 commit one of these felonies; or
4 (b) Any federal or out-of-state conviction for an offense that
5 under the laws of this state would be a felony classified as a serious
6 violent offense under (a) of this subsection.
7 (46) "Sex offense" means:
8 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
9 RCW 9A.44.132;
10 (ii) A violation of RCW 9A.64.020;
11 (iii) A felony that is a violation of chapter 9.68A RCW other than
12 RCW 9.68A.080;
13 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
14 criminal solicitation, or criminal conspiracy to commit such crimes; or
15 (v) A felony violation of RCW 9A.44.132(1) (failure to register) if
16 the person has been convicted of violating RCW 9A.44.132(1) (failure to
17 register) or 9A.44.130 prior to July 22, 2011, on at least one prior
18 occasion;
19 (b) Any conviction for a felony offense in effect at any time prior
20 to July 1, 1976, that is comparable to a felony classified as a sex
21 offense in (a) of this subsection;
22 (c) A felony with a finding of sexual motivation under RCW
23 9.94A.835 or 13.40.135; or
24 (d) Any federal or out-of-state conviction for an offense that
25 under the laws of this state would be a felony classified as a sex
26 offense under (a) of this subsection.
27 (47) "Sexual motivation" means that one of the purposes for which
28 the defendant committed the crime was for the purpose of his or her
29 sexual gratification.
30 (48) "Standard sentence range" means the sentencing court's
31 discretionary range in imposing a nonappealable sentence.
32 (49) "Statutory maximum sentence" means the maximum length of time
33 for which an offender may be confined as punishment for a crime as
34 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
35 crime, or other statute defining the maximum penalty for a crime.
36 (50) "Stranger" means that the victim did not know the offender
37 twenty-four hours before the offense.

1 (51) "Total confinement" means confinement inside the physical
2 boundaries of a facility or institution operated or utilized under
3 contract by the state or any other unit of government for twenty-four
4 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

5 (52) "Transition training" means written and verbal instructions
6 and assistance provided by the department to the offender during the
7 two weeks prior to the offender's successful completion of the work
8 ethic camp program. The transition training shall include instructions
9 in the offender's requirements and obligations during the offender's
10 period of community custody.

11 (53) "Victim" means any person who has sustained emotional,
12 psychological, physical, or financial injury to person or property as
13 a direct result of the crime charged.

14 (54) "Violent offense" means:

15 (a) Any of the following felonies:

16 (i) Any felony defined under any law as a class A felony or an
17 attempt to commit a class A felony;

18 (ii) Criminal solicitation of or criminal conspiracy to commit a
19 class A felony;

20 (iii) Manslaughter in the first degree;

21 (iv) Manslaughter in the second degree;

22 (v) Indecent liberties if committed by forcible compulsion;

23 (vi) Kidnapping in the second degree;

24 (vii) Arson in the second degree;

25 (viii) Assault in the second degree;

26 (ix) Assault of a child in the second degree;

27 (x) Extortion in the first degree;

28 (xi) Robbery in the second degree;

29 (xii) Drive-by shooting;

30 (xiii) Vehicular assault, when caused by the operation or driving
31 of a vehicle by a person while under the influence of intoxicating
32 liquor or any drug or by the operation or driving of a vehicle in a
33 reckless manner; and

34 (xiv) Vehicular homicide, when proximately caused by the driving of
35 any vehicle by any person while under the influence of intoxicating
36 liquor or any drug as defined by RCW 46.61.502, or by the operation of
37 any vehicle in a reckless manner;

1 (b) Any conviction for a felony offense in effect at any time prior
2 to July 1, 1976, that is comparable to a felony classified as a violent
3 offense in (a) of this subsection; and

4 (c) Any federal or out-of-state conviction for an offense that
5 under the laws of this state would be a felony classified as a violent
6 offense under (a) or (b) of this subsection.

7 (55) "Work crew" means a program of partial confinement consisting
8 of civic improvement tasks for the benefit of the community that
9 complies with RCW 9.94A.725.

10 (56) "Work ethic camp" means an alternative incarceration program
11 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
12 the cost of corrections by requiring offenders to complete a
13 comprehensive array of real-world job and vocational experiences,
14 character-building work ethics training, life management skills
15 development, substance abuse rehabilitation, counseling, literacy
16 training, and basic adult education.

17 (57) "Work release" means a program of partial confinement
18 available to offenders who are employed or engaged as a student in a
19 regular course of study at school.

20 **Sec. 11.** RCW 28A.300.147 and 2011 c 338 s 6 are each amended to
21 read as follows:

22 The superintendent of public instruction shall publish on its web
23 site, with a link to the safety center web page((7)):

24 (1) A revised and updated sample policy for schools to follow
25 regarding students required to register as sex or kidnapping offenders;
26 and

27 (2) Educational materials developed pursuant to RCW 28A.300.145.

28 NEW SECTION. **Sec. 12.** A new section is added to chapter 28A.320
29 RCW to read as follows:

30 (1) Each school district must develop or amend and adopt a written
31 policy, with protocol, to ensure the health and safety of all staff and
32 students in the school where students required to register as sex or
33 kidnapping offenders are enrolled. The policy must also include
34 procedures for the dissemination of information to appropriate school
35 staff.

36 (2) The policy must address:

- 1 (a) Guidelines for developing student safety plans;
2 (b) Guidelines for disseminating appropriate information to school
3 staff;
4 (c) Communication protocols for when school staff observe any
5 suspect behavior or action on the part of a student required to
6 register as a sex or kidnapping offender that may compromise the
7 health, safety, or well-being of students or staff;
8 (d) Communication strategies with local law enforcement; and
9 (e) Responsibilities of the school's designated primary contact.

10 (3) It is the responsibility of each school district to share this
11 policy with parents or guardians, students, volunteers, and school
12 employees in accordance with rules adopted by the superintendent of
13 public instruction. A link to the school district's policy must be
14 posted on the web site for the superintendent of public instruction by
15 September 1, 2013.

16 NEW SECTION. **Sec. 13.** A new section is added to chapter 28A.320
17 RCW to read as follows:

18 (1) Each school must designate one person in the school to serve as
19 the primary contact regarding students who are required to register as
20 sex or kidnapping offenders pursuant to RCW 9A.44.130. The primary
21 contact must be in a position to recognize high-risk situations or
22 factors that may indicate a student is encountering difficulty in
23 controlling his or her behavior.

24 (2)(a) Each school must develop an individual student safety plan
25 for any student enrolling or attending the school who is required to
26 register as a sex or kidnapping offender.

27 (b) An individual student safety plan must be developed in
28 coordination with a multidisciplinary team of professionals including,
29 but not limited to, the school's primary contact, the parent or
30 guardian of the student required to register as a sex or kidnapping
31 offender, the student's probation officer, and the student's counselor.

32 **Sec. 14.** RCW 72.09.345 and 2011 c 338 s 5 are each amended to read
33 as follows:

34 (1) In addition to any other information required to be released
35 under this chapter, the department is authorized, pursuant to RCW

1 4.24.550, to release relevant information that is necessary to protect
2 the public concerning offenders convicted of sex offenses.

3 (2) In order for public agencies to have the information necessary
4 to notify the public as authorized in RCW 4.24.550, the secretary shall
5 establish and administer an end-of-sentence review committee for the
6 purposes of assigning risk levels, reviewing available release plans,
7 and making appropriate referrals for sex offenders.

8 (3) The committee shall assess, on a case-by-case basis, the public
9 risk posed by:

10 (a) Offenders preparing for release from confinement for a sex
11 offense or sexually violent offense committed on or after July 1, 1984;

12 (b) Sex offenders accepted from another state under a reciprocal
13 agreement under the interstate corrections compact authorized in
14 chapter 72.74 RCW;

15 (c) Juveniles preparing for release from confinement for a sex
16 offense and releasing from the department of social and health services
17 juvenile rehabilitation administration;

18 (d) Juveniles, following disposition, under the jurisdiction of a
19 county juvenile court for a registerable sex offense; and

20 (e) Juveniles found to have committed a sex offense and accepted
21 from another state under a reciprocal agreement under the interstate
22 compact for juveniles authorized in chapter 13.24 RCW.

23 (4) Notwithstanding any other provision of law, the committee shall
24 have access to all relevant records and information in the possession
25 of public agencies relating to the offenders under review, including
26 police reports; prosecutors' statements of probable cause; presentence
27 investigations and reports; complete judgments and sentences; current
28 classification referrals; criminal history summaries; violation and
29 disciplinary reports; all psychological evaluations and psychiatric
30 hospital reports; sex offender treatment program reports; and juvenile
31 records. Records and information obtained under this subsection shall
32 not be disclosed outside the committee unless otherwise authorized by
33 law.

34 (5) The committee shall review each sex offender under its
35 authority before the offender's release from confinement or start of
36 the offender's term of community custody in order to: (a) Classify the
37 offender into a risk level for the purposes of public notification

1 under RCW 4.24.550; (b) where available, review the offender's proposed
2 release plan in accordance with the requirements of RCW 72.09.340; and
3 (c) make appropriate referrals.

4 (6) The committee shall classify as risk level I those sex
5 offenders whose risk assessments indicate ((a)) they are low risk ((of
6 reoffense)) offenders within the community at large. The committee
7 shall classify as risk level II those offenders whose risk assessments
8 indicate ((a)) they are moderate risk ((of reoffense)) offenders within
9 the community at large. The committee shall classify as risk level III
10 those offenders whose risk assessments indicate ((a)) they are high
11 risk ((of reoffense)) offenders within the community at large.

12 (7) The committee shall issue to appropriate law enforcement
13 agencies, for their use in making public notifications under RCW
14 4.24.550, narrative notices regarding the pending release of sex
15 offenders from the department's facilities. The narrative notices
16 shall, at a minimum, describe the identity and criminal history
17 behavior of the offender and shall include the department's risk level
18 classification for the offender. For sex offenders classified as
19 either risk level II or III, the narrative notices shall also include
20 the reasons underlying the classification.

21 NEW SECTION. **Sec. 15.** Sections 11 through 13 of this act take
22 effect September 1, 2013.

--- END ---