

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5154

64th Legislature
2015 Regular Session

Passed by the Senate April 22, 2015
Yeas 47 Nays 0

President of the Senate

Passed by the House April 15, 2015
Yeas 98 Nays 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5154** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5154

AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

State of Washington 64th Legislature 2015 Regular Session

By Senate Ways & Means (originally sponsored by Senator Hargrove)

READ FIRST TIME 02/27/15.

1 AN ACT Relating to registered sex or kidnapping offenders;
2 amending RCW 4.24.550, 9A.44.128, 9A.44.130, 9A.44.132, 9A.44.140,
3 9A.44.141, 9A.44.142, 9A.44.143, 43.43.754, 9.94A.030, 28A.300.147,
4 and 72.09.345; reenacting and amending RCW 9.94A.515 and 42.56.240;
5 adding a new section to chapter 9A.44 RCW; creating new sections; and
6 prescribing penalties.

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

8 **Sec. 1.** RCW 4.24.550 and 2011 c 337 s 1 are each amended to read
9 as follows:

10 (1) In addition to the disclosure under subsection (5) of this
11 section, public agencies are authorized to release information to the
12 public regarding sex offenders and kidnapping offenders when the
13 agency determines that disclosure of the information is relevant and
14 necessary to protect the public and counteract the danger created by
15 the particular offender. This authorization applies to information
16 regarding: (a) Any person adjudicated or convicted of a sex offense
17 as defined in RCW 9A.44.128 or a kidnapping offense as defined by RCW
18 9A.44.128; (b) any person under the jurisdiction of the indeterminate
19 sentence review board as the result of a sex offense or kidnapping
20 offense; (c) any person committed as a sexually violent predator
21 under chapter 71.09 RCW or as a sexual psychopath under chapter 71.06

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

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

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

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

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

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

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

1 the web site shall be limited to the information and functionality
2 that is permissible under state and federal law.

3 ~~(b) ((Until the implementation of (a) of this subsection, the~~
4 ~~Washington association of sheriffs and police chiefs shall create a~~
5 ~~web site available to the public that provides electronic links to~~
6 ~~county operated web sites that offer sex offender registration~~
7 ~~information.))~~ Law enforcement agencies must provide information
8 requested by the Washington association of sheriffs and police chiefs
9 to administer the statewide registered kidnapping and sex offender
10 web site.

11 (c)(i) Within five business days of the Washington association of
12 sheriffs and police chiefs receiving any public record request under
13 chapter 42.56 RCW for sex offender and kidnapping offender
14 information, records or web site data it holds or maintains pursuant
15 to this section or a unified sex offender registry, the Washington
16 association of sheriffs and police chiefs shall refer the requester
17 in writing to the appropriate law enforcement agency or agencies for
18 submission of such a request. The Washington association of sheriffs
19 and police chiefs shall have no further obligation under chapter
20 42.56 RCW for responding to such a request.

21 (ii) This subparagraph (c) of this section is remedial and
22 applies retroactively.

23 ~~(6) ((Local))~~ (a) Law enforcement agencies ((that disseminate
24 information pursuant to this section)) responsible for the
25 registration and dissemination of information regarding offenders
26 required to register under RCW 9A.44.130 shall assign a risk level
27 classification to all offenders after consideration of: ((a)
28 Review)) (i) Any available risk level classifications ((made))
29 provided by the department of corrections, the department of social
30 and health services, and the indeterminate sentence review board;
31 ~~((b) assign risk level classifications to all offenders about whom~~
32 ~~information will be disseminated))~~ (ii) the agency's own application
33 of a sex offender risk assessment tool; and (iii) other information
34 and aggravating or mitigating factors known to the agency and deemed
35 rationally related to the risk posed by the offender to the community
36 at large.

37 (b) A sex offender shall be classified as a risk level I if his
38 or her risk assessment and other information or factors deemed
39 relevant by the law enforcement agency indicate he or she is at a low
40 risk to sexually reoffend within the community at large. A sex

1 offender shall be classified as a risk level II if his or her risk
2 assessment and other information or factors deemed relevant by the
3 law enforcement agency indicate he or she is at a moderate risk to
4 sexually reoffend within the community at large. A sex offender shall
5 be classified as a risk level III if his or her risk assessment and
6 other information or factors deemed relevant by the law enforcement
7 agency indicate he or she is at a high risk to sexually reoffend
8 within the community at large.

9 (c) The agency shall make a good faith effort to notify the
10 public and residents within a reasonable period of time after the
11 offender registers with the agency.

12 (~~The juvenile court shall provide local law enforcement~~
13 ~~officials with all relevant information on offenders allowed to~~
14 ~~remain in the community in a timely manner.)) (d) Agencies may
15 develop a process to allow an offender to petition for review of the
16 offender's assigned risk level classification. The timing, frequency,
17 and process for review are at the sole discretion of the agency.~~

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

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

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

4 (10) When a (~~local~~) law enforcement agency or official
5 classifies an offender differently than the offender is classified by
6 the end of sentence review committee (~~or the department of social
7 and health services~~) at the time of the offender's release from
8 confinement, the law enforcement agency or official shall notify the
9 end of sentence review committee (~~or the department of social and
10 health services~~) and the Washington state patrol and submit its
11 reasons supporting the change in classification.

12 (11) As used in this section, "law enforcement agency" means a
13 general authority Washington law enforcement agency as defined in RCW
14 10.93.020.

15 **Sec. 2.** RCW 9A.44.128 and 2014 c 188 s 2 are each amended to
16 read as follows:

17 For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200,
18 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

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

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

23 (3) "Disqualifying offense" means a conviction for: Any offense
24 that is a felony; a sex offense as defined in this section; a crime
25 against children or persons as defined in RCW 43.43.830(7) and
26 9.94A.411(2)(a); an offense with a domestic violence designation as
27 provided in RCW 10.99.020; permitting the commercial sexual abuse of
28 a minor as defined in RCW 9.68A.103; or any violation of chapter
29 9A.88 RCW.

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

36 (5) "Fixed residence" means a building that a person lawfully and
37 habitually uses as living quarters a majority of the week. Uses as
38 living quarters means to conduct activities consistent with the
39 common understanding of residing, such as sleeping; eating; keeping

1 personal belongings; receiving mail; and paying utilities, rent, or
2 mortgage. A nonpermanent structure including, but not limited to, a
3 motor home, travel trailer, camper, or boat may qualify as a
4 residence provided it is lawfully and habitually used as living
5 quarters a majority of the week, primarily kept at one location with
6 a physical address, and the location it is kept at is either owned or
7 rented by the person or used by the person with the permission of the
8 owner or renter. A shelter program may qualify as a residence
9 provided it is a shelter program designed to provide temporary living
10 accommodations for the homeless, provides an offender with a
11 personally assigned living space, and the offender is permitted to
12 store belongings in the living space.

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

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

19 (8) "Kidnapping offense" means:

20 (a) The crimes of kidnapping in the first degree, kidnapping in
21 the second degree, and unlawful imprisonment, as defined in chapter
22 9A.40 RCW, where the victim is a minor and the offender is not the
23 minor's parent;

24 (b) Any offense that is, under chapter 9A.28 RCW, a criminal
25 attempt, criminal solicitation, or criminal conspiracy to commit an
26 offense that is classified as a kidnapping offense under this
27 subsection; (~~and~~)

28 (c) Any federal or out-of-state conviction for: An offense for
29 which the person would be required to register as a kidnapping
30 offender if residing in the state of conviction; or, if not required
31 to register in the state of conviction, an offense that under the
32 laws of this state would be classified as a kidnapping offense under
33 this subsection; and

34 (d) Any tribal conviction for an offense for which the person
35 would be required to register as a kidnapping offender while residing
36 in the reservation of conviction; or, if not required to register in
37 the reservation of conviction, an offense that under the laws of this
38 state would be classified as a kidnapping offense under this
39 subsection.

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

7 (10) "Sex offense" means:

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

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

11 (c) Any violation under RCW 9A.40.100(1)(b)(ii) (trafficking);

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

14 (e) A violation under RCW 9A.88.070 (promoting prostitution in
15 the first degree) or RCW 9A.88.080 (promoting prostitution in the
16 second degree) if the person has a prior conviction for one of these
17 offenses;

18 (f) Any violation under RCW 9A.40.100(1)(a)(i)(A) (III) or (IV)
19 or (a)(i)(B);

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

24 (h) Any out-of-state conviction for an offense for which the
25 person would be required to register as a sex offender while residing
26 in the state of conviction; or, if not required to register in the
27 state of conviction, an offense that under the laws of this state
28 would be classified as a sex offense under this subsection;

29 (i) Any federal conviction classified as a sex offense under 42
30 U.S.C. Sec. 16911 (SORNA);

31 (j) Any military conviction for a sex offense. This includes sex
32 offenses under the uniform code of military justice, as specified by
33 the United States secretary of defense;

34 (k) Any conviction in a foreign country for a sex offense if it
35 was obtained with sufficient safeguards for fundamental fairness and
36 due process for the accused under guidelines or regulations
37 established pursuant to 42 U.S.C. Sec. 16912;

38 (l) Any tribal conviction for an offense for which the person
39 would be required to register as a sex offender while residing in the
40 reservation of conviction; or, if not required to register in the

1 reservation of conviction, an offense that under the laws of this
2 state would be classified as a sex offense under this subsection.

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

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

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

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

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

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

31 (ii) Prior to starting work at an institution of higher
32 education; or

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

35 (2)(a) A person required to register under this section must
36 provide the following information when registering: (i) Name and any
37 aliases used; (ii) complete and accurate residential address or, if
38 the person lacks a fixed residence, where he or she plans to stay;
39 (iii) date and place of birth; (iv) place of employment; (v) crime

1 for which convicted; (vi) date and place of conviction; (vii) social
2 security number; (viii) photograph; and (ix) fingerprints.

3 (b) A person may be required to update any of the information
4 required in this subsection in conjunction with any address
5 verification conducted by the county sheriff or as part of any notice
6 required by this section.

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

9 (3) Any person required to register under this section who
10 intends to travel outside the United States must provide, by
11 certified mail, with return receipt requested, or in person, signed
12 written notice of the plan to travel outside the country to the
13 county sheriff of the county with whom the person is registered at
14 least twenty-one days prior to travel. The notice shall include the
15 following information: (a) Name; (b) passport number and country; (c)
16 destination; (d) itinerary details including departure and return
17 dates; (e) means of travel; and (f) purpose of travel. If the
18 offender subsequently cancels or postpones travel outside the United
19 States, the offender must notify the county sheriff not later than
20 three days after cancellation or postponement of the intended travel
21 outside the United States or on the departure date provided in the
22 notification, whichever is earlier. The county sheriff shall notify
23 the United States marshals service as soon as practicable after
24 receipt of the notification. In cases of unexpected travel due to
25 family or work emergencies, or for offenders who travel routinely
26 across international borders for work-related purposes, the notice
27 must be submitted in person at least twenty-four hours prior to
28 travel to the sheriff of the county where such offenders are
29 registered with a written explanation of the circumstances that make
30 compliance with this subsection (3) impracticable.

31 (4)(a) Offenders shall register with the county sheriff within
32 the following deadlines:

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

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

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

23 When a person required to register under this section is in the
24 custody of the state department of corrections or a local corrections
25 or probations agency and has been approved for partial confinement as
26 defined in RCW 9.94A.030, the person must register at the time of
27 transfer to partial confinement with the official designated by the
28 agency that has jurisdiction over the offender. The agency shall
29 within three days forward the registration information to the county
30 sheriff for the county in which the offender is in partial
31 confinement. The offender must also register within three business
32 days from the time of the termination of partial confinement or
33 release from confinement with the county sheriff for the county of
34 the person's residence. The agency that has jurisdiction over the
35 offender shall provide notice to the offender of the duty to
36 register.

37 ~~(ii) ((OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL~~
38 ~~JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody~~
39 ~~but are under the jurisdiction of the indeterminate sentence review~~
40 ~~board or under the department of corrections' active supervision, as~~

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

16 (iii)) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders
17 ((who, on or after July 23, 1995, and)) or kidnapping offenders
18 who((, on or after July 27, 1997, as a result of that offense)) are
19 in the custody of the United States bureau of prisons or other
20 federal or military correctional agency ((for sex offenses committed
21 before, on, or after February 28, 1990, or kidnapping offenses
22 committed on, before, or after July 27, 1997,)) must register within
23 three business days from the time of release with the county sheriff
24 for the county of the person's residence, or if the person is not a
25 resident of Washington, the county of the person's school, or place
26 of employment or vocation. ((Sex offenders who, on July 23, 1995, are
27 not in custody but are under the jurisdiction of the United States
28 bureau of prisons, United States courts, United States parole
29 commission, or military parole board for sex offenses committed
30 before, on, or after February 28, 1990, must register within ten days
31 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not
32 in custody but are under the jurisdiction of the United States bureau
33 of prisons, United States courts, United States parole commission, or
34 military parole board for kidnapping offenses committed before, on,
35 or after July 27, 1997, must register within ten days of July 27,
36 1997. A change in supervision status of a sex offender who was
37 required to register under this subsection (3)(a)(iii) as of July 23,
38 1995, or a kidnapping offender required to register as of July 27,
39 1997 shall not relieve the offender of the duty to register or to
40 reregister following a change in residence, or if the person is not a

1 resident of Washington, the county of the person's school, or place
2 of employment or vocation.

3 ~~(iv))~~ (iii) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex
4 offenders who are convicted of a sex offense (~~on or after July 28,~~
5 ~~1991, for a sex offense that was committed on or after February 28,~~
6 ~~1990,~~) and kidnapping offenders who are convicted (~~on or after July~~
7 ~~27, 1997,~~) for a kidnapping offense (~~that was committed on or after~~
8 ~~July 27, 1997,~~) but who are not sentenced to serve a term of
9 confinement immediately upon sentencing(~~(7)~~) shall report to the
10 county sheriff to register within three business days of being
11 sentenced.

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

36 ~~(vi))~~ If the offender is under the jurisdiction of an agency of
37 this state when the offender moves to Washington, the agency shall
38 provide notice to the offender of the duty to register.

39 Sex offenders and kidnapping offenders who are visiting
40 Washington state and intend to reside or be present in the state for

1 ten days or more shall register his or her temporary address or where
2 he or she plans to stay with the county sheriff of each county where
3 the offender will be staying within three business days of arrival.
4 Registration for temporary residents shall include the information
5 required by subsection (2)(a) of this section, except the photograph
6 and fingerprints.

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

27 ~~((vii))~~ (vi) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who
28 lacks 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))~~ (vii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE
34 UNDER SUPERVISION. Offenders who lack a fixed residence and who are
35 under the supervision of the department shall register in the county
36 of their supervision.

37 ~~((ix))~~ (viii) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION,
38 OR ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in
39 Washington, who move to another state, or who work, carry on a
40 vocation, or attend school in another state shall register a new

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

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

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

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

27 ~~(4))~~ (5)(a) If any person required to register pursuant to this
28 section changes his or her residence address within the same county,
29 the person must provide, by certified mail, with return receipt
30 requested or in person, signed written notice of the change of
31 address to the county sheriff within three business days of moving.

32 (b) If any person required to register pursuant to this section
33 moves to a new county, within three business days of moving the
34 person must register with ~~((that))~~ the county sheriff ~~((within three
35 business days of moving. Within three business days, the person must
36 also))~~ of the county into which the person has moved and provide, by
37 certified mail, with return receipt requested or in person, signed
38 written notice of the change of address ~~((in the new county))~~ to the
39 county sheriff with whom the person last registered. The county
40 sheriff with whom the person last registered ~~((shall promptly forward~~

1 ~~the information concerning the change of address to the county~~
2 ~~sheriff for the county of the person's new residence. Upon receipt of~~
3 ~~notice of change of address to a new state, the county sheriff shall~~
4 ~~promptly forward the information regarding the change of address to~~
5 ~~the agency designated by the new state as the state's offender~~
6 ~~registration agency)) is responsible for address verification~~
7 ~~pursuant to RCW 9A.44.135 until the person completes registration of~~
8 ~~his or her new residence address.~~

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

19 (b) A person who lacks a fixed residence must report weekly, in
20 person, to the sheriff of the county where he or she is registered.
21 The weekly report shall be on a day specified by the county sheriff's
22 office, and shall occur during normal business hours. The person must
23 keep an accurate accounting of where he or she stays during the week
24 and provide it to the county sheriff upon request. The lack of a
25 fixed residence is a factor that may be considered in determining an
26 offender's risk level and shall make the offender subject to
27 disclosure of information to the public at large pursuant to RCW
28 4.24.550.

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

38 ((+6)) (7) A sex offender subject to registration requirements
39 under this section who applies to change his or her name under RCW
40 4.24.130 or any other law shall submit a copy of the application to

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

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

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

20 (1) RCW 9A.44.128 through 9A.44.145 apply to offenders who
21 committed their crimes and were adjudicated within the following time
22 frames:

23 (a) Sex offenders convicted of a sex offense on or after July 28,
24 1991, for a sex offense committed on or after February 28, 1990;

25 (b) Kidnapping offenders convicted of a kidnapping offense on or
26 after July 27, 1997, for a kidnapping offense committed on or after
27 July 27, 1997;

28 (c) Sex offenders who, on or after July 28, 1991, were in the
29 custody or under the jurisdiction of the department of corrections,
30 the department of social and health services, a local division of
31 youth services, or a local jail or juvenile detention facility as the
32 result of a sex offense, regardless of when the sex offense was
33 committed;

34 (d) Kidnapping offenders who, on or after July 27, 1997, were in
35 the custody or under the jurisdiction of the department of
36 corrections, the department of social and health services, a local
37 division of youth services, or a local jail or juvenile detention
38 facility as the result of a kidnapping offense, regardless of when
39 the kidnapping offense was committed;

1 (e) Any person who is or has been determined to be a sexually
2 violent predator pursuant to chapter 71.09 RCW;

3 (f) Sex offenders who, on or after July 23, 1995, were in the
4 custody or under the jurisdiction of the United States bureau of
5 prisons, United States courts, United States parole commission, or
6 military parole board as the result of a sex offense, regardless of
7 when the sex offense was committed;

8 (g) Kidnapping offenders who, on or after July 27, 1997, were in
9 the custody or under the jurisdiction of the United States bureau of
10 prisons, United States courts, United States parole commission, or
11 military parole board as the result of a kidnapping offense,
12 regardless of when the kidnapping offense was committed;

13 (h) Sex offenders who move to Washington state from another
14 state, tribe, or a foreign country and who were convicted of a sex
15 offense under the laws of this state, another state, a foreign
16 country, tribe, or other federal or military tribunal, regardless of
17 when the sex offense was committed or the conviction occurred;

18 (i) Kidnapping offenders who move to Washington state from
19 another state, tribe, or a foreign country and who were convicted of
20 a kidnapping offense under the laws of this state, another state, a
21 foreign country, tribe, or other federal or military tribunal,
22 regardless of when the kidnapping offense was committed or the
23 conviction occurred;

24 (j) Any adult or juvenile found not guilty by reason of insanity
25 under chapter 10.77 RCW of committing a sex offense or of committing
26 a kidnapping offense, regardless of when the offense was committed.

27 (2) The provisions of this section do not relieve any sex
28 offender of the duty to register under the law as it existed prior to
29 July 28, 1991.

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

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

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

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

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

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

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

14 (3) A person commits the crime of failure to register as a
15 kidnapping offender if the person has a duty to register under RCW
16 9A.44.130 for a kidnapping offense and knowingly fails to comply with
17 any of the requirements of RCW 9A.44.130.

18 (a) If the person has a duty to register for a felony kidnapping
19 offense, the failure to register as a kidnapping offender is a class
20 C felony.

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

24 (4) A person commits the crime of refusal to provide DNA if the
25 person has a duty to register under RCW 9A.44.130 and the person
26 willfully refuses to comply with a legal request for a DNA sample as
27 required under RCW 43.43.754(1)(b). The refusal to provide DNA is a
28 gross misdemeanor.

29 (5) Unless relieved of the duty to register pursuant to RCW
30 9A.44.141 and 9A.44.142, a violation of this section is an ongoing
31 offense for purposes of the statute of limitations under RCW
32 9A.04.080.

33 **Sec. 6.** RCW 9A.44.140 and 2010 c 267 s 4 are each amended to
34 read as follows:

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

37 (1) For a person convicted in this state of a class A felony (~~or~~
38 ~~an offense listed in RCW 9A.44.142(5))~~), or a person convicted (~~in~~
39 ~~this state~~)) of any sex offense or kidnapping offense who has one or

1 more prior convictions for a sex offense or kidnapping offense, the
2 duty to register shall continue indefinitely.

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

12 (3) For a person convicted in this state of a class C felony, a
13 violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation,
14 or conspiracy to commit a class C felony, and the person does not
15 have one or more prior convictions for a sex offense or kidnapping
16 offense (~~((and the person's current offense is not listed in RCW
17 9A.44.142(5)))~~), the duty to register shall end ten years after the
18 last date of release from confinement, if any, (including full-time
19 residential treatment) pursuant to the conviction, or entry of the
20 judgment and sentence, if the person has spent ten consecutive years
21 in the community without being convicted of a disqualifying offense
22 during that time period.

23 (4) Except as provided in RCW 9A.44.142, for a person required to
24 register for a federal, tribal, or out-of-state conviction, the duty
25 to register shall continue indefinitely.

26 (5) For a person who is or has been determined to be a sexually
27 violent predator pursuant to chapter 71.09 RCW, the duty to register
28 shall continue for the person's lifetime.

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

31 ~~((+6))~~ (7) Nothing in RCW 9.94A.637 relating to discharge of an
32 offender shall be construed as operating to relieve the offender of
33 his or her duty to register pursuant to RCW 9A.44.130.

34 ~~((+7))~~ (8) For purposes of determining whether a person has been
35 convicted of more than one sex offense, failure to register as a sex
36 offender or kidnapping offender is not a sex or kidnapping offense.

37 ~~((+8))~~ (9) The provisions of this section and RCW 9A.44.141
38 through 9A.44.143 apply equally to a person who has been found not
39 guilty by reason of insanity under chapter 10.77 RCW of a sex offense
40 or kidnapping offense.

1 **Sec. 7.** RCW 9A.44.141 and 2011 c 337 s 6 are each amended to
2 read as follows:

3 (1) Upon the request of a person who is listed in the Washington
4 state patrol central registry of sex offenders and kidnapping
5 offenders, the county sheriff shall investigate whether a person's
6 duty to register has ended by operation of law pursuant to RCW
7 9A.44.140.

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

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

15 (2) Nothing in this subsection prevents a county sheriff from
16 investigating, upon his or her own initiative, whether a person's
17 duty to register has ended by operation of law pursuant to RCW
18 9A.44.140.

19 (3)(a) A person who is listed in the central registry as the
20 result of a federal, tribal, or out-of-state conviction may request
21 the county sheriff to investigate whether the person should be
22 removed from the registry if:

23 (i) A court or other administrative authority in the person's
24 state of conviction has made an individualized determination that the
25 person (~~should~~) is not (~~be~~) required to register; and

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

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

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

1 **Sec. 8.** RCW 9A.44.142 and 2011 c 337 s 7 are each amended to
2 read as follows:

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

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

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

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

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

20 (i) Determined to be a sexually violent predator (~~as defined in~~
21 ~~RCW 71.09.020~~) pursuant to chapter 71.09 RCW; or

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

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

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

38 (3) A petition for relief from registration or exemption from
39 notification under this section shall be made to the court in which
40 the petitioner was convicted of the offense that subjects him or her

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

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

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

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

16 (ii) Any subsequent criminal history;

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

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

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

21 (vi) Participation in sex offender treatment;

22 (vii) Participation in other treatment and rehabilitative
23 programs;

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

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

26 (x) Any risk assessments or evaluations prepared by a qualified
27 professional;

28 (xi) Any updated polygraph examination;

29 (xii) Any input of the victim;

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

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

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

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

39 ~~(iii) This provision shall apply to convictions for crimes~~
40 ~~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~~
7 ~~contact 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~~
10 ~~in 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,~~
14 ~~intoxicant, or other similar substance that substantially impairs the~~
15 ~~ability of that person to appraise or control conduct: RCW 9A.44.050~~
16 ~~(rape in the second degree), RCW 9A.44.100 (indecent liberties), RCW~~
17 ~~9A.44.160 (custodial sexual misconduct in the first degree), RCW~~
18 ~~9A.64.020 (incest), or RCW 9.68A.040 (sexual exploitation of a~~
19 ~~minor);~~

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

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

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

1 ~~(G) An offense defined by federal law or the laws of another~~
2 ~~state that is equivalent to the offenses listed in (b)(i)(A) through~~
3 ~~(F) of 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~~
6 ~~limited 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~~
10 ~~9A.44.050(1) (b) through (f) (rape in the second degree) and RCW~~
11 ~~9A.44.100(1) (b) 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~~
14 ~~the 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~~
19 ~~state that is equivalent to the offenses listed in (b)(ii)(A) through~~
20 ~~(D) of this subsection.~~

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

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

36 ~~(B) RCW 9A.40.020 (kidnapping in the first degree), RCW 9A.40.030~~
37 ~~(kidnapping in the second degree), or RCW 9A.40.040 (unlawful~~
38 ~~imprisonment), where the victim is a minor and the offender is not~~
39 ~~the 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~~
6 ~~state that is equivalent to the offenses listed in (b)(iii)(A)~~
7 ~~through (D) of this subsection)) If a person is relieved of the duty~~
8 ~~to register pursuant to this section, the relief of registration does~~
9 ~~not constitute a certificate of rehabilitation, or the equivalent of~~
10 ~~a certificate of rehabilitation, for the purposes of restoration of~~
11 ~~firearm possession under RCW 9.41.040.~~

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

14 (1) An offender having a duty to register under RCW 9A.44.130 for
15 a sex offense or kidnapping offense committed when the offender was a
16 juvenile, and who has not been determined to be a sexually violent
17 predator pursuant to chapter 71.09 RCW may petition the superior
18 court to be relieved of that duty as provided in this section.

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

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

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

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

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

36 (a) At least twenty-four months have passed since the
37 petitioner's adjudication and completion of any term of confinement
38 for the offense giving rise to the duty to register and the
39 petitioner has not been adjudicated or convicted of any additional

1 sex offenses or kidnapping offenses within the twenty-four months
2 before the petition;

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

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

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

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

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

25 (b) Any subsequent criminal history;

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

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

28 (e) Any input from community corrections officers, juvenile
29 parole or probation officers, law enforcement, or treatment
30 providers;

31 (f) Participation in sex offender treatment;

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

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

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

35 (j) Any risk assessments or evaluations prepared by a qualified
36 professional;

37 (k) Any updated polygraph examination;

38 (l) Any input of the victim;

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

1 (6) If a person is relieved of the duty to register pursuant to
2 this section, the relief of registration does not constitute a
3 certificate of rehabilitation, or the equivalent of a certificate of
4 rehabilitation, for the purposes of restoration of firearm possession
5 under RCW 9.41.040.

6 (7) A juvenile prosecuted and convicted of a sex offense or
7 kidnapping offense as an adult pursuant to RCW 13.40.110 or 13.04.030
8 may not petition to the superior court under this section and must
9 follow the provisions of RCW 9A.44.142.

10 (8) An adult prosecuted for an offense committed as a juvenile
11 once the juvenile court has lost jurisdiction due to the passage of
12 time between the date of the offense and the date of filing of
13 charges may petition the superior court under the provisions of this
14 section.

15 **Sec. 10.** RCW 43.43.754 and 2008 c 97 s 2 are each amended to
16 read as follows:

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

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

21 Assault in the fourth degree with sexual motivation (RCW
22 9A.36.041, 9.94A.835)

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

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

25 Failure to register (RCW 9A.44.130 for persons convicted on or
26 before June 10, 2010, and RCW 9A.44.132 for persons convicted after
27 June 10, 2010)

28 Harassment (RCW 9A.46.020)

29 Patronizing a prostitute (RCW 9A.88.110)

30 Sexual misconduct with a minor in the second degree (RCW
31 9A.44.096)

32 Stalking (RCW 9A.46.110)

33 Violation of a sexual assault protection order granted under
34 chapter 7.90 RCW; and

35 (b) Every adult or juvenile individual who is required to
36 register under RCW 9A.44.130.

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

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

3 (a) For persons convicted of any offense listed in subsection
4 (1)(a) of this section or adjudicated guilty of an equivalent
5 juvenile offense who do not serve a term of confinement in a
6 department of corrections facility, and do serve a term of
7 confinement in a city or county jail facility, the city or county
8 shall be responsible for obtaining the biological samples.

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

11 (i) Persons convicted of any offense listed in subsection (1)(a)
12 of this section or adjudicated guilty of an equivalent juvenile
13 offense who do not serve a term of confinement in a department of
14 corrections facility, and do not serve a term of confinement in a
15 city or county jail facility; and

16 (ii) Persons who are required to register under RCW (~~9A.44.030~~)
17 9A.44.130.

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

27 (4) Any biological sample taken pursuant to RCW 43.43.752 through
28 43.43.758 may be retained by the forensic laboratory services bureau,
29 and shall be used solely for the purpose of providing DNA or other
30 tests for identification analysis and prosecution of a criminal
31 offense or for the identification of human remains or missing
32 persons. Nothing in this section prohibits the submission of results
33 derived from the biological samples to the federal bureau of
34 investigation combined DNA index system.

35 (5) The forensic laboratory services bureau of the Washington
36 state patrol is responsible for testing performed on all biological
37 samples that are collected under subsection (1) of this section, to
38 the extent allowed by funding available for this purpose. The
39 director shall give priority to testing on samples collected from
40 those adults or juveniles convicted of a felony or adjudicated guilty

1 of an equivalent juvenile offense that is defined as a sex offense or
2 a violent offense in RCW 9.94A.030. Known duplicate samples may be
3 excluded from testing unless testing is deemed necessary or advisable
4 by the director.

5 (6) This section applies to:

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

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

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

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

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

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

22 (8) The detention, arrest, or conviction of a person based upon a
23 database match or database information is not invalidated if it is
24 determined that the sample was obtained or placed in the database by
25 mistake, or if the conviction or juvenile adjudication that resulted
26 in the collection of the biological sample was subsequently vacated
27 or otherwise altered in any future proceeding including but not
28 limited to posttrial or postfact-finding motions, appeals, or
29 collateral attacks.

30 (9) A person commits the crime of refusal to provide DNA if the
31 person has a duty to register under RCW 9A.44.130 and the person
32 willfully refuses to comply with a legal request for a DNA sample as
33 required under this section. The refusal to provide DNA is a gross
34 misdemeanor.

35 **Sec. 11.** RCW 9.94A.515 and 2013 c 322 s 26, 2013 c 290 s 8, 2013
36 c 267 s 2, and 2013 c 153 s 2 are each reenacted and amended to read
37 as follows:

38 TABLE 2

CRIMES INCLUDED WITHIN
EACH SERIOUSNESS LEVEL

- 1
2
3 XVI Aggravated Murder 1 (RCW
4 10.95.020)
- 5 XV Homicide by abuse (RCW 9A.32.055)
6 Malicious explosion 1 (RCW
7 70.74.280(1))
8 Murder 1 (RCW 9A.32.030)
- 9 XIV Murder 2 (RCW 9A.32.050)
10 Trafficking 1 (RCW 9A.40.100(1))
- 11 XIII Malicious explosion 2 (RCW
12 70.74.280(2))
13 Malicious placement of an explosive 1
14 (RCW 70.74.270(1))
- 15 XII Assault 1 (RCW 9A.36.011)
16 Assault of a Child 1 (RCW 9A.36.120)
17 Malicious placement of an imitation
18 device 1 (RCW 70.74.272(1)(a))
19 Promoting Commercial Sexual Abuse
20 of a Minor (RCW 9.68A.101)
21 Rape 1 (RCW 9A.44.040)
22 Rape of a Child 1 (RCW 9A.44.073)
23 Trafficking 2 (RCW 9A.40.100((2)))
24 (3)
- 25 XI Manslaughter 1 (RCW 9A.32.060)
26 Rape 2 (RCW 9A.44.050)
27 Rape of a Child 2 (RCW 9A.44.076)
28 Vehicular Homicide, by being under
29 the influence of intoxicating liquor
30 or any drug (RCW 46.61.520)
- 31 X Child Molestation 1 (RCW 9A.44.083)
32 Criminal Mistreatment 1 (RCW
33 9A.42.020)

1 Indecent Liberties (with forcible
2 compulsion) (RCW
3 9A.44.100(1)(a))
4 Kidnapping 1 (RCW 9A.40.020)
5 Leading Organized Crime (RCW
6 9A.82.060(1)(a))
7 Malicious explosion 3 (RCW
8 70.74.280(3))
9 Sexually Violent Predator Escape
10 (RCW 9A.76.115)
11 IX Abandonment of Dependent Person 1
12 (RCW 9A.42.060)
13 Assault of a Child 2 (RCW 9A.36.130)
14 Explosive devices prohibited (RCW
15 70.74.180)
16 Hit and Run—Death (RCW
17 46.52.020(4)(a))
18 Homicide by Watercraft, by being
19 under the influence of intoxicating
20 liquor or any drug (RCW
21 79A.60.050)
22 Inciting Criminal Profiteering (RCW
23 9A.82.060(1)(b))
24 Malicious placement of an explosive 2
25 (RCW 70.74.270(2))
26 Robbery 1 (RCW 9A.56.200)
27 Sexual Exploitation (RCW 9.68A.040)
28 VIII Arson 1 (RCW 9A.48.020)
29 Commercial Sexual Abuse of a Minor
30 (RCW 9.68A.100)
31 Homicide by Watercraft, by the
32 operation of any vessel in a
33 reckless manner (RCW
34 79A.60.050)
35 Manslaughter 2 (RCW 9A.32.070)

1 Promoting Prostitution 1 (RCW
2 9A.88.070)
3 Theft of Ammonia (RCW 69.55.010)
4 Vehicular Homicide, by the operation
5 of any vehicle in a reckless
6 manner (RCW 46.61.520)
7 VII Burglary 1 (RCW 9A.52.020)
8 Child Molestation 2 (RCW 9A.44.086)
9 Civil Disorder Training (RCW
10 9A.48.120)
11 Dealing in depictions of minor engaged
12 in sexually explicit conduct 1
13 (RCW 9.68A.050(1))
14 Drive-by Shooting (RCW 9A.36.045)
15 Homicide by Watercraft, by disregard
16 for the safety of others (RCW
17 79A.60.050)
18 Indecent Liberties (without forcible
19 compulsion) (RCW 9A.44.100(1)
20 (b) and (c))
21 Introducing Contraband 1 (RCW
22 9A.76.140)
23 Malicious placement of an explosive 3
24 (RCW 70.74.270(3))
25 Negligently Causing Death By Use of a
26 Signal Preemption Device (RCW
27 46.37.675)
28 Sending, bringing into state depictions
29 of minor engaged in sexually
30 explicit conduct 1 (RCW
31 9.68A.060(1))
32 Unlawful Possession of a Firearm in
33 the first degree (RCW
34 9.41.040(1))
35 Use of a Machine Gun in Commission
36 of a Felony (RCW 9.41.225)

1 Vehicular Homicide, by disregard for
2 the safety of others (RCW
3 46.61.520)

4 VI Bail Jumping with Murder 1 (RCW
5 9A.76.170(3)(a))

6 Bribery (RCW 9A.68.010)

7 Incest 1 (RCW 9A.64.020(1))

8 Intimidating a Judge (RCW 9A.72.160)

9 Intimidating a Juror/Witness (RCW
10 9A.72.110, 9A.72.130)

11 Malicious placement of an imitation
12 device 2 (RCW 70.74.272(1)(b))

13 Possession of Depictions of a Minor
14 Engaged in Sexually Explicit
15 Conduct 1 (RCW 9.68A.070(1))

16 Rape of a Child 3 (RCW 9A.44.079)

17 Theft of a Firearm (RCW 9A.56.300)

18 Unlawful Storage of Ammonia (RCW
19 69.55.020)

20 V Abandonment of Dependent Person 2
21 (RCW 9A.42.070)

22 Advancing money or property for
23 extortionate extension of credit
24 (RCW 9A.82.030)

25 Bail Jumping with class A Felony
26 (RCW 9A.76.170(3)(b))

27 Child Molestation 3 (RCW 9A.44.089)

28 Criminal Mistreatment 2 (RCW
29 9A.42.030)

30 Custodial Sexual Misconduct 1 (RCW
31 9A.44.160)

32 Dealing in Depictions of Minor
33 Engaged in Sexually Explicit
34 Conduct 2 (RCW 9.68A.050(2))

1 Domestic Violence Court Order
2 Violation (RCW 10.99.040,
3 10.99.050, 26.09.300, 26.10.220,
4 26.26.138, 26.50.110, 26.52.070,
5 or 74.34.145)
6 Driving While Under the Influence
7 (RCW 46.61.502(6))
8 Extortion 1 (RCW 9A.56.120)
9 Extortionate Extension of Credit (RCW
10 9A.82.020)
11 Extortionate Means to Collect
12 Extensions of Credit (RCW
13 9A.82.040)
14 Incest 2 (RCW 9A.64.020(2))
15 Kidnapping 2 (RCW 9A.40.030)
16 Perjury 1 (RCW 9A.72.020)
17 Persistent prison misbehavior (RCW
18 9.94.070)
19 Physical Control of a Vehicle While
20 Under the Influence (RCW
21 46.61.504(6))
22 Possession of a Stolen Firearm (RCW
23 9A.56.310)
24 Rape 3 (RCW 9A.44.060)
25 Rendering Criminal Assistance 1
26 (RCW 9A.76.070)
27 Sending, Bringing into State
28 Depictions of Minor Engaged in
29 Sexually Explicit Conduct 2
30 (RCW 9.68A.060(2))
31 Sexual Misconduct with a Minor 1
32 (RCW 9A.44.093)
33 Sexually Violating Human Remains
34 (RCW 9A.44.105)
35 Stalking (RCW 9A.46.110)

1 Taking Motor Vehicle Without
2 Permission 1 (RCW 9A.56.070)
3 IV Arson 2 (RCW 9A.48.030)
4 Assault 2 (RCW 9A.36.021)
5 Assault 3 (of a Peace Officer with a
6 Projectile Stun Gun) (RCW
7 9A.36.031(1)(h))
8 Assault by Watercraft (RCW
9 79A.60.060)
10 Bribing a Witness/Bribe Received by
11 Witness (RCW 9A.72.090,
12 9A.72.100)
13 Cheating 1 (RCW 9.46.1961)
14 Commercial Bribery (RCW
15 9A.68.060)
16 Counterfeiting (RCW 9.16.035(4))
17 Endangerment with a Controlled
18 Substance (RCW 9A.42.100)
19 Escape 1 (RCW 9A.76.110)
20 Hit and Run—Injury (RCW
21 46.52.020(4)(b))
22 Hit and Run with Vessel—Injury
23 Accident (RCW 79A.60.200(3))
24 Identity Theft 1 (RCW 9.35.020(2))
25 Indecent Exposure to Person Under
26 Age Fourteen (subsequent sex
27 offense) (RCW 9A.88.010)
28 Influencing Outcome of Sporting Event
29 (RCW 9A.82.070)
30 Malicious Harassment (RCW
31 9A.36.080)
32 Possession of Depictions of a Minor
33 Engaged in Sexually Explicit
34 Conduct 2 (RCW 9.68A.070(2))

1 Residential Burglary (RCW
2 9A.52.025)
3 Robbery 2 (RCW 9A.56.210)
4 Theft of Livestock 1 (RCW 9A.56.080)
5 Threats to Bomb (RCW 9.61.160)
6 Trafficking in Stolen Property 1 (RCW
7 9A.82.050)
8 Unlawful factoring of a credit card or
9 payment card transaction (RCW
10 9A.56.290(4)(b))
11 Unlawful transaction of health
12 coverage as a health care service
13 contractor (RCW 48.44.016(3))
14 Unlawful transaction of health
15 coverage as a health maintenance
16 organization (RCW 48.46.033(3))
17 Unlawful transaction of insurance
18 business (RCW 48.15.023(3))
19 Unlicensed practice as an insurance
20 professional (RCW 48.17.063(2))
21 Use of Proceeds of Criminal
22 Profiteering (RCW 9A.82.080 (1)
23 and (2))
24 Vehicle Prowling 2 (third or
25 subsequent offense) (RCW
26 9A.52.100(3))
27 Vehicular Assault, by being under the
28 influence of intoxicating liquor or
29 any drug, or by the operation or
30 driving of a vehicle in a reckless
31 manner (RCW 46.61.522)
32 Viewing of Depictions of a Minor
33 Engaged in Sexually Explicit
34 Conduct 1 (RCW 9.68A.075(1))
35 Willful Failure to Return from
36 Furlough (RCW 72.66.060)

1 III Animal Cruelty 1 (Sexual Conduct or
2 Contact) (RCW 16.52.205(3))
3 Assault 3 (Except Assault 3 of a Peace
4 Officer With a Projectile Stun
5 Gun) (RCW 9A.36.031 except
6 subsection (1)(h))
7 Assault of a Child 3 (RCW 9A.36.140)
8 Bail Jumping with class B or C Felony
9 (RCW 9A.76.170(3)(c))
10 Burglary 2 (RCW 9A.52.030)
11 Communication with a Minor for
12 Immoral Purposes (RCW
13 9.68A.090)
14 Criminal Gang Intimidation (RCW
15 9A.46.120)
16 Custodial Assault (RCW 9A.36.100)
17 Cyberstalking (subsequent conviction
18 or threat of death) (RCW
19 9.61.260(3))
20 Escape 2 (RCW 9A.76.120)
21 Extortion 2 (RCW 9A.56.130)
22 Harassment (RCW 9A.46.020)
23 Intimidating a Public Servant (RCW
24 9A.76.180)
25 Introducing Contraband 2 (RCW
26 9A.76.150)
27 Malicious Injury to Railroad Property
28 (RCW 81.60.070)
29 Mortgage Fraud (RCW 19.144.080)
30 Negligently Causing Substantial
31 Bodily Harm By Use of a Signal
32 Preemption Device (RCW
33 46.37.674)
34 Organized Retail Theft 1 (RCW
35 9A.56.350(2))

1 Perjury 2 (RCW 9A.72.030)
2 Possession of Incendiary Device (RCW
3 9.40.120)
4 Possession of Machine Gun or Short-
5 Barreled Shotgun or Rifle (RCW
6 9.41.190)
7 Promoting Prostitution 2 (RCW
8 9A.88.080)
9 Retail Theft with Special
10 Circumstances 1 (RCW
11 9A.56.360(2))
12 Securities Act violation (RCW
13 21.20.400)
14 Tampering with a Witness (RCW
15 9A.72.120)
16 Telephone Harassment (subsequent
17 conviction or threat of death)
18 (RCW 9.61.230(2))
19 Theft of Livestock 2 (RCW 9A.56.083)
20 Theft with the Intent to Resell 1 (RCW
21 9A.56.340(2))
22 Trafficking in Stolen Property 2 (RCW
23 9A.82.055)
24 Unlawful Hunting of Big Game 1
25 (RCW 77.15.410(3)(b))
26 Unlawful Imprisonment (RCW
27 9A.40.040)
28 Unlawful Misbranding of Food Fish or
29 Shellfish 1 (RCW 69.04.938(3))
30 Unlawful possession of firearm in the
31 second degree (RCW 9.41.040(2))
32 Unlawful Taking of Endangered Fish
33 or Wildlife 1 (RCW
34 77.15.120(3)(b))

1 Unlawful Trafficking in Fish, Shellfish,
2 or Wildlife 1 (RCW
3 77.15.260(3)(b))
4 Unlawful Use of a Nondesignated
5 Vessel (RCW 77.15.530(4))
6 Vehicular Assault, by the operation or
7 driving of a vehicle with disregard
8 for the safety of others (RCW
9 46.61.522)
10 Willful Failure to Return from Work
11 Release (RCW 72.65.070)
12 II Commercial Fishing Without a License
13 1 (RCW 77.15.500(3)(b))
14 Computer Trespass 1 (RCW
15 9A.52.110)
16 Counterfeiting (RCW 9.16.035(3))
17 Engaging in Fish Dealing Activity
18 Unlicensed 1 (RCW 77.15.620(3))
19 Escape from Community Custody
20 (RCW 72.09.310)
21 Failure to Register as a Sex Offender
22 (second or subsequent offense)
23 (RCW 9A.44.130 prior to June 10,
24 2010, and RCW 9A.44.132)
25 Health Care False Claims (RCW
26 48.80.030)
27 Identity Theft 2 (RCW 9.35.020(3))
28 Improperly Obtaining Financial
29 Information (RCW 9.35.010)
30 Malicious Mischief 1 (RCW
31 9A.48.070)
32 Organized Retail Theft 2 (RCW
33 9A.56.350(3))
34 Possession of Stolen Property 1 (RCW
35 9A.56.150)

1 Possession of a Stolen Vehicle (RCW
2 9A.56.068)
3 Retail Theft with Special
4 Circumstances 2 (RCW
5 9A.56.360(3))
6 Scrap Processing, Recycling, or
7 Supplying Without a License
8 (second or subsequent offense)
9 (RCW 19.290.100)
10 Theft 1 (RCW 9A.56.030)
11 Theft of a Motor Vehicle (RCW
12 9A.56.065)
13 Theft of Rental, Leased, or Lease-
14 purchased Property (valued at one
15 thousand five hundred dollars or
16 more) (RCW 9A.56.096(5)(a))
17 Theft with the Intent to Resell 2 (RCW
18 9A.56.340(3))
19 Trafficking in Insurance Claims (RCW
20 48.30A.015)
21 Unlawful factoring of a credit card or
22 payment card transaction (RCW
23 9A.56.290(4)(a))
24 Unlawful Participation of Non-Indians
25 in Indian Fishery (RCW
26 77.15.570(2))
27 Unlawful Practice of Law (RCW
28 2.48.180)
29 Unlawful Purchase or Use of a License
30 (RCW 77.15.650(3)(b))
31 Unlawful Trafficking in Fish, Shellfish,
32 or Wildlife 2 (RCW
33 77.15.260(3)(a))
34 Unlicensed Practice of a Profession or
35 Business (RCW 18.130.190(7))
36 Voyeurism (RCW 9A.44.115)

1 I Attempting to Elude a Pursuing Police
2 Vehicle (RCW 46.61.024)
3 False Verification for Welfare (RCW
4 74.08.055)
5 Forgery (RCW 9A.60.020)
6 Fraudulent Creation or Revocation of a
7 Mental Health Advance Directive
8 (RCW 9A.60.060)
9 Malicious Mischief 2 (RCW
10 9A.48.080)
11 Mineral Trespass (RCW 78.44.330)
12 Possession of Stolen Property 2 (RCW
13 9A.56.160)
14 Reckless Burning 1 (RCW 9A.48.040)
15 Spotlighting Big Game 1 (RCW
16 77.15.450(3)(b))
17 Suspension of Department Privileges 1
18 (RCW 77.15.670(3)(b))
19 Taking Motor Vehicle Without
20 Permission 2 (RCW 9A.56.075)
21 Theft 2 (RCW 9A.56.040)
22 Theft of Rental, Leased, or Lease-
23 purchased Property (valued at two
24 hundred fifty dollars or more but
25 less than one thousand five
26 hundred dollars) (RCW
27 9A.56.096(5)(b))
28 Transaction of insurance business
29 beyond the scope of licensure
30 (RCW 48.17.063)
31 Unlawful Fish and Shellfish Catch
32 Accounting (RCW
33 77.15.630(3)(b))
34 Unlawful Issuance of Checks or Drafts
35 (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))~~ Releasing,
13 planting, possessing, or placing
14 Deleterious Exotic Wildlife (RCW
15 77.15.250(2)(b))
16 Unlawful Trafficking in Food Stamps
17 (RCW 9.91.142)
18 Unlawful Use of Food Stamps (RCW
19 9.91.144)
20 Unlawful Use of Net to Take Fish 1
21 (RCW 77.15.580(3)(b))
22 Unlawful Use of Prohibited Aquatic
23 Animal Species (RCW
24 77.15.253(3))
25 Vehicle Prowl 1 (RCW 9A.52.095)
26 Violating Commercial Fishing Area or
27 Time 1 (RCW 77.15.550(3)(b))

28 **Sec. 12.** RCW 9.94A.030 and 2012 c 143 s 1 are each amended to
29 read as follows:

30 Unless the context clearly requires otherwise, the definitions in
31 this section apply throughout this chapter.

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

34 (2) "Collect," or any derivative thereof, "collect and remit," or
35 "collect and deliver," when used with reference to the department,
36 means that the department, either directly or through a collection

1 agreement authorized by RCW 9.94A.760, is responsible for monitoring
2 and enforcing the offender's sentence with regard to the legal
3 financial obligation, receiving payment thereof from the offender,
4 and, consistent with current law, delivering daily the entire payment
5 to the superior court clerk without depositing it in a departmental
6 account.

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

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

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

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

20 (7) "Community restitution" means compulsory service, without
21 compensation, performed for the benefit of the community by the
22 offender.

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

24 (9) "Conviction" means an adjudication of guilt pursuant to Title
25 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
26 and acceptance of a plea of guilty.

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

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

38 (a) The history shall include, where known, for each conviction
39 (i) whether the defendant has been placed on probation and the length

1 and terms thereof; and (ii) whether the defendant has been
2 incarcerated and the length of incarceration.

3 (b) A conviction may be removed from a defendant's criminal
4 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
5 9.95.240, or a similar out-of-state statute, or if the conviction has
6 been vacated pursuant to a governor's pardon.

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

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

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

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

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

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

35 (c) To exact revenge or retribution for the gang or any member of
36 the gang;

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

1 (e) To directly or indirectly cause any benefit, aggrandizement,
2 gain, profit, or other advantage for the gang, its reputation,
3 influence, or membership; or

4 (f) To provide the gang with any advantage in, or any control or
5 dominance over any criminal market sector, including, but not limited
6 to, manufacturing, delivering, or selling any controlled substance
7 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
8 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
9 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
10 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
11 9.68 RCW).

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

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

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

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

30 (19) "Disposable earnings" means that part of the earnings of an
31 offender remaining after the deduction from those earnings of any
32 amount required by law to be withheld. For the purposes of this
33 definition, "earnings" means compensation paid or payable for
34 personal services, whether denominated as wages, salary, commission,
35 bonuses, or otherwise, and, notwithstanding any other provision of
36 law making the payments exempt from garnishment, attachment, or other
37 process to satisfy a court-ordered legal financial obligation,
38 specifically includes periodic payments pursuant to pension or
39 retirement programs, or insurance policies of any type, but does not

1 include payments made under Title 50 RCW, except as provided in RCW
2 50.40.020 and 50.40.050, or Title 74 RCW.

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

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

9 (22) "Drug offense" means:

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

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

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

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

21 (24) "Escape" means:

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

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

31 (25) "Felony traffic offense" means:

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

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

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

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

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

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

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

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

17 (c) A private residence where the individual stays as a transient
18 invitee.

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

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

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

38 (a) Any felony defined under any law as a class A felony or
39 criminal solicitation of or criminal conspiracy to commit a class A
40 felony;

- 1 (b) Assault in the second degree;
- 2 (c) Assault of a child in the second degree;
- 3 (d) Child molestation in the second degree;
- 4 (e) Controlled substance homicide;
- 5 (f) Extortion in the first degree;
- 6 (g) Incest when committed against a child under age fourteen;
- 7 (h) Indecent liberties;
- 8 (i) Kidnapping in the second degree;
- 9 (j) Leading organized crime;
- 10 (k) Manslaughter in the first degree;
- 11 (l) Manslaughter in the second degree;
- 12 (m) Promoting prostitution in the first degree;
- 13 (n) Rape in the third degree;
- 14 (o) Robbery in the second degree;
- 15 (p) Sexual exploitation;
- 16 (q) Vehicular assault, when caused by the operation or driving of
- 17 a vehicle by a person while under the influence of intoxicating
- 18 liquor or any drug or by the operation or driving of a vehicle in a
- 19 reckless manner;
- 20 (r) Vehicular homicide, when proximately caused by the driving of
- 21 any vehicle by any person while under the influence of intoxicating
- 22 liquor or any drug as defined by RCW 46.61.502, or by the operation
- 23 of any vehicle in a reckless manner;
- 24 (s) Any other class B felony offense with a finding of sexual
- 25 motivation;
- 26 (t) Any other felony with a deadly weapon verdict under RCW
- 27 9.94A.825;
- 28 (u) Any felony offense in effect at any time prior to December 2,
- 29 1993, that is comparable to a most serious offense under this
- 30 subsection, or any federal or out-of-state conviction for an offense
- 31 that under the laws of this state would be a felony classified as a
- 32 most serious offense under this subsection;
- 33 (v)(i) A prior conviction for indecent liberties under RCW
- 34 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
- 35 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
- 36 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
- 37 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
- 38 until July 1, 1988;
- 39 (ii) A prior conviction for indecent liberties under RCW
- 40 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,

1 if: (A) The crime was committed against a child under the age of
2 fourteen; or (B) the relationship between the victim and perpetrator
3 is included in the definition of indecent liberties under RCW
4 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
5 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
6 1993, through July 27, 1997;

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

13 (33) "Nonviolent offense" means an offense which is not a violent
14 offense.

15 (34) "Offender" means a person who has committed a felony
16 established by state law and is eighteen years of age or older or is
17 less than eighteen years of age but whose case is under superior
18 court jurisdiction under RCW 13.04.030 or has been transferred by the
19 appropriate juvenile court to a criminal court pursuant to RCW
20 13.40.110. In addition, for the purpose of community custody
21 requirements under this chapter, "offender" also means a misdemeanor
22 or gross misdemeanor probationer ordered by a superior court to
23 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
24 supervised by the department pursuant to RCW 9.94A.501 and
25 9.94A.5011. Throughout this chapter, the terms "offender" and
26 "defendant" are used interchangeably.

27 (35) "Partial confinement" means confinement for no more than one
28 year in a facility or institution operated or utilized under contract
29 by the state or any other unit of government, or, if home detention
30 or work crew has been ordered by the court or home detention has been
31 ordered by the department as part of the parenting program, in an
32 approved residence, for a substantial portion of each day with the
33 balance of the day spent in the community. Partial confinement
34 includes work release, home detention, work crew, and a combination
35 of work crew and home detention.

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

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

1 (i) Any "serious violent" felony offense as defined in this
2 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
3 Child 1 (RCW 9A.36.120);
4 (ii) Any "violent" offense as defined by this section, excluding
5 Assault of a Child 2 (RCW 9A.36.130);
6 (iii) Deliver or Possession with Intent to Deliver a Controlled
7 Substance (chapter 69.50 RCW);
8 (iv) Any violation of the firearms and dangerous weapon act
9 (chapter 9.41 RCW);
10 (v) Theft of a Firearm (RCW 9A.56.300);
11 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);
12 (vii) Malicious Harassment (RCW 9A.36.080);
13 (viii) Harassment where a subsequent violation or deadly threat
14 is made (RCW 9A.46.020(2)(b));
15 (ix) Criminal Gang Intimidation (RCW 9A.46.120);
16 (x) Any felony conviction by a person eighteen years of age or
17 older with a special finding of involving a juvenile in a felony
18 offense under RCW 9.94A.833;
19 (xi) Residential Burglary (RCW 9A.52.025);
20 (xii) Burglary 2 (RCW 9A.52.030);
21 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
22 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
23 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
24 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
25 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
26 9A.56.070);
27 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
28 9A.56.075);
29 (xix) Extortion 1 (RCW 9A.56.120);
30 (xx) Extortion 2 (RCW 9A.56.130);
31 (xxi) Intimidating a Witness (RCW 9A.72.110);
32 (xxii) Tampering with a Witness (RCW 9A.72.120);
33 (xxiii) Reckless Endangerment (RCW 9A.36.050);
34 (xxiv) Coercion (RCW 9A.36.070);
35 (xxv) Harassment (RCW 9A.46.020); or
36 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
37 (b) That at least one of the offenses listed in (a) of this
38 subsection shall have occurred after July 1, 2008;

1 (c) That the most recent committed offense listed in (a) of this
2 subsection occurred within three years of a prior offense listed in
3 (a) of this subsection; and

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

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

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

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

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

29 (ii) Has, before the commission of the offense under (b)(i) of
30 this subsection, been convicted as an offender on at least one
31 occasion, whether in this state or elsewhere, of an offense listed in
32 (b)(i) of this subsection or any federal or out-of-state offense or
33 offense under prior Washington law that is comparable to the offenses
34 listed in (b)(i) of this subsection. A conviction for rape of a child
35 in the first degree constitutes a conviction under (b)(i) of this
36 subsection only when the offender was sixteen years of age or older
37 when the offender committed the offense. A conviction for rape of a
38 child in the second degree constitutes a conviction under (b)(i) of
39 this subsection only when the offender was eighteen years of age or
40 older when the offender committed the offense.

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

25 (39) "Private school" means a school regulated under chapter
26 28A.195 or 28A.205 RCW.

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

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

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

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

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

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

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

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

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

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

13 (44) "Serious traffic offense" means:

14 (a) Nonfelony driving while under the influence of intoxicating
15 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
16 while under the influence of intoxicating liquor or any drug (RCW
17 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
18 attended vehicle (RCW 46.52.020(5)); or

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

22 (45) "Serious violent offense" is a subcategory of violent
23 offense and means:

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

25 (ii) Homicide by abuse;

26 (iii) Murder in the second degree;

27 (iv) Manslaughter in the first degree;

28 (v) Assault in the first degree;

29 (vi) Kidnapping in the first degree;

30 (vii) Rape in the first degree;

31 (viii) Assault of a child in the first degree; or

32 (ix) An attempt, criminal solicitation, or criminal conspiracy to
33 commit one of these felonies; or

34 (b) Any federal or out-of-state conviction for an offense that
35 under the laws of this state would be a felony classified as a
36 serious violent offense under (a) of this subsection.

37 (46) "Sex offense" means:

38 (a)(i) A felony that is a violation of chapter 9A.44 RCW other
39 than RCW 9A.44.132;

40 (ii) A violation of RCW 9A.64.020;

1 (iii) A felony that is a violation of chapter 9.68A RCW other
2 than RCW 9.68A.080;

3 (iv) A felony that is, under chapter 9A.28 RCW, a criminal
4 attempt, criminal solicitation, or criminal conspiracy to commit such
5 crimes; or

6 (v) A felony violation of RCW 9A.44.132(1) (failure to register
7 as a sex offender) if the person has been convicted of violating RCW
8 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
9 prior to June 10, 2010, on at least one prior occasion;

10 (b) Any conviction for a felony offense in effect at any time
11 prior to July 1, 1976, that is comparable to a felony classified as a
12 sex offense in (a) of this subsection;

13 (c) A felony with a finding of sexual motivation under RCW
14 9.94A.835 or 13.40.135; or

15 (d) Any federal or out-of-state conviction for an offense that
16 under the laws of this state would be a felony classified as a sex
17 offense under (a) of this subsection.

18 (47) "Sexual motivation" means that one of the purposes for which
19 the defendant committed the crime was for the purpose of his or her
20 sexual gratification.

21 (48) "Standard sentence range" means the sentencing court's
22 discretionary range in imposing a nonappealable sentence.

23 (49) "Statutory maximum sentence" means the maximum length of
24 time for which an offender may be confined as punishment for a crime
25 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute
26 defining the crime, or other statute defining the maximum penalty for
27 a crime.

28 (50) "Stranger" means that the victim did not know the offender
29 twenty-four hours before the offense.

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

34 (52) "Transition training" means written and verbal instructions
35 and assistance provided by the department to the offender during the
36 two weeks prior to the offender's successful completion of the work
37 ethic camp program. The transition training shall include
38 instructions in the offender's requirements and obligations during
39 the offender's period of community custody.

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

4 (54) "Violent offense" means:

5 (a) Any of the following felonies:

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

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

10 (iii) Manslaughter in the first degree;

11 (iv) Manslaughter in the second degree;

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

13 (vi) Kidnapping in the second degree;

14 (vii) Arson in the second degree;

15 (viii) Assault in the second degree;

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

17 (x) Extortion in the first degree;

18 (xi) Robbery in the second degree;

19 (xii) Drive-by shooting;

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

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

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

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

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

37 (56) "Work ethic camp" means an alternative incarceration program
38 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
39 the cost of corrections by requiring offenders to complete a
40 comprehensive array of real-world job and vocational experiences,

1 character-building work ethics training, life management skills
2 development, substance abuse rehabilitation, counseling, literacy
3 training, and basic adult education.

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

7 **Sec. 13.** RCW 28A.300.147 and 2011 c 338 s 6 are each amended to
8 read as follows:

9 The superintendent of public instruction shall publish on its web
10 site, with a link to the safety center web page((τ)):

11 (1) A revised and updated sample policy for schools to follow
12 regarding students required to register as sex or kidnapping
13 offenders; and

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

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

17 (1) In addition to any other information required to be released
18 under this chapter, the department is authorized, pursuant to RCW
19 4.24.550, to release relevant information that is necessary to
20 protect the public concerning offenders convicted of sex offenses.

21 (2) In order for ((public)) law enforcement agencies to have the
22 information necessary to notify the public as authorized in RCW
23 4.24.550, the secretary shall establish and administer an end-of-
24 sentence review committee for the purposes of assigning risk levels,
25 reviewing available release plans, and making appropriate referrals
26 for sex offenders.

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

29 (a) Offenders preparing for release from confinement for a sex
30 offense or sexually violent offense committed on or after July 1,
31 1984;

32 (b) Sex offenders accepted from another state under a reciprocal
33 agreement under the interstate corrections compact authorized in
34 chapter 72.74 RCW;

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

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

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

6 (4) Notwithstanding any other provision of law, the committee
7 shall have access to all relevant records and information in the
8 possession of public agencies relating to the offenders under review,
9 including police reports; prosecutors' statements of probable cause;
10 presentence investigations and reports; complete judgments and
11 sentences; current classification referrals; criminal history
12 summaries; violation and disciplinary reports; all psychological
13 evaluations and psychiatric hospital reports; sex offender treatment
14 program reports; and juvenile records. Records and information
15 obtained under this subsection shall not be disclosed outside the
16 committee unless otherwise authorized by law.

17 (5) The committee shall review each sex offender under its
18 authority before the offender's release from confinement or start of
19 the offender's term of community custody in order to: (a) Classify
20 the offender into a risk level for the purposes of public
21 notification under RCW 4.24.550; (b) where available, review the
22 offender's proposed release plan in accordance with the requirements
23 of RCW 72.09.340; and (c) make appropriate referrals.

24 (6) The committee shall classify as risk level I those sex
25 offenders whose risk assessments indicate ((a)) they are at a low
26 risk ((of reoffense)) to sexually reoffend within the community at
27 large. The committee shall classify as risk level II those offenders
28 whose risk assessments indicate ((a)) they are at a moderate risk
29 ((of reoffense)) to sexually reoffend within the community at large.
30 The committee shall classify as risk level III those offenders whose
31 risk assessments indicate ((a)) they are at a high risk ((of
32 reoffense)) to sexually reoffend within the community at large.

33 (7) The committee shall issue to appropriate law enforcement
34 agencies, for their use in making public notifications under RCW
35 4.24.550, narrative notices regarding the pending release of sex
36 offenders from the department's facilities. The narrative notices
37 shall, at a minimum, describe the identity and criminal history
38 behavior of the offender and shall include the department's risk
39 level classification for the offender. For sex offenders classified

1 as either risk level II or III, the narrative notices shall also
2 include the reasons underlying the classification.

3 NEW SECTION. **Sec. 15.** The attorney general shall evaluate the
4 availability of data to determine the comparability of sex and
5 kidnapping offenses among the states, federal government, and other
6 jurisdictions as needed to facilitate the implementation of RCW
7 9A.44.128. The attorney general shall recommend whether the creation
8 of such a database is advisable. The attorney general shall report
9 his or her findings to the appropriate policy committees of the
10 legislature by December 1, 2015.

11 NEW SECTION. **Sec. 16.** (1) The sex offender policy board must
12 review and make findings and recommendations regarding the following:

13 (a) Disclosure to the public of information compiled and
14 submitted for the purposes of sex offender and kidnapping offender
15 registries that is currently held by public agencies, including the
16 relationship between chapter 42.56 RCW and RCW 4.24.550;

17 (b) Any other best practices adopted by or under consideration in
18 other states regarding public disclosure of information compiled and
19 submitted for the purposes of sex offender and kidnapping offender
20 registries;

21 (c) Ability of registered sex offenders and kidnapping offenders
22 to petition for review of their assigned risk level classification
23 and whether such a review process should be conducted according to a
24 uniform statewide standard; and

25 (d) The guidelines established under RCW 4.24.5501 addressing sex
26 offender community notification, including whether and how public
27 access to the guidelines can be improved.

28 (2) The sex offender policy board must report its findings and
29 recommendations pursuant to this section to the governor and to the
30 appropriate committees of the legislature on or before December 1,
31 2015.

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