
SENATE BILL 5730

State of Washington 65th Legislature 2017 Regular Session

By Senator Frockt; by request of Washington State Patrol

Read first time 02/06/17. Referred to Committee on Law & Justice.

1 AN ACT Relating to standardizing the collection and distribution
2 of criminal records; and amending RCW 9.41.070, 9.41.173, 9A.44.130,
3 and 43.43.735.

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

5 **Sec. 1.** RCW 9.41.070 and 2011 c 294 s 1 are each amended to read
6 as follows:

7 (1) The chief of police of a municipality or the sheriff of a
8 county shall within thirty days after the filing of an application of
9 any person, issue a license to such person to carry a pistol
10 concealed on his or her person within this state for five years from
11 date of issue, for the purposes of protection or while engaged in
12 business, sport, or while traveling. However, if the applicant does
13 not have a valid permanent Washington driver's license or Washington
14 state identification card or has not been a resident of the state for
15 the previous consecutive ninety days, the issuing authority shall
16 have up to sixty days after the filing of the application to issue a
17 license. The issuing authority shall not refuse to accept completed
18 applications for concealed pistol licenses during regular business
19 hours.

20 The applicant's constitutional right to bear arms shall not be
21 denied, unless:

1 (a) He or she is ineligible to possess a firearm under the
2 provisions of RCW 9.41.040 or 9.41.045, or is prohibited from
3 possessing a firearm under federal law;

4 (b) The applicant's concealed pistol license is in a revoked
5 status;

6 (c) He or she is under twenty-one years of age;

7 (d) He or she is subject to a court order or injunction regarding
8 firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
9 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060,
10 26.50.070, or 26.26.590;

11 (e) He or she is free on bond or personal recognizance pending
12 trial, appeal, or sentencing for a felony offense;

13 (f) He or she has an outstanding warrant for his or her arrest
14 from any court of competent jurisdiction for a felony or misdemeanor;
15 or

16 (g) He or she has been ordered to forfeit a firearm under RCW
17 9.41.098(1)(e) within one year before filing an application to carry
18 a pistol concealed on his or her person.

19 No person convicted of a felony may have his or her right to
20 possess firearms restored or his or her privilege to carry a
21 concealed pistol restored, unless the person has been granted relief
22 from disabilities by the attorney general under 18 U.S.C. Sec.
23 925(c), or RCW 9.41.040 (3) or (4) applies.

24 (2)(a) The issuing authority shall conduct a check through the
25 national instant criminal background check system, the Washington
26 state patrol electronic database, the department of social and health
27 services electronic database, and with other agencies or resources as
28 appropriate, to determine whether the applicant is ineligible under
29 RCW 9.41.040 or 9.41.045 to possess a firearm, or is prohibited from
30 possessing a firearm under federal law, and therefore ineligible for
31 a concealed pistol license.

32 (b) The issuing authority shall deny a permit to anyone who is
33 found to be prohibited from possessing a firearm under federal or
34 state law.

35 (c) This subsection applies whether the applicant is applying for
36 a new concealed pistol license or to renew a concealed pistol
37 license.

38 (3) Any person whose firearms rights have been restricted and who
39 has been granted relief from disabilities by the attorney general
40 under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec.

1 921(a)(20)(A) shall have his or her right to acquire, receive,
2 transfer, ship, transport, carry, and possess firearms in accordance
3 with Washington state law restored except as otherwise prohibited by
4 this chapter.

5 (4) The license application shall bear the full name, residential
6 address, telephone number at the option of the applicant, date and
7 place of birth, race, gender, description, a complete set of
8 fingerprints, and signature of the licensee, and the licensee's
9 driver's license number or state identification card number if used
10 for identification in applying for the license. A signed application
11 for a concealed pistol license shall constitute a waiver of
12 confidentiality and written request that the department of social and
13 health services, mental health institutions, and other health care
14 facilities release information relevant to the applicant's
15 eligibility for a concealed pistol license to an inquiring court or
16 law enforcement agency.

17 The application for an original license shall include ~~((two))~~ a
18 complete set ~~((s))~~ of fingerprints to be forwarded to the Washington
19 state patrol.

20 The license and application shall contain a warning substantially
21 as follows:

22 CAUTION: Although state and local laws do not differ, federal
23 law and state law on the possession of firearms differ. If
24 you are prohibited by federal law from possessing a firearm,
25 you may be prosecuted in federal court. A state license is
26 not a defense to a federal prosecution.

27 The license shall contain a description of the major differences
28 between state and federal law and an explanation of the fact that
29 local laws and ordinances on firearms are preempted by state law and
30 must be consistent with state law.

31 The application shall contain questions about the applicant's
32 eligibility under RCW 9.41.040 and federal law to possess a pistol,
33 the applicant's place of birth, and whether the applicant is a United
34 States citizen. If the applicant is not a United States citizen, the
35 applicant must provide the applicant's country of citizenship, United
36 States issued alien number or admission number, and the basis on
37 which the applicant claims to be exempt from federal prohibitions on
38 firearm possession by aliens. The applicant shall not be required to
39 produce a birth certificate or other evidence of citizenship. A

1 person who is not a citizen of the United States shall, if
2 applicable, meet the additional requirements of RCW 9.41.173 and
3 produce proof of compliance with RCW 9.41.173 upon application. The
4 license may be in triplicate or in a form to be prescribed by the
5 department of licensing.

6 The original thereof shall be delivered to the licensee, the
7 duplicate shall within seven days be sent to the director of
8 licensing and the triplicate shall be preserved for six years, by the
9 authority issuing the license.

10 The department of licensing shall make available to law
11 enforcement and corrections agencies, in an on-line format, all
12 information received under this subsection.

13 (5) The nonrefundable fee, paid upon application, for the
14 original five-year license shall be thirty-six dollars plus
15 additional charges imposed by the federal bureau of investigation
16 that are passed on to the applicant. No other state or local branch
17 or unit of government may impose any additional charges on the
18 applicant for the issuance of the license.

19 The fee shall be distributed as follows:

20 (a) Fifteen dollars shall be paid to the state general fund;

21 (b) Four dollars shall be paid to the agency taking the
22 fingerprints of the person licensed;

23 (c) Fourteen dollars shall be paid to the issuing authority for
24 the purpose of enforcing this chapter; and

25 (d) Three dollars to the firearms range account in the general
26 fund.

27 (6) The nonrefundable fee for the renewal of such license shall
28 be thirty-two dollars. No other branch or unit of government may
29 impose any additional charges on the applicant for the renewal of the
30 license.

31 The renewal fee shall be distributed as follows:

32 (a) Fifteen dollars shall be paid to the state general fund;

33 (b) Fourteen dollars shall be paid to the issuing authority for
34 the purpose of enforcing this chapter; and

35 (c) Three dollars to the firearms range account in the general
36 fund.

37 (7) The nonrefundable fee for replacement of lost or damaged
38 licenses is ten dollars to be paid to the issuing authority.

1 (8) Payment shall be by cash, check, or money order at the option
2 of the applicant. Additional methods of payment may be allowed at the
3 option of the issuing authority.

4 (9) A licensee may renew a license if the licensee applies for
5 renewal within ninety days before or after the expiration date of the
6 license. A license so renewed shall take effect on the expiration
7 date of the prior license. A licensee renewing after the expiration
8 date of the license must pay a late renewal penalty of ten dollars in
9 addition to the renewal fee specified in subsection (6) of this
10 section. The fee shall be distributed as follows:

11 (a) Three dollars shall be deposited in the state wildlife
12 account and used exclusively first for the printing and distribution
13 of a pamphlet on the legal limits of the use of firearms, firearms
14 safety, and the preemptive nature of state law, and subsequently the
15 support of volunteer instructors in the basic firearms safety
16 training program conducted by the department of fish and wildlife.
17 The pamphlet shall be given to each applicant for a license; and

18 (b) Seven dollars shall be paid to the issuing authority for the
19 purpose of enforcing this chapter.

20 (10) Notwithstanding the requirements of subsections (1) through
21 (9) of this section, the chief of police of the municipality or the
22 sheriff of the county of the applicant's residence may issue a
23 temporary emergency license for good cause pending review under
24 subsection (1) of this section. However, a temporary emergency
25 license issued under this subsection shall not exempt the holder of
26 the license from any records check requirement. Temporary emergency
27 licenses shall be easily distinguishable from regular licenses.

28 (11) A political subdivision of the state shall not modify the
29 requirements of this section or chapter, nor may a political
30 subdivision ask the applicant to voluntarily submit any information
31 not required by this section.

32 (12) A person who knowingly makes a false statement regarding
33 citizenship or identity on an application for a concealed pistol
34 license is guilty of false swearing under RCW 9A.72.040. In addition
35 to any other penalty provided for by law, the concealed pistol
36 license of a person who knowingly makes a false statement shall be
37 revoked, and the person shall be permanently ineligible for a
38 concealed pistol license.

39 (13) A person may apply for a concealed pistol license:

1 (a) To the municipality or to the county in which the applicant
2 resides if the applicant resides in a municipality;

3 (b) To the county in which the applicant resides if the applicant
4 resides in an unincorporated area; or

5 (c) Anywhere in the state if the applicant is a nonresident.

6 (14) Any person who, as a member of the armed forces, including
7 the national guard and armed forces reserves, is unable to renew his
8 or her license under subsections (6) and (9) of this section because
9 of the person's assignment, reassignment, or deployment for out-of-
10 state military service may renew his or her license within ninety
11 days after the person returns to this state from out-of-state
12 military service, if the person provides the following to the issuing
13 authority no later than ninety days after the person's date of
14 discharge or assignment, reassignment, or deployment back to this
15 state: (a) A copy of the person's original order designating the
16 specific period of assignment, reassignment, or deployment for out-
17 of-state military service, and (b) if appropriate, a copy of the
18 person's discharge or amended or subsequent assignment, reassignment,
19 or deployment order back to this state. A license so renewed under
20 this subsection (14) shall take effect on the expiration date of the
21 prior license. A licensee renewing after the expiration date of the
22 license under this subsection (14) shall pay only the renewal fee
23 specified in subsection (6) of this section and shall not be required
24 to pay a late renewal penalty in addition to the renewal fee.

25 **Sec. 2.** RCW 9.41.173 and 2009 c 216 s 3 are each amended to read
26 as follows:

27 (1) In order to obtain an alien firearm license, a nonimmigrant
28 alien residing in Washington must apply to the sheriff of the county
29 in which he or she resides.

30 (2) The sheriff of the county shall within sixty days after the
31 filing of an application of a nonimmigrant alien residing in the
32 state of Washington, issue an alien firearm license to such person to
33 carry or possess a firearm for the purposes of hunting and sport
34 shooting. The license shall be good for two years. The issuing
35 authority shall not refuse to accept completed applications for alien
36 firearm licenses during regular business hours. An application for a
37 license may not be denied, unless the applicant's alien firearm
38 license is in a revoked status, or the applicant:

1 (a) Is ineligible to possess a firearm under the provisions of
2 RCW 9.41.040 or 9.41.045;

3 (b) Is subject to a court order or injunction regarding firearms
4 pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
5 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060,
6 26.50.070, or 26.26.590;

7 (c) Is free on bond or personal recognizance pending trial,
8 appeal, or sentencing for a felony offense; or

9 (d) Has an outstanding warrant for his or her arrest from any
10 court of competent jurisdiction for a felony or misdemeanor.

11 No license application shall be granted to a nonimmigrant alien
12 convicted of a felony unless the person has been granted relief from
13 disabilities by the attorney general under 18 U.S.C. Sec. 925(c), or
14 unless RCW 9.41.040 (3) or (4) applies.

15 (3) The sheriff shall check with the national crime information
16 center, the Washington state patrol electronic database, the
17 department of social and health services electronic database, and
18 with other agencies or resources as appropriate, to determine whether
19 the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess
20 a firearm.

21 (4) The license application shall bear the full name, residential
22 address, telephone number at the option of the applicant, date and
23 place of birth, race, gender, description, (~~not more than two~~) a
24 complete set(~~s~~) of fingerprints, and signature of the applicant, a
25 copy of the applicant's passport and visa showing the applicant is in
26 the country legally, and a valid Washington hunting license or
27 documentation that the applicant is a member of a sport shooting
28 club.

29 A signed application for an alien firearm license shall
30 constitute a waiver of confidentiality and written request that the
31 department of social and health services, mental health institutions,
32 and other health care facilities release information relevant to the
33 applicant's eligibility for an alien firearm license to an inquiring
34 court or law enforcement agency.

35 The application for an original license shall include a complete
36 set of fingerprints to be forwarded to the Washington state patrol.

37 The license and application shall contain a warning substantially
38 as follows:

1 CAUTION: Although state and local laws do not differ, federal
2 law and state law on the possession of firearms differ. If
3 you are prohibited by federal law from possessing a firearm,
4 you may be prosecuted in federal court. A state license is
5 not a defense to a federal prosecution.

6 The license shall contain a description of the major differences
7 between state and federal law and an explanation of the fact that
8 local laws and ordinances on firearms are preempted by state law and
9 must be consistent with state law. The application shall contain
10 questions about the applicant's eligibility under RCW 9.41.040 to
11 possess a firearm. The nonimmigrant alien applicant shall be required
12 to produce a passport and visa as evidence of being in the country
13 legally.

14 The license may be in triplicate or in a form to be prescribed by
15 the department of licensing. The original thereof shall be delivered
16 to the licensee, the duplicate shall within seven days be sent to the
17 director of licensing and the triplicate shall be preserved for six
18 years, by the authority issuing the license.

19 The department of licensing shall make available to law
20 enforcement and corrections agencies, in an online format, all
21 information received under this section.

22 (5) The sheriff has the authority to collect a nonrefundable fee,
23 paid upon application, for the two-year license. The fee shall be
24 fifty dollars plus additional charges imposed by the Washington state
25 patrol and the federal bureau of investigation that are passed on to
26 the applicant. No other state or local branch or unit of government
27 may impose any additional charges on the applicant for the issuance
28 of the license. The fee shall be retained by the sheriff.

29 (6) Payment shall be by cash, check, or money order at the option
30 of the applicant. Additional methods of payment may be allowed at the
31 option of the sheriff.

32 (7) A political subdivision of the state shall not modify the
33 requirements of this section, nor may a political subdivision ask the
34 applicant to voluntarily submit any information not required by this
35 section.

36 (8) A person who knowingly makes a false statement regarding
37 citizenship or identity on an application for an alien firearm
38 license is guilty of false swearing under RCW 9A.72.040. In addition
39 to any other penalty provided for by law, the alien firearm license

1 of a person who knowingly makes a false statement shall be revoked,
2 and the person shall be permanently ineligible for an alien firearm
3 license.

4 **Sec. 3.** RCW 9A.44.130 and 2015 c 261 s 3 are each amended to
5 read as follows:

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

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

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

28 (ii) Prior to starting work at an institution of higher
29 education; or

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

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

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

5 (c) A photograph or copy of an individual's fingerprints, which
6 may include palmprints may be taken at any time to update an
7 individual's file.

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

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

32 (i) OFFENDERS IN CUSTODY. Sex offenders or kidnapping offenders
33 who are in custody of the state department of corrections, the state
34 department of social and health services, a local division of youth
35 services, or a local jail or juvenile detention facility, must
36 register at the time of release from custody with an official
37 designated by the agency that has jurisdiction over the offender. The
38 agency shall within three days forward the registration information
39 to the county sheriff for the county of the offender's anticipated
40 residence. The offender must also register within three business days

1 from the time of release with the county sheriff for the county of
2 the person's residence, or if the person is not a resident of
3 Washington, the county of the person's school, or place of employment
4 or vocation. The agency that has jurisdiction over the offender shall
5 provide notice to the offender of the duty to register.

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

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

30 (ii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders or
31 kidnapping offenders who are in the custody of the United States
32 bureau of prisons or other federal or military correctional agency
33 must register within three business days from the time of release
34 with the county sheriff for the county of the person's residence, or
35 if the person is not a resident of Washington, the county of the
36 person's school, or place of employment or vocation.

37 (iii) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
38 who are convicted of a sex offense and kidnapping offenders who are
39 convicted for a kidnapping offense but who are not sentenced to serve
40 a term of confinement immediately upon sentencing shall report to the

1 county sheriff to register within three business days of being
2 sentenced.

3 (iv) OFFENDERS WHO ARE NEW RESIDENTS, TEMPORARY RESIDENTS, OR
4 RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping
5 offenders who move to Washington state from another state or a
6 foreign country must register within three business days of
7 establishing residence or reestablishing residence if the person is a
8 former Washington resident. If the offender is under the jurisdiction
9 of an agency of this state when the offender moves to Washington, the
10 agency shall provide notice to the offender of the duty to register.

11 Sex offenders and kidnapping offenders who are visiting
12 Washington state and intend to reside or be present in the state for
13 ten days or more shall register his or her temporary address or where
14 he or she plans to stay with the county sheriff of each county where
15 the offender will be staying within three business days of arrival.
16 Registration for temporary residents shall include the information
17 required by subsection (2)(a) of this section, except the photograph
18 and fingerprints.

19 (v) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
20 or juvenile who has been found not guilty by reason of insanity under
21 chapter 10.77 RCW of committing a sex offense or a kidnapping offense
22 and who is in custody, as a result of that finding, of the state
23 department of social and health services, must register within three
24 business days from the time of release with the county sheriff for
25 the county of the person's residence. The state department of social
26 and health services shall provide notice to the adult or juvenile in
27 its custody of the duty to register.

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

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

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

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

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

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

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

30 (b) If any person required to register pursuant to this section
31 moves to a new county, within three business days of moving the
32 person must register with the county sheriff of the county into which
33 the person has moved and provide, by certified mail, with return
34 receipt requested or in person, signed written notice of the change
35 of address to the county sheriff with whom the person last
36 registered. The county sheriff with whom the person last registered
37 is responsible for address verification pursuant to RCW 9A.44.135
38 until the person completes registration of his or her new residence
39 address.

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

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

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

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

1 register under this section who receives an order changing his or her
2 name shall submit a copy of the order to the county sheriff of the
3 county of the person's residence and to the state patrol within three
4 business days of the entry of the order.

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

9 **Sec. 4.** RCW 43.43.735 and 2009 c 549 s 5130 are each amended to
10 read as follows:

11 (1) It shall be the duty of the sheriff or director of public
12 safety of every county, and the chief of police of every city or
13 town, and of every chief officer of other law enforcement agencies
14 duly operating within this state, to cause the photographing and
15 fingerprinting of all adults and juveniles lawfully arrested for the
16 commission of any criminal offense constituting a felony or gross
17 misdemeanor. (a) When such juveniles are brought directly to a
18 juvenile detention facility, the juvenile court administrator is also
19 authorized, but not required, to cause the photographing,
20 fingerprinting, and record transmittal to the appropriate law
21 enforcement agency; and (b) a further exception may be made when the
22 arrest is for a violation punishable as a gross misdemeanor and the
23 arrested person is not taken into custody.

24 (2) It shall be the right, but not the duty, of the sheriff or
25 director of public safety of every county, and the chief of police of
26 every city or town, and every chief officer of other law enforcement
27 agencies operating within this state to photograph and record the
28 fingerprints and palmprints of all adults lawfully arrested.

29 (3) Such sheriffs, directors of public safety, chiefs of police,
30 and other chief law enforcement officers, may record, in addition to
31 photographs ~~((and))~~, fingerprints, ~~((the))~~ and palmprints, the
32 soleprints, toeprints, or any other identification data of all
33 persons whose photograph ~~((and))~~, fingerprints, and palmprints are
34 required or allowed to be taken under this section when in the
35 discretion of such law enforcement officers it is necessary for
36 proper identification of the arrested person or the investigation of
37 the crime with which he or she is charged.

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