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**SUBSTITUTE SENATE BILL 5123**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senate Human Services, Reentry & Rehabilitation (originally sponsored by Senators Darneille, Das, Nguyen, Saldaña, and Wilson, C.)

READ FIRST TIME 02/08/21.

1 AN ACT Relating to creating a developmentally appropriate  
2 response to youth who commit sexual offenses; amending RCW 9A.44.130  
3 and 9A.44.143; creating new sections; and providing an effective  
4 date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that successful  
7 rehabilitation of youth adjudicated of sex offenses is the best path  
8 to reducing recidivism. The legislature recognizes the great and  
9 long-lasting harm caused to victims by problem sexual behaviors  
10 committed by youth and affirms the need to ensure that such behaviors  
11 are not repeated. The legislature finds that the consequences for  
12 youth adjudicated of sex offenses can last into adulthood and  
13 throughout their entire lives. The legislature finds that requiring  
14 youth to register as sex offenders is associated with mental health  
15 struggles, including depression, anxiety, and suicidal ideation, as  
16 well as the increased likelihood of becoming a target of sexual abuse  
17 by adults. The legislature finds that researchers from the Johns  
18 Hopkins University and other academic institutions found that  
19 registration and notification policies for minors failed to improve  
20 community safety and that evidence-based prevention and intervention  
21 policies would provide increased community safety.

1 The legislature finds that while adults can petition for relief  
2 of registration for offenses committed as minors, the legal process  
3 is overly cumbersome, expensive, and challenging to the point that  
4 many never request removal and remain on the registry their entire  
5 lives. The legislature finds that Black, Hispanic, and American  
6 Indian individuals are overly represented in the population of  
7 registered juvenile sex offenders in Washington state. The  
8 legislature declares that the response to sex offenses committed by  
9 youth should be developmentally appropriate and driven by research.  
10 The legislature therefore intends to increase community safety by  
11 reforming juvenile sex offender registration policy and related areas  
12 to redirect the focus toward practices that increase prevention and  
13 promote successful intervention strategies.

14 **Sec. 2.** RCW 9A.44.130 and 2017 c 174 s 3 are each amended to  
15 read as follows:

16 (1) (a) For the purposes of this section, "adult" means a person  
17 who is 18 years of age or older on the offense date or who is  
18 convicted of an offense in adult court pursuant to RCW  
19 13.04.030(1) (e) (v).

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

37 (ii) Any juvenile whether or not the person has a fixed  
38 residence, or who is a student, is employed, or carries on a vocation  
39 in this state who:

1 (A) Committed a class A or class B sex offense when the person  
2 was age 16 or 17;

3 (B) Committed a sex offense and, on the offense date, had a prior  
4 conviction for a sex offense or had a deferred disposition for a sex  
5 offense as defined by RCW 9A.44.128;

6 (C) Is convicted of an offense in adult court pursuant to RCW  
7 13.04.030(1)(e)(v);

8 (D) Has an out-of-state, tribal, or federal conviction; or

9 (E) Committed a kidnapping offense;

10 shall register with the county sheriff for the county of the person's  
11 residence, or if the person is not a resident of Washington, the  
12 county of the person's school, or place of employment or vocation, or  
13 as otherwise specified in this section. When a person required to  
14 register under this section is in custody of the department of  
15 corrections, the department of social and health services, a local  
16 division of youth services, or a local jail or juvenile detention  
17 facility as a result of a sex offense or kidnapping offense, the  
18 person shall also register at the time of release from custody with  
19 an official designated by the agency that has jurisdiction over the  
20 person.

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

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

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

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

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

38 (b) A person may be required to update any of the information  
39 required in this subsection in conjunction with any address

1 verification conducted by the county sheriff or as part of any notice  
2 required by this section.

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

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

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

30 (i) OFFENDERS IN CUSTODY. Sex offenders or kidnapping offenders  
31 who are in custody of the state department of corrections, the state  
32 department of social and health services, a local division of youth  
33 services, or a local jail or juvenile detention facility, must  
34 register at the time of release from custody with an official  
35 designated by the agency that has jurisdiction over the offender. The  
36 agency shall within three days forward the registration information  
37 to the county sheriff for the county of the offender's anticipated  
38 residence. The offender must also register within three business days  
39 from the time of release with the county sheriff for the county of  
40 the person's residence, or if the person is not a resident of

1 Washington, the county of the person's school, or place of employment  
2 or vocation. The agency that has jurisdiction over the offender shall  
3 provide notice to the offender of the duty to register.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (6)(a) Any person required to register under this section who  
39 lacks a fixed residence shall provide signed written notice to the  
40 sheriff of the county where he or she last registered within three

1 business days after ceasing to have a fixed residence. The notice  
2 shall include the information required by subsection (2)(a) of this  
3 section, except the photograph, fingerprints, and palmprints. The  
4 county sheriff may, for reasonable cause, require the offender to  
5 provide a photograph and fingerprints. The sheriff shall forward this  
6 information to the sheriff of the county in which the person intends  
7 to reside, if the person intends to reside in another county.

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

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

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



1 county of the person's residence and to the state patrol within three  
2 business days of the entry of the order.

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

7 **Sec. 3.** RCW 9A.44.143 and 2017 c 86 s 2 are each amended to read  
8 as follows:

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

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

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

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

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

28 ~~(3)) For all ((~~other~~)) sex offenses or kidnapping offenses  
29 committed by a juvenile ((~~not included in subsection (2) of this  
30 section~~)) as described in RCW 9A.44.130(1)(b)(ii), the court may  
31 relieve the petitioner of the duty to register if:~~

32 (a) At least ~~((~~twenty-four~~))~~ 24 months have passed since the  
33 petitioner's adjudication and completion of any term of confinement  
34 for the offense giving rise to the duty to register and the  
35 petitioner has not been adjudicated or convicted of any additional  
36 sex offenses or kidnapping offenses within the ~~((~~twenty-four~~))~~ 24  
37 months before the petition;

1 (b) The petitioner has not been adjudicated or convicted of a  
2 violation of RCW 9A.44.132 (failure to register) during the (~~twenty-~~  
3 ~~four~~) 24 months prior to filing the petition; and

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

7 (~~(4)~~) (3) A petition for relief from registration under this  
8 section shall be made to the court in which the petitioner was  
9 convicted of the offense that subjects him or her to the duty to  
10 register or, in the case of convictions in other states, a foreign  
11 country, or a federal or military court, to the court in the county  
12 in which the juvenile is registered at the time a petition is sought.  
13 The prosecuting attorney of the county shall be named and served as  
14 the respondent in any such petition. The prosecuting attorney must  
15 make reasonable efforts to notify the victim via the victim's choice  
16 of telephone, letter, or email, if known.

17 (~~(5)~~) (4) 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))~~ (5) If a person is relieved of the duty to register  
2 pursuant to this section, the relief of registration does not  
3 constitute a certificate of rehabilitation, or the equivalent of a  
4 certificate of rehabilitation, for the purposes of restoration of  
5 firearm possession under RCW 9.41.040.

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

10       ~~((8))~~ (7) An adult prosecuted for an offense committed as a  
11 juvenile once the juvenile court has lost jurisdiction due to the  
12 passage of time between the date of the offense and the date of  
13 filing of charges may petition the superior court under the  
14 provisions of this section.

15       NEW SECTION.   **Sec. 4.** (1) The legal obligation to register as a  
16 sex offender is extinguished when the sex offense was committed while  
17 under the age of 18 unless the duty to register was imposed:

18       (a) After an adjudication of a class A or class B sex offense  
19 committed when the person was age 16 or 17;

20       (b) After committing a sex offense and, on the offense date, had  
21 a prior conviction for a sex offense or had a deferred disposition  
22 for a sex offense as defined by RCW 9A.44.128;

23       (c) After a conviction of a sex offense in adult court pursuant  
24 to RCW 13.04.030(1)(e)(v);

25       (d) After an out-of-state, tribal, or federal conviction;

26       (e) After committing a kidnapping offense; or

27       (f) Pursuant to the exceptions in RCW 9A.44.140.

28       (2) By August 1, 2021, the Washington association of sheriffs and  
29 police chiefs and the Washington state patrol shall remove all  
30 persons from the sex offender registry whose obligation to register  
31 is based on an offense committed while the person was under 18 years  
32 of age, unless the individual has a legal obligation to register  
33 under subsection (1) of this section.

34       NEW SECTION.   **Sec. 5.** By August 1, 2021, the Washington state  
35 patrol shall notify all persons whose obligation to register as a sex  
36 offender is extinguished by this act. For persons enrolled in school  
37 or higher education, the Washington state patrol shall provide

1 similar notice to the school's or institution's designated recipient  
2 of records under RCW 9A.44.138.

3 NEW SECTION. **Sec. 6.** Section 3 of this act takes effect August  
4 1, 2021.

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