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**SENATE BILL 5312**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Wellman, Frame, Nobles, and C. Wilson

AN ACT Relating to net nanny operations involving fictitious minors; amending RCW 9A.44.140 and 9.94A.507; and creating new sections.

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

NEW SECTION. **Sec.**  The legislature declares that all children should be protected from internet-based acts of sexual abuse and harm. The legislature recognizes an increase in recent years in utilizing net nanny sting operations that target adult only dating sites and digital applications where undercover law enforcement officers pose as minors while proactively engaging adults. The legislature finds that these operations can serve a valid purpose in preventing offenses from occurring. The legislature recognizes that these offenses are often charged as attempt, conspiracy, or solicitation of an underlying offense, as the act itself is not commissioned against an existing minor. Individuals who commissioned a predatory offense involving a minor victim could pose a different public safety threat upon release than individuals involved in a sting operation with a fictitious minor.

The legislature finds that registration and supervision requirements that do not take these circumstances into account lack incentives for rehabilitation and can ultimately have a negative impact on public safety after a sentence is served. Therefore, the legislature intends to create registration and supervision requirements specific to this narrow set of individuals who attempt, solicit, or conspire to commit certain offenses against fictitious minors, who have no prior history of predatory offenses against minors, and who spend certain periods of time in the community after release without committing any subsequent disqualifying offenses.

**Sec.**  RCW 9A.44.140 and 2023 c 150 s 7 are each amended to read as follows:

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

(1) For an adult convicted in this state of a class A felony, or an adult convicted of any sex offense or kidnapping offense who has one or more prior convictions for a sex offense or kidnapping offense, the duty to register shall continue indefinitely.

(2) For an adult convicted in this state of a class B felony who does not have one or more prior convictions for a sex offense or kidnapping offense, the duty to register shall end ((~~fifteen~~)) 15 years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the adult has spent ((~~fifteen~~)) 15 consecutive years in the community without being convicted of a disqualifying offense during that time period.

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

(b) For a person required to register under RCW 9A.44.130 due to a conviction from a net nanny operation involving a fictitious minor, including an attempt, solicitation, or conspiracy to commit a violation of RCW 9A.44.073 (rape of a child in the first degree), 9A.44.076 (rape of a child in the second degree), 9A.44.079 (rape of a child in the third degree), 9A.44.083 (child molestation in the first degree), 9A.44.086 (child molestation in the second degree), 9A.44.089 (child molestation in the third degree), 9.68A.090 (communication with a minor for immoral purposes), 9.68A.100 (commercial sexual abuse of a minor), 9.68A.040 (sexual exploitation of a minor), 9.68A.050 (dealing in depictions of a minor engaged in sexually explicit conduct), or 9.68A.070 (possession of depictions of a minor engaged in sexually explicit conduct), if the person has no prior background or prior convictions for sex offenses or kidnapping offenses indicating predatory behavior towards a minor, the duty to register shall end five years after the last date of release from confinement, including full-time residential treatment, if any, or entry of the judgment and sentence, if the person has spent five consecutive years in the community without being convicted of a disqualifying offense during that time period.

(4)(a) For a person required to register under RCW 9A.44.130(1)(b), the duty to register will end three years after the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition if the person is required to register for a class A offense committed at age 15, 16, or 17.

(b) For a person required to register under RCW 9A.44.130(1)(b) who does not meet the description provided in ((~~subsection (4)(a) of this section [(a) of this subsection]~~)) (a) of this subsection, the duty to register will end two years after the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition.

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

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

(7) Nothing in this section prevents a person from being relieved of the duty to register under RCW 9A.44.142, 9A.44.143, and 13.40.162.

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

(9) For purposes of determining whether a person has been convicted of more than one sex offense, failure to register as a sex offender or kidnapping offender is not a sex or kidnapping offense.

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

(11) For the purposes of this section:

(a) "Fictitious minor" means any minor persona controlled by a person who is not that minor.

(b) "Net nanny" means an internet sting or undercover law enforcement operation designed to apprehend adults who use the internet to solicit or attempt to commit sexual activity with minors.

**Sec.**  RCW 9.94A.507 and 2008 c 231 s 33 are each amended to read as follows:

(1) An offender who is not a persistent offender shall be sentenced under this section if the offender:

(a) Is convicted of:

(i) Rape in the first degree, rape in the second degree, rape of a child in the first degree, child molestation in the first degree, rape of a child in the second degree, or indecent liberties by forcible compulsion;

(ii) Any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or

(iii) An attempt to commit any crime listed in this subsection (1)(a); or

(b) Has a prior conviction for an offense listed in RCW 9.94A.030((~~(31)(b)~~)) (37)(b)(i) until January 1, 2026, then for an offense listed in RCW 9.94A.030(38)(b)(i) effective January 1, 2026, and is convicted of any sex offense other than failure to register.

(2) An offender convicted of rape of a child in the first or second degree or child molestation in the first degree who was ((~~seventeen~~)) 17 years of age or younger at the time of the offense shall not be sentenced under this section.

(3)(a) Upon a finding that the offender is subject to sentencing under this section, the court shall impose a sentence to a maximum term and a minimum term.

(b) The maximum term shall consist of the statutory maximum sentence for the offense.

(c)(i) Except as provided in (c)(ii) of this subsection, the minimum term shall be either within the standard sentence range for the offense, or outside the standard sentence range pursuant to RCW 9.94A.535, if the offender is otherwise eligible for such a sentence.

(ii) If the offense that caused the offender to be sentenced under this section was rape of a child in the first degree, rape of a child in the second degree, or child molestation in the first degree, and there has been a finding that the offense was predatory under RCW 9.94A.836, the minimum term shall be either the maximum of the standard sentence range for the offense or ((~~twenty-five~~)) 25 years, whichever is greater. If the offense that caused the offender to be sentenced under this section was rape in the first degree, rape in the second degree, indecent liberties by forcible compulsion, or kidnapping in the first degree with sexual motivation, and there has been a finding that the victim was under the age of ((~~fifteen~~)) 15 at the time of the offense under RCW 9.94A.837, the minimum term shall be either the maximum of the standard sentence range for the offense or ((~~twenty-five~~)) 25 years, whichever is greater. If the offense that caused the offender to be sentenced under this section is rape in the first degree, rape in the second degree with forcible compulsion, indecent liberties with forcible compulsion, or kidnapping in the first degree with sexual motivation, and there has been a finding under RCW 9.94A.838 that the victim was, at the time of the offense, developmentally disabled, mentally disordered, or a frail elder or vulnerable adult, the minimum sentence shall be either the maximum of the standard sentence range for the offense or ((~~twenty-five~~)) 25 years, whichever is greater.

(d) The minimum terms in (c)(ii) of this subsection do not apply to a juvenile tried as an adult pursuant to RCW 13.04.030(1)(e) (i) or (v). The minimum term for such a juvenile shall be imposed under (c)(i) of this subsection.

(4) A person sentenced under subsection (3) of this section shall serve the sentence in a facility or institution operated, or utilized under contract, by the state.

(5) When a court sentences a person to the custody of the department under this section, the court shall, in addition to the other terms of the sentence, sentence the offender to community custody under the supervision of the department and the authority of the board for any period of time the person is released from total confinement before the expiration of the maximum sentence.

(6)(a) As part of any sentence under this section, the court shall also require the offender to comply with any conditions imposed by the board under RCW 9.95.420 through 9.95.435.

(b) ((~~An~~)) Except as provided in (c) of this subsection, an offender released by the board under RCW 9.95.420 is subject to the supervision of the department until the expiration of the maximum term of the sentence. The department shall monitor the offender's compliance with conditions of community custody imposed by the court, department, or board, and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

(c) An offender released by the board under RCW 9.95.420 who has a conviction from a net nanny operation involving a fictitious minor, including an attempt, solicitation, or conspiracy to commit a violation of RCW 9A.44.073 (rape of a child in the first degree), 9A.44.076 (rape of a child in the second degree), 9A.44.079 (rape of a child in the third degree), 9A.44.083 (child molestation in the first degree), 9A.44.086 (child molestation in the second degree), 9A.44.089 (child molestation in the third degree), 9.68A.090 (communication with a minor for immoral purposes), 9.68A.100 (commercial sexual abuse of a minor), 9.68A.040 (sexual exploitation of a minor), 9.68A.050 (dealing in depictions of a minor engaged in sexually explicit conduct), or 9.68A.070 (possession of depictions of a minor engaged in sexually explicit conduct), if the person has no prior background or prior convictions for sex offenses or kidnapping offenses indicating predatory behavior towards a minor, the offender shall be subject to the supervision of the department for a period of three years. The department shall monitor the offender's compliance with conditions of community custody imposed by the court, department, or board, and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

(7) For the purposes of this section:

(a) "Fictitious minor" means any minor persona controlled by a person who is not that minor.

(b) "Net nanny" means an internet sting or undercover law enforcement operation designed to apprehend adults who use the internet to solicit or attempt to commit sexual activity with minors.

NEW SECTION. **Sec.**  This act applies to all offenders sentenced before, on, or after the effective date of this act.

**--- END ---**