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HOUSE BILL 2540

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By Representatives Long, Appelwick, Morris, Johanson, Padden, Brough, Sheahan, B. Thomas, Dyer, Brumsickle, Kremen, Forner, Springer and Reams

Read first time 01/17/94. Referred to Committee on Corrections.

1 AN ACT Relating to the release of information concerning sex  
2 offenders; amending RCW 4.24.550, 10.77.163, 10.77.205, 13.40.215,  
3 43.43.745, 71.05.325, and 71.05.425; and reenacting and amending RCW  
4 9.94A.155.

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

6 **Sec. 1.** RCW 4.24.550 and 1990 c 3 s 117 are each amended to read  
7 as follows:

8 (1) Public agencies are authorized to release relevant and  
9 necessary information regarding sex offenders to the public when the  
10 release of the information is necessary for public protection.

11 (2) Local law enforcement officials shall give at least fourteen  
12 days' notice whenever they release information concerning the pending  
13 release of a sex offender to the general public or to nearby residents.  
14 If a change occurs in the release plan, this notification provision  
15 will not require an extension of the release date. The department of  
16 corrections and the department of social and health services shall  
17 provide local law enforcement officials with all relevant information  
18 on sex offenders about to be released or placed into the community in  
19 a timely manner.

1       (3) An elected public official, public employee, or public agency  
2 as defined in RCW 4.24.470 is immune from civil liability for damages  
3 for any discretionary decision to release relevant and necessary  
4 information, unless it is shown that the official, employee, or agency  
5 acted with gross negligence or in bad faith. The authorization and  
6 immunity in this section applies to information regarding: (a) A  
7 person convicted of, or juvenile found to have committed, a sex offense  
8 as defined by RCW 9.94A.030; (b) a person found not guilty of a sex  
9 offense by reason of insanity under chapter 10.77 RCW; (c) a person  
10 found incompetent to stand trial for a sex offense and subsequently  
11 committed under chapter 71.05 or 71.34 RCW; (d) a person committed as  
12 a sexual psychopath under chapter 71.06 RCW; or (e) a person committed  
13 as a sexually violent predator under chapter 71.09 RCW. The immunity  
14 provided under this section applies to the release of relevant  
15 information to other employees or officials or to the general public.

16       (~~(3)~~) (4) Except as otherwise provided by statute, nothing in  
17 this section shall impose any liability upon a public official, public  
18 employee, or public agency for failing to release information as  
19 provided in subsections (2) and (3) of this section.

20       (~~(4)~~) (5) Nothing in this section implies that information  
21 regarding persons designated in subsections (2) and (3) of this section  
22 is confidential except as otherwise provided by statute.

23       **Sec. 2.** RCW 9.94A.155 and 1992 c 186 s 7 and 1992 c 45 s 2 are  
24 each reenacted and amended to read as follows:

25       (1) At the earliest possible date, and in no event later than  
26 (~~ten~~) thirty days before release except in the event of escape or  
27 emergency furloughs as defined in RCW 72.66.010, the department of  
28 corrections shall send written notice of parole, release, community  
29 placement, work release placement, furlough, or escape about a specific  
30 inmate convicted of a violent offense, a sex offense as defined by RCW  
31 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060  
32 or 9A.46.110, to the following:

33       (a) The chief of police of the city, if any, in which the inmate  
34 will reside or in which placement will be made in a work release  
35 program; and

36       (b) The sheriff of the county in which the inmate will reside or in  
37 which placement will be made in a work release program.

1 The sheriff of the county where the offender was convicted shall be  
2 notified if the department does not know where the offender will  
3 reside. The department shall notify the state patrol of the release of  
4 all sex offenders, and that information shall be placed in the  
5 Washington crime information center for dissemination to all law  
6 enforcement.

7 (2) The same notice as required by subsection (1) of this section  
8 shall be sent to the following if such notice has been requested in  
9 writing about a specific inmate convicted of a violent offense, a sex  
10 offense as defined by RCW 9.94A.030, or a felony harassment offense as  
11 defined by RCW 9A.46.060 or 9A.46.110:

12 (a) The victim of the crime for which the inmate was convicted or  
13 the victim's next of kin if the crime was a homicide;

14 (b) Any witnesses who testified against the inmate in any court  
15 proceedings involving the violent offense; and

16 (c) Any person specified in writing by the prosecuting attorney.  
17 Information regarding victims, next of kin, or witnesses requesting the  
18 notice, information regarding any other person specified in writing by  
19 the prosecuting attorney to receive the notice, and the notice are  
20 confidential and shall not be available to the inmate.

21 (3) The existence of the notice requirements contained in  
22 subsections (1) and (2) of this section shall not require an extension  
23 of the release date in the event that the release plan changes after  
24 notification.

25 (4) If an inmate convicted of a violent offense, a sex offense as  
26 defined by RCW 9.94A.030, or a felony harassment offense as defined by  
27 RCW 9A.46.060 or 9A.46.110, escapes from a correctional facility, the  
28 department of corrections shall immediately notify, by the most  
29 reasonable and expedient means available, the chief of police of the  
30 city and the sheriff of the county in which the inmate resided  
31 immediately before the inmate's arrest and conviction. If previously  
32 requested, the department shall also notify the witnesses and the  
33 victim of the crime for which the inmate was convicted or the victim's  
34 next of kin if the crime was a homicide. If the inmate is recaptured,  
35 the department shall send notice to the persons designated in this  
36 subsection as soon as possible but in no event later than two working  
37 days after the department learns of such recapture.

1       (~~(4)~~) (5) If the victim, the victim's next of kin, or any witness  
2 is under the age of sixteen, the notice required by this section shall  
3 be sent to the parents or legal guardian of the child.

4       (~~(5)~~) (6) The department of corrections shall send the notices  
5 required by this chapter to the last address provided to the department  
6 by the requesting party. The requesting party shall furnish the  
7 department with a current address.

8       (~~(6)~~) (7) For purposes of this section the following terms have  
9 the following meanings:

10       (a) "Violent offense" means a violent offense under RCW 9.94A.030;

11       (b) "Next of kin" means a person's spouse, parents, siblings and  
12 children.

13       (~~(7)~~) (8) Nothing in this section shall impose any liability upon  
14 a chief of police of a city or sheriff of a county for failing to  
15 request in writing a notice as provided in subsection (1) of this  
16 section.

17       **Sec. 3.** RCW 10.77.163 and 1990 c 3 s 106 are each amended to read  
18 as follows:

19       (1) Before a person committed under this chapter is permitted  
20 temporarily to leave a treatment facility for any period of time  
21 without constant accompaniment by facility staff, the superintendent,  
22 professional person in charge of a treatment facility, or his or her  
23 professional designee shall in writing notify the prosecuting attorney  
24 of any county to which the person is released and the prosecuting  
25 attorney of the county in which the criminal charges against the  
26 committed person were dismissed, of the decision conditionally to  
27 release the person. The notice shall be provided at least (~~thirty~~)  
28 forty-five days before the anticipated release and shall describe the  
29 conditions under which the release is to occur.

30       (2) In addition to the notice required by subsection (1) of this  
31 section, the superintendent of each state institution designated for  
32 the custody, care, and treatment of persons committed under this  
33 chapter shall notify appropriate law enforcement agencies through the  
34 state patrol communications network of the furloughs of persons  
35 committed under RCW 10.77.090 or 10.77.110. Notification shall be made  
36 at least (~~forty-eight hours~~) thirty days before the furlough, and  
37 shall include the name of the person, the place to which the person has

1 permission to go, and the dates and times during which the person will  
2 be on furlough.

3 (3) Upon receiving notice that a person committed under this  
4 chapter is being temporarily released under subsection (1) of this  
5 section, the prosecuting attorney may seek a temporary restraining  
6 order to prevent the release of the person on the grounds that the  
7 person is dangerous to self or others.

8 (4) The notice requirements contained in this section shall not  
9 apply to emergency medical furloughs.

10 (5) The existence of the notice requirements contained in this  
11 section shall not require any extension of the release date in the  
12 event the release plan changes after notification.

13 (6) The notice provisions of this section are in addition to those  
14 provided in RCW 10.77.205.

15 **Sec. 4.** RCW 10.77.205 and 1992 c 186 s 8 are each amended to read  
16 as follows:

17 (1)(a) At the earliest possible date, and in no event later than  
18 (~~ten~~) thirty days before conditional release, final discharge,  
19 authorized furlough pursuant to RCW 10.77.163, or transfer to a less-  
20 restrictive facility than a state mental hospital, the superintendent  
21 shall send written notice of the conditional release, final discharge,  
22 authorized furlough, or transfer of a person who has been found not  
23 guilty of a sex, violent, or felony harassment offense by reason of  
24 insanity and who is now in the custody of the department pursuant to  
25 this chapter, to the following:

26 (i) The chief of police of the city, if any, in which the person  
27 will reside; and

28 (ii) The sheriff of the county in which the person will reside.

29 (b) The same notice as required by (a) of this subsection shall be  
30 sent to the following, if such notice has been requested in writing  
31 about a specific person committed under this chapter:

32 (i) The victim of the crime for which the person was committed or  
33 the victim's next of kin if the crime was a homicide;

34 (ii) Any witnesses who testified against the person in any court  
35 proceedings; and

36 (iii) Any person specified in writing by the prosecuting attorney.  
37 Information regarding victims, next of kin, or witnesses requesting the  
38 notice, information regarding any other person specified in writing by

1 the prosecuting attorney to receive the notice, and the notice are  
2 confidential and shall not be available to the person committed under  
3 this chapter.

4 (c) In addition to the notice requirements of (a) and (b) of this  
5 subsection, the superintendent shall comply with RCW 10.77.163.

6 (d) The thirty-day notice requirement contained in (a) and (b) of  
7 this subsection shall not apply to emergency medical furloughs.

8 (e) The existence of the notice requirements in (a) and (b) of this  
9 subsection shall not require any extension of the release date in the  
10 event the release plan changes after notification.

11 (2) If a person who has been found not guilty of a sex, violent, or  
12 felony harassment offense by reason of insanity and who is committed  
13 under this chapter escapes, the superintendent shall immediately  
14 notify, by the most reasonable and expedient means available, the chief  
15 of police of the city and the sheriff of the county in which the person  
16 resided immediately before the person's arrest. If previously  
17 requested, the superintendent shall also notify the witnesses and the  
18 victim, if any, of the crime for which the person was committed or the  
19 victim's next of kin if the crime was a homicide. The superintendent  
20 shall also notify appropriate persons pursuant to RCW 10.77.165. If  
21 the person is recaptured, the secretary shall send notice to the  
22 persons designated in this subsection as soon as possible but in no  
23 event later than two working days after the department learns of such  
24 recapture.

25 (3) If the victim, the victim's next of kin, or any witness is  
26 under the age of sixteen, the notice required by this section shall be  
27 sent to the parents or legal guardian of the child.

28 (4) The department shall send the notices required by this chapter  
29 to the last address provided to the department by the requesting party.  
30 The requesting party shall furnish the department with a current  
31 address.

32 (5) For purposes of this section the following terms have the  
33 following meanings:

34 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

35 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

36 (c) "Next of kin" means a person's spouse, parents, siblings, and  
37 children;

38 (d) "Authorized furlough" means a furlough granted after compliance  
39 with RCW 10.77.163;

1 (e) "Felony harassment offense" means a crime of harassment as  
2 defined in RCW 9A.46.060 that is a felony.

3 **Sec. 5.** RCW 13.40.215 and 1993 c 27 s 1 are each amended to read  
4 as follows:

5 (1)(a) Except as provided in subsection (2) of this section, at the  
6 earliest possible date, and in no event later than (~~ten~~) thirty days  
7 before discharge, parole, or any other authorized leave or release, or  
8 before transfer to a community residential facility, the secretary  
9 shall send written notice of the discharge, parole, authorized leave or  
10 release, or transfer of a juvenile found to have committed a violent  
11 offense, a sex offense, or stalking, to the following:

12 (i) The chief of police of the city, if any, in which the juvenile  
13 will reside; and

14 (ii) The sheriff of the county in which the juvenile will reside.

15 (b) The same notice as required by (a) of this subsection shall be  
16 sent to the following, if such notice has been requested in writing  
17 about a specific juvenile:

18 (i) The victim of the offense for which the juvenile was found to  
19 have committed or the victim's next of kin if the crime was a homicide;

20 (ii) Any witnesses who testified against the juvenile in any court  
21 proceedings involving the offense; and

22 (iii) Any person specified in writing by the prosecuting attorney.  
23 Information regarding victims, next of kin, or witnesses requesting the  
24 notice, information regarding any other person specified in writing by  
25 the prosecuting attorney to receive the notice, and the notice are  
26 confidential and shall not be available to the juvenile. The notice to  
27 the chief of police or the sheriff shall include the identity of the  
28 juvenile, the residence where the juvenile will reside, the identity of  
29 the person, if any, responsible for supervising the juvenile, and the  
30 time period of any authorized leave.

31 (c) The thirty-day notice requirements contained in this subsection  
32 shall not apply to emergency medical furloughs.

33 (d) The existence of the notice requirements in this subsection  
34 will not require any extension of the release date in the event the  
35 release plan changes after notification.

36 (2)(a) If a juvenile found to have committed a violent offense, a  
37 sex offense, or stalking escapes from a facility of the department, the  
38 secretary shall immediately notify, by the most reasonable and

1 expedient means available, the chief of police of the city and the  
2 sheriff of the county in which the juvenile resided immediately before  
3 the juvenile's arrest. If previously requested, the secretary shall  
4 also notify the witnesses and the victim of the offense which the  
5 juvenile was found to have committed or the victim's next of kin if the  
6 crime was a homicide. If the juvenile is recaptured, the secretary  
7 shall send notice to the persons designated in this subsection as soon  
8 as possible but in no event later than two working days after the  
9 department learns of such recapture.

10 (b) The secretary may authorize a leave, for a juvenile found to  
11 have committed a violent offense, a sex offense, or stalking, which  
12 shall not exceed forty-eight hours plus travel time, to meet an  
13 emergency situation such as a death or critical illness of a member of  
14 the juvenile's family. The secretary may authorize a leave, which  
15 shall not exceed the time medically necessary, to obtain medical care  
16 not available in a juvenile facility maintained by the department.  
17 Prior to the commencement of an emergency or medical leave, the  
18 secretary shall give notice of the leave to the appropriate law  
19 enforcement agency in the jurisdiction in which the juvenile will be  
20 during the leave period. The notice shall include the identity of the  
21 juvenile, the time period of the leave, the residence of the juvenile  
22 during the leave, and the identity of the person responsible for  
23 supervising the juvenile during the leave. If previously requested,  
24 the department shall also notify the witnesses and victim of the  
25 offense which the juvenile was found to have committed or the victim's  
26 next of kin if the offense was a homicide.

27 In case of an emergency or medical leave the secretary may waive  
28 all or any portion of the requirements for leaves pursuant to RCW  
29 13.40.205 (2)(a), (3), (4), and (5).

30 (3) If the victim, the victim's next of kin, or any witness is  
31 under the age of sixteen, the notice required by this section shall be  
32 sent to the parents or legal guardian of the child.

33 (4) The secretary shall send the notices required by this chapter  
34 to the last address provided to the department by the requesting party.  
35 The requesting party shall furnish the department with a current  
36 address.

37 (5) For purposes of this section the following terms have the  
38 following meanings:

39 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

1 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

2 (c) "Stalking" means the crime of stalking as defined in RCW  
3 9A.46.110;

4 (d) "Next of kin" means a person's spouse, parents, siblings, and  
5 children.

6 **Sec. 6.** RCW 43.43.745 and 1993 c 24 s 1 are each amended to read  
7 as follows:

8 (1) It shall be the duty of the sheriff or director of public  
9 safety of every county, of the chief of police of each city or town, or  
10 of every chief officer of other law enforcement agencies operating  
11 within this state, to record the fingerprints of all persons held in or  
12 remanded to their custody when convicted of any crime as provided for  
13 in RCW 43.43.735 for which the penalty of imprisonment might be imposed  
14 and to disseminate and file such fingerprints in the same manner as  
15 those recorded upon arrest pursuant to RCW 43.43.735 and 43.43.740.

16 (2) Every time the secretary authorizes a furlough as provided for  
17 in RCW 72.66.012 the department of corrections shall notify, (~~forty-~~  
18 ~~eight hours~~) thirty days prior to the beginning of such furlough, the  
19 sheriff or director of public safety of the county to which the  
20 prisoner is being furloughed, the nearest Washington state patrol  
21 district facility in the county wherein the furloughed prisoner is to  
22 be residing, and other similar criminal justice agencies that the named  
23 prisoner has been granted a furlough, the place to which furloughed,  
24 and the dates and times during which the prisoner will be on furlough  
25 status. In the case of an emergency furlough the (~~forty-eight hour~~)  
26 thirty-day time period shall not be required but notification shall be  
27 made as promptly as possible and before the prisoner is released on  
28 furlough.

29 (3) Disposition of the charge for which the arrest was made shall  
30 be reported to the section at whatever stage in the proceedings a final  
31 disposition occurs by the arresting law enforcement agency, county  
32 prosecutor, city attorney, or court having jurisdiction over the  
33 offense: PROVIDED, That the chief shall promulgate rules pursuant to  
34 chapter 34.05 RCW to carry out the provisions of this subsection.

35 (4) Whenever a person serving a sentence for a term of confinement  
36 in a state correctional facility for convicted felons, pursuant to  
37 court commitment, is released on an order of the state indeterminate  
38 sentence review board, or is discharged from custody on expiration of

1 sentence, the department of corrections shall promptly notify the  
2 sheriff or director of public safety, the nearest Washington state  
3 patrol district facility, and other similar criminal justice agencies  
4 that the named person has been released or discharged, the place to  
5 which such person has been released or discharged, and the conditions  
6 of his or her release or discharge.

7 Local law enforcement agencies (~~may~~) shall require persons  
8 convicted of sex offenses to register pursuant to RCW 9A.44.130. In  
9 addition, nothing in this section shall be construed to prevent any  
10 local law enforcement authority from recording the residency and other  
11 information concerning any convicted felon or other person convicted of  
12 a criminal offense when such information is obtained from a source  
13 other than from registration pursuant to RCW 9A.44.130 which source may  
14 include any officer or other agency or subdivision of the state.

15 (5) The existence of the notice requirement in subsection (2) of  
16 this section will not require any extension of the release date in the  
17 event the release plan changes after notification.

18 **Sec. 7.** RCW 71.05.325 and 1990 c 3 s 111 are each amended to read  
19 as follows:

20 (1) Before a person committed under grounds set forth in RCW  
21 71.05.280(3) is released from involuntary treatment because a new  
22 petition for involuntary treatment has not been filed under RCW  
23 71.05.320(2), the superintendent, professional person, or designated  
24 mental health professional responsible for the decision whether to file  
25 a new petition shall in writing notify the prosecuting attorney of the  
26 county in which the criminal charges against the committed person were  
27 dismissed, of the decision not to file a new petition for involuntary  
28 treatment. Notice shall be provided at least (~~thirty~~) forty-five  
29 days before the period of commitment expires.

30 (2)(a) Before a person committed under grounds set forth in RCW  
31 71.05.280(3) is permitted temporarily to leave a treatment facility  
32 pursuant to RCW 71.05.270 for any period of time without constant  
33 accompaniment by facility staff, the superintendent, professional  
34 person in charge of a treatment facility, or his or her professional  
35 designee shall in writing notify the prosecuting attorney of any county  
36 to which the person is to be released and the prosecuting attorney of  
37 the county in which the criminal charges against the committed person  
38 were dismissed, of the decision conditionally to release the person.

1 The notice shall be provided at least (~~thirty~~) forty-five days before  
2 the anticipated release and shall describe the conditions under which  
3 the release is to occur.

4 (b) The provisions of RCW 71.05.330(2) apply to proposed temporary  
5 releases, and either or both prosecuting attorneys receiving notice  
6 under this subsection may petition the court under RCW 71.05.330(2).

7 (3) Nothing in this section shall be construed to authorize  
8 detention of a person unless a valid order of commitment is in effect.

9 (4) The existence of the notice requirements in this section will  
10 not require any extension of the release date in the event the release  
11 plan changes after notification.

12 (5) The notice requirements contained in this section shall not  
13 apply to emergency medical furloughs.

14 (6) The notice provisions of this section are in addition to those  
15 provided in RCW 71.05.425.

16 **Sec. 8.** RCW 71.05.425 and 1992 c 186 s 9 are each amended to read  
17 as follows:

18 (1)(a) Except as provided in subsection (2) of this section, at the  
19 earliest possible date, and in no event later than (~~ten~~) thirty days  
20 before conditional release, final discharge, authorized leave under RCW  
21 71.05.325(2), or transfer to a less-restrictive facility than a state  
22 mental hospital, the superintendent shall send written notice of  
23 conditional release, final discharge, authorized leave, or transfer of  
24 a person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following  
25 dismissal of a sex, violent, or felony harassment offense pursuant to  
26 RCW 10.77.090(3) to the following:

27 (i) The chief of police of the city, if any, in which the person  
28 will reside; and

29 (ii) The sheriff of the county in which the person will reside.

30 (b) The same notice as required by (a) of this subsection shall be  
31 sent to the following, if such notice has been requested in writing  
32 about a specific person committed under RCW 71.05.280(3) or  
33 71.05.320(2)(c) following dismissal of a sex, violent, or felony  
34 harassment offense pursuant to RCW 10.77.090(3):

35 (i) The victim of the sex, violent, or felony harassment offense  
36 that was dismissed pursuant to RCW 10.77.090(3) preceding commitment  
37 under RCW 71.05.280(3) or 71.05.320(2)(c) or the victim's next of kin  
38 if the crime was a homicide;

1 (ii) Any witnesses who testified against the person in any court  
2 proceedings; and

3 (iii) Any person specified in writing by the prosecuting attorney.  
4 Information regarding victims, next of kin, or witnesses requesting the  
5 notice, information regarding any other person specified in writing by  
6 the prosecuting attorney to receive the notice, and the notice are  
7 confidential and shall not be available to the person committed under  
8 this chapter.

9 (c) The thirty-day notice requirements contained in this subsection  
10 shall not apply to emergency medical furloughs.

11 (d) The existence of the notice requirements in this subsection  
12 will not require any extension of the release date in the event the  
13 release plan changes after notification.

14 (2) If a person committed under RCW 71.05.280(3) or 71.05.320(2)(c)  
15 following dismissal of a sex, violent, or felony harassment offense  
16 pursuant to RCW 10.77.090(3) escapes, the superintendent shall  
17 immediately notify, by the most reasonable and expedient means  
18 available, the chief of police of the city and the sheriff of the  
19 county in which the person resided immediately before the person's  
20 arrest. If previously requested, the superintendent shall also notify  
21 the witnesses and the victim of the sex, violent, or felony harassment  
22 offense that was dismissed pursuant to RCW 10.77.090(3) preceding  
23 commitment under RCW 71.05.280(3) or 71.05.320(2) or the victim's next  
24 of kin if the crime was a homicide. In addition, the secretary shall  
25 also notify appropriate parties pursuant to RCW 71.05.410. If the  
26 person is recaptured, the superintendent shall send notice to the  
27 persons designated in this subsection as soon as possible but in no  
28 event later than two working days after the department learns of such  
29 recapture.

30 (3) If the victim, the victim's next of kin, or any witness is  
31 under the age of sixteen, the notice required by this section shall be  
32 sent to the parent or legal guardian of the child.

33 (4) The superintendent shall send the notices required by this  
34 chapter to the last address provided to the department by the  
35 requesting party. The requesting party shall furnish the department  
36 with a current address.

37 (5) For purposes of this section the following terms have the  
38 following meanings:

39 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

1 (b) "Sex offense" means a sex offense under RCW 9.94A.030;  
2 (c) "Next of kin" means a person's spouse, parents, siblings, and  
3 children;  
4 (d) "Felony harassment offense" means a crime of harassment as  
5 defined in RCW 9A.46.060 that is a felony.

--- END ---