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HOUSE BILL 2786

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By Representatives Kelley, Hurst, Lantz, Upthegrove, Pearson, Morrell, Priest, Kenney, Haler, Williams, Loomis, Smith, Bailey, Kristiansen, McCune, Simpson, and VanDeWege; by request of Governor Gregoire

Read first time 01/16/08. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to including level I offenders who fail to maintain  
2 registration as required by RCW 9A.44.130 to the statewide notification  
3 web site; and reenacting and amending RCW 4.24.550.

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

5 **Sec. 1.** RCW 4.24.550 and 2005 c 380 s 2, 2005 c 228 s 1, and 2005  
6 c 99 s 1 are each reenacted and amended to read as follows:

7 (1) In addition to the disclosure under subsection (5) of this  
8 section, public agencies are authorized to release information to the  
9 public regarding sex offenders and kidnapping offenders when the agency  
10 determines that disclosure of the information is relevant and necessary  
11 to protect the public and counteract the danger created by the  
12 particular offender. This authorization applies to information  
13 regarding: (a) Any person adjudicated or convicted of a sex offense as  
14 defined in RCW 9A.44.130 or a kidnapping offense as defined by RCW  
15 9A.44.130; (b) any person under the jurisdiction of the indeterminate  
16 sentence review board as the result of a sex offense or kidnapping  
17 offense; (c) any person committed as a sexually violent predator under  
18 chapter 71.09 RCW or as a sexual psychopath under chapter 71.06 RCW;  
19 (d) any person found not guilty of a sex offense or kidnapping offense

1 by reason of insanity under chapter 10.77 RCW; and (e) any person found  
2 incompetent to stand trial for a sex offense or kidnapping offense and  
3 subsequently committed under chapter 71.05 or 71.34 RCW.

4 (2) Except for the information specifically required under  
5 subsection (5) of this section, the extent of the public disclosure of  
6 relevant and necessary information shall be rationally related to: (a)  
7 The level of risk posed by the offender to the community; (b) the  
8 locations where the offender resides, expects to reside, or is  
9 regularly found; and (c) the needs of the affected community members  
10 for information to enhance their individual and collective safety.

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

36 (4) The county sheriff with whom an offender classified as risk  
37 level III is registered shall cause to be published by legal notice,  
38 advertising, or news release a sex offender community notification that

1 conforms to the guidelines established under RCW 4.24.5501 in at least  
2 one legal newspaper with general circulation in the area of the sex  
3 offender's registered address or location. The county sheriff shall  
4 also cause to be published consistent with this subsection a current  
5 list of level III registered sex offenders, twice yearly. Unless the  
6 information is posted on the web site described in subsection (5) of  
7 this section, this list shall be maintained by the county sheriff on a  
8 publicly accessible web site and shall be updated at least once per  
9 month.

10 (5)(a) When funded by federal grants or other sources, the  
11 Washington association of sheriffs and police chiefs shall create and  
12 maintain a statewide registered kidnapping and sex offender web site,  
13 which shall be available to the public. The web site shall post all  
14 level III and level II registered sex offenders, level I offenders who  
15 fail to maintain registration as required by RCW 9A.44.130, and all  
16 registered kidnapping offenders in the state of Washington.

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

25 (ii) For level II offenders and level I offenders who fail to  
26 maintain registration as required by RCW 9A.44.130, the web site shall  
27 contain, but is not limited to, the same information and functionality  
28 as described in (a)(i) of this subsection, provided that it is  
29 permissible under state and federal law. If it is not permissible, the  
30 web site shall be limited to the information and functionality that is  
31 permissible under state and federal law.

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

1 (b) Until the implementation of (a) of this subsection, the  
2 Washington association of sheriffs and police chiefs shall create a web  
3 site available to the public that provides electronic links to county-  
4 operated web sites that offer sex offender registration information.

5 (6) Local law enforcement agencies that disseminate information  
6 pursuant to this section shall: (a) Review available risk level  
7 classifications made by the department of corrections, the department  
8 of social and health services, and the indeterminate sentence review  
9 board; (b) assign risk level classifications to all offenders about  
10 whom information will be disseminated; and (c) make a good faith effort  
11 to notify the public and residents at least fourteen days before the  
12 offender is released from confinement or, where an offender moves from  
13 another jurisdiction, as soon as possible after the agency learns of  
14 the offender's move, except that in no case may this notification  
15 provision be construed to require an extension of an offender's release  
16 date. The juvenile court shall provide local law enforcement officials  
17 with all relevant information on offenders allowed to remain in the  
18 community in a timely manner.

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

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

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

8           (10) When a local law enforcement agency or official classifies an  
9 offender differently than the offender is classified by the end of  
10 sentence review committee or the department of social and health  
11 services at the time of the offender's release from confinement, the  
12 law enforcement agency or official shall notify the end of sentence  
13 review committee or the department of social and health services and  
14 submit its reasons supporting the change in classification. Upon  
15 implementation of subsection (5)(a) of this section, notification of  
16 the change shall also be sent to the Washington association of sheriffs  
17 and police chiefs.

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