

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6414

61st Legislature
2010 Regular Session

Passed by the Senate February 13, 2010
YEAS 46 NAYS 0

President of the Senate

Passed by the House March 2, 2010
YEAS 96 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6414** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6414

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senator Regala)

READ FIRST TIME 02/04/10.

1 AN ACT Relating to improving the administration and efficiency of
2 sex and kidnapping offender registration; amending RCW 9A.44.130,
3 9A.44.140, 9A.44.145, 9.94A.030, 9.94A.501, 9.94A.701, 9.94A.702, and
4 70.48.470; adding new sections to chapter 9A.44 RCW; creating new
5 sections; and prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** For the purposes of RCW 9A.44.130 through
8 9A.44.145, 10.01.200, 43.43.540, 70.48.470, and 72.09.330, the
9 following definitions apply:

10 (1) "Business day" means any day other than Saturday, Sunday, or a
11 legal local, state, or federal holiday.

12 (2) "Conviction" means any adult conviction or juvenile
13 adjudication for a sex offense or kidnapping offense.

14 (3) "Disqualifying offense" means a conviction for: Any offense
15 that is a felony; a sex offense as defined in this section; a crime
16 against children or persons as defined in RCW 43.43.830(5) and
17 9.94A.411(2)(a); an offense with a domestic violence designation as
18 provided in RCW 10.99.020; permitting the commercial sexual abuse of a

1 minor as defined in RCW 9.68A.103; or any violation of chapter 9A.88
2 RCW.

3 (4) "Employed" or "carries on a vocation" means employment that is
4 full time or part time for a period of time exceeding fourteen days, or
5 for an aggregate period of time exceeding thirty days during any
6 calendar year. A person is employed or carries on a vocation whether
7 the person's employment is financially compensated, volunteered, or for
8 the purpose of government or educational benefit.

9 (5) "Kidnapping offense" means:

10 (a) The crimes of kidnapping in the first degree, kidnapping in the
11 second degree, and unlawful imprisonment, as defined in chapter 9A.40
12 RCW, where the victim is a minor and the offender is not the minor's
13 parent;

14 (b) Any offense that is, under chapter 9A.28 RCW, a criminal
15 attempt, criminal solicitation, or criminal conspiracy to commit an
16 offense that is classified as a kidnapping offense under this
17 subsection; and

18 (c) Any federal or out-of-state conviction for: An offense for
19 which the person would be required to register as a kidnapping offender
20 while residing in the state of conviction; or, if not required to
21 register in the state of conviction, an offense that under the laws of
22 this state would be classified as a kidnapping offense under this
23 subsection, unless a court in the person's state of conviction has made
24 an individualized determination that the person should not be required
25 to register.

26 (6) "Sex offense" means:

27 (a) Any offense defined as a sex offense by RCW 9.94A.030;

28 (b) Any violation under RCW 9A.44.096 (sexual misconduct with a
29 minor in the second degree);

30 (c) Any violation under RCW 9.68A.090 (communication with a minor
31 for immoral purposes);

32 (d) Any federal or out-of-state conviction for: An offense for
33 which the person would be required to register as a sex offender while
34 residing in the state of conviction; or, if not required to register in
35 the state of conviction, an offense that under the laws of this state
36 would be classified as a sex offense under this subsection, unless a
37 court in the person's state of conviction has made an individualized
38 determination that the person should not be required to register; and

1 (e) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
2 criminal attempt, criminal solicitation, or criminal conspiracy to
3 commit an offense that is classified as a sex offense under RCW
4 9.94A.030 or this subsection.

5 (7) "Student" means a person who is enrolled, on a full-time or
6 part-time basis, in any public or private educational institution. An
7 educational institution includes any secondary school, trade or
8 professional institution, or institution of higher education.

9 **Sec. 2.** RCW 9A.44.130 and 2008 c 230 s 1 are each amended to read
10 as follows:

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

27 (b) Any adult or juvenile who is required to register under (a) of
28 this subsection:

29 (i) Who is attending, or planning to attend, a public or private
30 school regulated under Title 28A RCW or chapter 72.40 RCW shall, within
31 (~~ten~~) three business days (~~of enrolling or~~) prior to arriving at
32 the school to attend classes, (~~whichever is earlier,~~) notify the
33 sheriff for the county of the person's residence of the person's intent
34 to attend the school, and the sheriff shall promptly notify the
35 principal of the school;

36 (ii) Who is admitted to a public or private institution of higher
37 education shall, within (~~ten days of enrolling or by the first~~) three

1 business days ~~((after))~~ prior to arriving at the institution,
2 ~~((whichever is earlier,))~~ notify the sheriff for the county of the
3 person's residence of the person's intent to attend the institution;

4 (iii) Who gains employment at a public or private institution of
5 higher education shall, within ~~((ten days of accepting employment or by
6 the first))~~ three business days ~~((after))~~ prior to commencing work at
7 the institution, ~~((whichever is earlier,))~~ notify the sheriff for the
8 county of the person's residence of the person's employment by the
9 institution; or

10 (iv) Whose enrollment or employment at a public or private
11 institution of higher education is terminated shall, within ~~((ten))~~
12 three business days of such termination, notify the sheriff for the
13 county of the person's residence of the person's termination of
14 enrollment or employment at the institution.

15 (c) ~~((Persons required to register under this section who are
16 enrolled in a public or private institution of higher education on June
17 11, 1998, or a public or private school regulated under Title 28A RCW
18 or chapter 72.40 RCW on September 1, 2006, must notify the county
19 sheriff immediately.~~

20 ~~((d))~~) The sheriff shall notify the school's principal or
21 institution's department of public safety and shall provide that
22 department with the same information provided to a county sheriff under
23 subsection (3) of this section.

24 ~~((e))~~) (d)(i) A principal receiving notice under this subsection
25 must disclose the information received from the sheriff under (b) of
26 this subsection as follows:

27 (A) If the student who is required to register as a sex offender is
28 classified as a risk level II or III, the principal shall provide the
29 information received to every teacher of any student required to
30 register under (a) of this subsection and to any other personnel who,
31 in the judgment of the principal, supervises the student or for
32 security purposes should be aware of the student's record;

33 (B) If the student who is required to register as a sex offender is
34 classified as a risk level I, the principal shall provide the
35 information received only to personnel who, in the judgment of the
36 principal, for security purposes should be aware of the student's
37 record.

1 (ii) Any information received by a principal or school personnel
2 under this subsection is confidential and may not be further
3 disseminated except as provided in RCW 28A.225.330, other statutes or
4 case law, and the family and educational and privacy rights act of
5 1994, 20 U.S.C. Sec. 1232g et seq.

6 (2) This section may not be construed to confer any powers pursuant
7 to RCW 4.24.550 upon the public safety department of any public or
8 private school or institution of higher education.

9 (3)(a) The person shall provide the following information when
10 registering: (i) Name; (ii) complete residential address; (iii) date
11 and place of birth; (iv) place of employment; (v) crime for which
12 convicted; (vi) date and place of conviction; (vii) aliases used;
13 (viii) social security number; (ix) photograph; and (x) fingerprints.

14 (b) Any person who lacks a fixed residence shall provide the
15 following information when registering: (i) Name; (ii) date and place
16 of birth; (iii) place of employment; (iv) crime for which convicted;
17 (v) date and place of conviction; (vi) aliases used; (vii) social
18 security number; (viii) photograph; (ix) fingerprints; and (x) where he
19 or she plans to stay.

20 (4)(a) Offenders shall register with the county sheriff within the
21 following deadlines(~~(. For purposes of this section the term~~
22 ~~"conviction" refers to adult convictions and juvenile adjudications for~~
23 ~~sex offenses or kidnapping offenses))):~~

24 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
25 offense on, before, or after February 28, 1990, and who, on or after
26 July 28, 1991, are in custody, as a result of that offense, of the
27 state department of corrections, the state department of social and
28 health services, a local division of youth services, or a local jail or
29 juvenile detention facility, and (B) kidnapping offenders who on or
30 after July 27, 1997, are in custody of the state department of
31 corrections, the state department of social and health services, a
32 local division of youth services, or a local jail or juvenile detention
33 facility, must register at the time of release from custody with an
34 official designated by the agency that has jurisdiction over the
35 offender. The agency shall within three days forward the registration
36 information to the county sheriff for the county of the offender's
37 anticipated residence. The offender must also register within
38 (~~twenty-four hours~~) three business days from the time of release with

1 the county sheriff for the county of the person's residence, or if the
2 person is not a resident of Washington, the county of the person's
3 school, or place of employment or vocation. The agency that has
4 jurisdiction over the offender shall provide notice to the offender of
5 the duty to register. (~~Failure to register at the time of release and
6 within twenty four hours of release constitutes a violation of this
7 section and is punishable as provided in subsection (11) of this
8 section.~~)

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

19 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
20 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
21 but are under the jurisdiction of the indeterminate sentence review
22 board or under the department of corrections' active supervision, as
23 defined by the department of corrections, the state department of
24 social and health services, or a local division of youth services, for
25 sex offenses committed before, on, or after February 28, 1990, must
26 register within ten days of July 28, 1991. Kidnapping offenders who,
27 on July 27, 1997, are not in custody but are under the jurisdiction of
28 the indeterminate sentence review board or under the department of
29 corrections' active supervision, as defined by the department of
30 corrections, the state department of social and health services, or a
31 local division of youth services, for kidnapping offenses committed
32 before, on, or after July 27, 1997, must register within ten days of
33 July 27, 1997. A change in supervision status of a sex offender who
34 was required to register under this subsection (4)(a)(ii) as of July
35 28, 1991, or a kidnapping offender required to register as of July 27,
36 1997, shall not relieve the offender of the duty to register or to
37 reregister following a change in residence. (~~The obligation to
38 register shall only cease pursuant to RCW 9A.44.140.~~)

1 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
2 or after July 23, 1995, and kidnapping offenders who, on or after July
3 27, 1997, as a result of that offense are in the custody of the United
4 States bureau of prisons or other federal or military correctional
5 agency for sex offenses committed before, on, or after February 28,
6 1990, or kidnapping offenses committed on, before, or after July 27,
7 1997, must register within (~~twenty-four hours~~) three business days
8 from the time of release with the county sheriff for the county of the
9 person's residence, or if the person is not a resident of Washington,
10 the county of the person's school, or place of employment or vocation.
11 Sex offenders who, on July 23, 1995, are not in custody but are under
12 the jurisdiction of the United States bureau of prisons, United States
13 courts, United States parole commission, or military parole board for
14 sex offenses committed before, on, or after February 28, 1990, must
15 register within ten days of July 23, 1995. Kidnapping offenders who,
16 on July 27, 1997, are not in custody but are under the jurisdiction of
17 the United States bureau of prisons, United States courts, United
18 States parole commission, or military parole board for kidnapping
19 offenses committed before, on, or after July 27, 1997, must register
20 within ten days of July 27, 1997. A change in supervision status of a
21 sex offender who was required to register under this subsection
22 (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to
23 register as of July 27, 1997 shall not relieve the offender of the duty
24 to register or to reregister following a change in residence, or if the
25 person is not a resident of Washington, the county of the person's
26 school, or place of employment or vocation. (~~The obligation to~~
27 ~~register shall only cease pursuant to RCW 9A.44.140.~~)

28 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
29 who are convicted of a sex offense on or after July 28, 1991, for a sex
30 offense that was committed on or after February 28, 1990, and
31 kidnapping offenders who are convicted on or after July 27, 1997, for
32 a kidnapping offense that was committed on or after July 27, 1997, but
33 who are not sentenced to serve a term of confinement immediately upon
34 sentencing, shall report to the county sheriff to register
35 (~~immediately upon completion~~) within three business days of being
36 sentenced.

37 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
38 RESIDENTS. Sex offenders and kidnapping offenders who move to

1 Washington state from another state or a foreign country that are not
2 under the jurisdiction of the state department of corrections, the
3 indeterminate sentence review board, or the state department of social
4 and health services at the time of moving to Washington, must register
5 within three business days of establishing residence or reestablishing
6 residence if the person is a former Washington resident. The duty to
7 register under this subsection applies to sex offenders convicted under
8 the laws of another state or a foreign country, federal or military
9 statutes for offenses committed before, on, or after February 28, 1990,
10 or Washington state for offenses committed before, on, or after
11 February 28, 1990, and to kidnapping offenders convicted under the laws
12 of another state or a foreign country, federal or military statutes, or
13 Washington state for offenses committed before, on, or after July 27,
14 1997. Sex offenders and kidnapping offenders from other states or a
15 foreign country who, when they move to Washington, are under the
16 jurisdiction of the department of corrections, the indeterminate
17 sentence review board, or the department of social and health services
18 must register within (~~twenty-four hours~~) three business days of
19 moving to Washington. The agency that has jurisdiction over the
20 offender shall notify the offender of the registration requirements
21 before the offender moves to Washington.

22 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
23 or juvenile who has been found not guilty by reason of insanity under
24 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
25 February 28, 1990, and who, on or after July 23, 1995, is in custody,
26 as a result of that finding, of the state department of social and
27 health services, or (B) committing a kidnapping offense on, before, or
28 after July 27, 1997, and who on or after July 27, 1997, is in custody,
29 as a result of that finding, of the state department of social and
30 health services, must register within (~~twenty-four hours~~) three
31 business days from the time of release with the county sheriff for the
32 county of the person's residence. The state department of social and
33 health services shall provide notice to the adult or juvenile in its
34 custody of the duty to register. Any adult or juvenile who has been
35 found not guilty by reason of insanity of committing a sex offense on,
36 before, or after February 28, 1990, but who was released before July
37 23, 1995, or any adult or juvenile who has been found not guilty by
38 reason of insanity of committing a kidnapping offense but who was

1 released before July 27, 1997, shall be required to register within
2 (~~twenty-four hours~~) three business days of receiving notice of this
3 registration requirement. (~~The state department of social and health
4 services shall make reasonable attempts within available resources to
5 notify sex offenders who were released before July 23, 1995, and
6 kidnapping offenders who were released before July 27, 1997. Failure
7 to register within twenty-four hours of release, or of receiving
8 notice, constitutes a violation of this section and is punishable as
9 provided in subsection (11) of this section.~~)

10 (vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks
11 a fixed residence and leaves the county in which he or she is
12 registered and enters and remains within a new county for twenty-four
13 hours is required to register with the county sheriff not more than
14 (~~twenty-four hours~~) three business days after entering the county and
15 provide the information required in subsection (3)(b) of this section.

16 (viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER
17 SUPERVISION. Offenders who lack a fixed residence and who are under
18 the supervision of the department shall register in the county of their
19 supervision.

20 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND
21 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,
22 who move to another state, or who work, carry on a vocation, or attend
23 school in another state shall register a new address, fingerprints, and
24 photograph with the new state within (~~ten~~) three business days after
25 establishing residence, or after beginning to work, carry on a
26 vocation, or attend school in the new state. The person must also send
27 written notice within (~~ten~~) three business days of moving to the new
28 state or to a foreign country to the county sheriff with whom the
29 person last registered in Washington state. The county sheriff shall
30 promptly forward this information to the Washington state patrol.

31 (b) (~~Failure to register within the time required under this
32 section constitutes a per se violation of this section and is
33 punishable as provided in subsection (11) of this section.~~) The
34 county sheriff shall not be required to determine whether the person is
35 living within the county.

36 (c) An arrest on charges of failure to register, service of an
37 information, or a complaint for a violation of (~~this~~) section 3 of
38 this act, or arraignment on charges for a violation of (~~this~~) section

1 3 of this act, constitutes actual notice of the duty to register. Any
2 person charged with the crime of failure to register under (~~this~~)
3 section 3 of this act who asserts as a defense the lack of notice of
4 the duty to register shall register (~~immediately~~) within three
5 business days following actual notice of the duty through arrest,
6 service, or arraignment. Failure to register as required under this
7 subsection (4)(c) constitutes grounds for filing another charge of
8 failing to register. Registering following arrest, service, or
9 arraignment on charges shall not relieve the offender from criminal
10 liability for failure to register prior to the filing of the original
11 charge.

12 (d) The deadlines for the duty to register under this section do
13 not relieve any sex offender of the duty to register under this section
14 as it existed prior to July 28, 1991.

15 (5)(a) If any person required to register pursuant to this section
16 changes his or her residence address within the same county, the person
17 must (~~send~~) provide, by certified mail, with return receipt requested
18 or in person, signed written notice of the change of address to the
19 county sheriff within (~~seventy-two hours~~) three business days of
20 moving.

21 (b) If any person required to register pursuant to this section
22 moves to a new county, the person must (~~send signed written notice of~~
23 ~~the change of address at least fourteen days before moving to the~~
24 ~~county sheriff in the new county of residence and must~~) register with
25 that county sheriff within (~~twenty-four hours~~) three business days of
26 moving. Within three business days, the person must also (~~send~~)
27 provide, by certified mail, with return receipt requested or in person,
28 signed written notice (~~within ten days~~) of the change of address in
29 the new county to the county sheriff with whom the person last
30 registered. The county sheriff with whom the person last registered
31 shall promptly forward the information concerning the change of address
32 to the county sheriff for the county of the person's new residence.
33 Upon receipt of notice of change of address to a new state, the county
34 sheriff shall promptly forward the information regarding the change of
35 address to the agency designated by the new state as the state's
36 offender registration agency.

37 (~~(b) It is an affirmative defense to a charge that the person~~
38 ~~failed to send a notice at least fourteen days in advance of moving as~~

1 required under (a) of this subsection that the person did not know the
2 location of his or her new residence at least fourteen days before
3 moving. The defendant must establish the defense by a preponderance of
4 the evidence and, to prevail on the defense, must also prove by a
5 preponderance that the defendant sent the required notice within
6 twenty-four hours of determining the new address.))

7 (6)(a) Any person required to register under this section who lacks
8 a fixed residence shall provide signed written notice to the sheriff of
9 the county where he or she last registered within (~~forty-eight hours~~
10 ~~excluding weekends and holidays~~) three business days after ceasing to
11 have a fixed residence. The notice shall include the information
12 required by subsection (3)(b) of this section, except the photograph
13 and fingerprints. The county sheriff may, for reasonable cause,
14 require the offender to provide a photograph and fingerprints. The
15 sheriff shall forward this information to the sheriff of the county in
16 which the person intends to reside, if the person intends to reside in
17 another county.

18 (b) A person who lacks a fixed residence must report weekly, in
19 person, to the sheriff of the county where he or she is registered.
20 The weekly report shall be on a day specified by the county sheriff's
21 office, and shall occur during normal business hours. The county
22 sheriff's office may require the person to list the locations where the
23 person has stayed during the last seven days. The lack of a fixed
24 residence is a factor that may be considered in determining an
25 offender's risk level and shall make the offender subject to disclosure
26 of information to the public at large pursuant to RCW 4.24.550.

27 (c) If any person required to register pursuant to this section
28 does not have a fixed residence, it is an affirmative defense to the
29 charge of failure to register, that he or she provided written notice
30 to the sheriff of the county where he or she last registered within
31 (~~forty-eight hours excluding weekends and holidays after~~) three
32 business days of ceasing to have a fixed residence and has subsequently
33 complied with the requirements of subsections (4)(a)(vii) or (viii) and
34 (6) of this section. To prevail, the person must prove the defense by
35 a preponderance of the evidence.

36 (7) All offenders who are required to register pursuant to this
37 section who have a fixed residence and who are designated as a risk
38 level II or III must report, in person, every ninety days to the

1 sheriff of the county where he or she is registered. Reporting shall
2 be on a day specified by the county sheriff's office, and shall occur
3 during normal business hours. An offender who complies with the
4 ninety-day reporting requirement with no violations for a period of at
5 least five years in the community may petition the superior court to be
6 relieved of the duty to report every ninety days. The petition shall
7 be made to the superior court in the county where the offender resides
8 or reports under this section. The prosecuting attorney of the county
9 shall be named and served as respondent in any such petition. The
10 court shall relieve the petitioner of the duty to report if the
11 petitioner shows, by a preponderance of the evidence, that the
12 petitioner has complied with the reporting requirement for a period of
13 at least five years and that the offender has not been convicted of a
14 criminal violation of this section for a period of at least five years,
15 and the court determines that the reporting no longer serves a public
16 safety purpose. (~~Failure to report, as specified, constitutes a~~
17 ~~violation of this section and is punishable as provided in subsection~~
18 ~~(11) of this section.~~)

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

35 (9) The county sheriff shall obtain a photograph of the individual
36 and shall obtain a copy of the individual's fingerprints. A photograph
37 may be taken at any time to update an individual's file.

1 (10) (~~For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,~~
2 ~~70.48.470, and 72.09.330:~~

3 ~~(a) "Sex offense" means:~~

4 ~~(i) Any offense defined as a sex offense by RCW 9.94A.030;~~

5 ~~(ii) Any violation under RCW 9A.44.096 (sexual misconduct with a~~
6 ~~minor in the second degree);~~

7 ~~(iii) Any violation under RCW 9.68A.090 (communication with a minor~~
8 ~~for immoral purposes);~~

9 ~~(iv) Any federal or out-of-state conviction for an offense that~~
10 ~~under the laws of this state would be classified as a sex offense under~~
11 ~~this subsection; and~~

12 ~~(v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a~~
13 ~~criminal attempt, criminal solicitation, or criminal conspiracy to~~
14 ~~commit an offense that is classified as a sex offense under RCW~~
15 ~~9.94A.030 or this subsection.~~

16 ~~(b) "Kidnapping offense" means: (i) The crimes of kidnapping in~~
17 ~~the first degree, kidnapping in the second degree, and unlawful~~
18 ~~imprisonment, as defined in chapter 9A.40 RCW, where the victim is a~~
19 ~~minor and the offender is not the minor's parent; (ii) any offense that~~
20 ~~is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation,~~
21 ~~or criminal conspiracy to commit an offense that is classified as a~~
22 ~~kidnapping offense under this subsection (10)(b); and (iii) any federal~~
23 ~~or out-of-state conviction for an offense that under the laws of this~~
24 ~~state would be classified as a kidnapping offense under this subsection~~
25 ~~(10)(b).~~

26 ~~(c) "Employed" or "carries on a vocation" means employment that is~~
27 ~~full-time or part-time for a period of time exceeding fourteen days, or~~
28 ~~for an aggregate period of time exceeding thirty days during any~~
29 ~~calendar year. A person is employed or carries on a vocation whether~~
30 ~~the person's employment is financially compensated, volunteered, or for~~
31 ~~the purpose of government or educational benefit.~~

32 ~~(d) "Student" means a person who is enrolled, on a full-time or~~
33 ~~part-time basis, in any public or private educational institution. An~~
34 ~~educational institution includes any secondary school, trade or~~
35 ~~professional institution, or institution of higher education.~~

36 ~~(11)(a) A person who knowingly fails to comply with any of the~~
37 ~~requirements of this section is guilty of a class B felony if the crime~~
38 ~~for which the individual was convicted was a felony sex offense as~~

1 ~~defined in subsection (10)(a) of this section or a federal or out-of-~~
2 ~~state conviction for an offense that under the laws of this state would~~
3 ~~be a felony sex offense as defined in subsection (10)(a) of this~~
4 ~~section.~~

5 ~~(b) If the crime for which the individual was convicted was other~~
6 ~~than a felony or a federal or out-of-state conviction for an offense~~
7 ~~that under the laws of this state would be other than a felony,~~
8 ~~violation of this section is a gross misdemeanor.~~

9 ~~(12)(a) A person who knowingly fails to comply with any of the~~
10 ~~requirements of this section is guilty of a class C felony if the crime~~
11 ~~for which the individual was convicted was a felony kidnapping offense~~
12 ~~as defined in subsection (10)(b) of this section or a federal or out-~~
13 ~~of-state conviction for an offense that under the laws of this state~~
14 ~~would be a felony kidnapping offense as defined in subsection (10)(b)~~
15 ~~of this section.~~

16 ~~(b) If the crime for which the individual was convicted was other~~
17 ~~than a felony or a federal or out-of-state conviction for an offense~~
18 ~~that under the laws of this state would be other than a felony,~~
19 ~~violation of this section is a gross misdemeanor.~~

20 ~~(13))~~ Except as may otherwise be provided by law, nothing in this
21 section shall impose any liability upon a peace officer, including a
22 county sheriff, or law enforcement agency, for failing to release
23 information authorized under this section.

24 NEW SECTION. Sec. 3. (1) A person commits the crime of failure to
25 register as a sex offender if the person has a duty to register under
26 RCW 9A.44.130 for a felony sex offense as defined in that section and
27 knowingly fails to comply with any of the requirements of RCW
28 9A.44.130.

29 (a) Except as provided in (b) of this subsection, the failure to
30 register as a sex offender pursuant to this subsection is a class C
31 felony.

32 (b) If a person has been convicted in this state of a felony
33 failure to register as a sex offender on two or more prior occasions,
34 the failure to register under this subsection is a class B felony.

35 (2) A person is guilty of failure to register as a sex offender if
36 the person has a duty to register under RCW 9A.44.130 for a sex offense

1 other than a felony and knowingly fails to comply with any of the
2 requirements of RCW 9A.44.130. The failure to register as a sex
3 offender under this subsection is a gross misdemeanor.

4 (3) A person commits the crime of failure to register as a
5 kidnapping offender if the person has a duty to register under RCW
6 9A.44.130 for a kidnapping offense and knowingly fails to comply with
7 any of the requirements of RCW 9A.44.130.

8 (a) If the person has a duty to register for a felony kidnapping
9 offense, the failure to register as a kidnapping offender is a class C
10 felony.

11 (b) If the person has a duty to register for a kidnapping offense
12 other than a felony, the failure to register as a kidnapping offender
13 is a gross misdemeanor.

14 (4) Unless relieved of the duty to register pursuant to sections 5
15 and 6 of this act, a violation of this section is an ongoing offense
16 for purposes of the statute of limitations under RCW 9A.04.080.

17 **Sec. 4.** RCW 9A.44.140 and 2002 c 25 s 1 are each amended to read
18 as follows:

19 ~~((1))~~ The duty to register under RCW 9A.44.130 shall ~~((end+~~
20 ~~(a))~~ continue for the duration provided in this section.

21 (1) For a person convicted in this state of a class A felony or an
22 offense listed in ((subsection)) section 6(5) of this ((section)) act,
23 or a person convicted in this state of any sex offense or kidnapping
24 offense who has one or more prior convictions for a sex offense or
25 kidnapping offense~~((:—Such person may only be relieved of the duty to~~
26 ~~register under subsection (3) or (4) of this section)),~~ the duty to
27 register shall continue indefinitely.

28 ~~((b))~~ (2) For a person convicted in this state of a class B
29 felony~~((, and the person))~~ who does not have one or more prior
30 convictions for a sex offense or kidnapping offense and ~~((the~~
31 ~~person's))~~ whose current offense is not listed in ~~((subsection))~~
32 section 6(5) of this ((section+)) act, the duty to register shall end
33 fifteen years after the last date of release from confinement, if any,
34 (including full-time residential treatment) pursuant to the conviction,
35 or entry of the judgment and sentence, if the person has spent fifteen
36 consecutive years in the community without being convicted of ((any
37 new)) a disqualifying offense~~((s))~~ during that time period.

1 ~~((e))~~ (3) For a person convicted in this state of a class C
2 felony, a violation of RCW 9.68A.090 or 9A.44.096, or an attempt,
3 solicitation, or conspiracy to commit a class C felony, and the person
4 does not have one or more prior convictions for a sex offense or
5 kidnapping offense and the person's current offense is not listed in
6 ~~((subsection))~~ section 6(5) of this ~~((section*))~~ act, the duty to
7 register shall end ten years after the last date of release from
8 confinement, if any, (including full-time residential treatment)
9 pursuant to the conviction, or entry of the judgment and sentence, if
10 the person has spent ten consecutive years in the community without
11 being convicted of ~~((any new))~~ a disqualifying offense~~((s))~~ during that
12 time period.

13 ~~((2))~~ The provisions of subsection (1) of this section shall apply
14 equally to a person who has been found not guilty by reason of insanity
15 under chapter 10.77 RCW of a sex offense or kidnapping offense.

16 ~~(3)(a)~~ Except as provided in (b) of this subsection, any person
17 having a duty to register under RCW 9A.44.130 may petition the superior
18 court to be relieved of that duty, if the person has spent ten
19 consecutive years in the community without being convicted of any new
20 offenses. The petition shall be made to the court in which the
21 petitioner was convicted of the offense that subjects him or her to the
22 duty to register, or, in the case of convictions in other states, a
23 foreign country, or a federal or military court, to the court in
24 Thurston county. The prosecuting attorney of the county shall be named
25 and served as the respondent in any such petition. The court shall
26 consider the nature of the registrable offense committed, and the
27 criminal and relevant noncriminal behavior of the petitioner both
28 before and after conviction, and may consider other factors. Except as
29 provided in subsection (4) of this section, the court may relieve the
30 petitioner of the duty to register only if the petitioner shows, with
31 clear and convincing evidence, that future registration of the
32 petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
33 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

34 ~~(b)(i)~~ The court may not relieve a person of the duty to register
35 if the person has been determined to be a sexually violent predator as
36 defined in RCW 71.09.020, or has been convicted of a sex offense or
37 kidnapping offense that is a class A felony and that was committed with
38 forcible compulsion on or after June 8, 2000.

1 ~~(ii) The court may not relieve a person of the duty to register if~~
2 ~~the person has been convicted of one aggravated offense or more than~~
3 ~~one sexually violent offense, as defined in subsection (5) of this~~
4 ~~section, and the offense or offenses were committed on or after March~~
5 ~~12, 2002.~~

6 ~~(c) Any person subject to (b) of this subsection or subsection (5)~~
7 ~~of this section may petition the court to be exempted from any~~
8 ~~community notification requirements that the person may be subject to~~
9 ~~fifteen years after the later of the entry of the judgment and sentence~~
10 ~~or the last date of release from confinement, including full-time~~
11 ~~residential treatment, pursuant to the conviction, if the person has~~
12 ~~spent the time in the community without being convicted of any new~~
13 ~~offense.~~

14 ~~(4) An offender having a duty to register under RCW 9A.44.130 for~~
15 ~~a sex offense or kidnapping offense committed when the offender was a~~
16 ~~juvenile may petition the superior court to be relieved of that duty.~~
17 ~~The court shall consider the nature of the registrable offense~~
18 ~~committed, and the criminal and relevant noncriminal behavior of the~~
19 ~~petitioner both before and after adjudication, and may consider other~~
20 ~~factors.~~

21 ~~(a) The court may relieve the petitioner of the duty to register~~
22 ~~for a sex offense or kidnapping offense that was committed while the~~
23 ~~petitioner was fifteen years of age or older only if the petitioner~~
24 ~~shows, with clear and convincing evidence, that future registration of~~
25 ~~the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,~~
26 ~~43.43.540, 46.20.187, 70.48.470, and 72.09.330.~~

27 ~~(b) The court may relieve the petitioner of the duty to register~~
28 ~~for a sex offense or kidnapping offense that was committed while the~~
29 ~~petitioner was under the age of fifteen if the petitioner (i) has not~~
30 ~~been adjudicated of any additional sex offenses or kidnapping offenses~~
31 ~~during the twenty four months following the adjudication for the~~
32 ~~offense giving rise to the duty to register, and (ii) proves by a~~
33 ~~preponderance of the evidence that future registration of the~~
34 ~~petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,~~
35 ~~43.43.540, 46.20.187, 70.48.470, and 72.09.330.~~

36 ~~This subsection shall not apply to juveniles prosecuted as adults.~~

37 ~~(5)(a) A person who has been convicted of an aggravated offense, or~~
38 ~~has been convicted of one or more prior sexually violent offenses or~~

1 ~~criminal offenses against a victim who is a minor, as defined in (b) of~~
2 ~~this subsection may only be relieved of the duty to register under~~
3 ~~subsection (3)(b) of this section. This provision shall apply to~~
4 ~~convictions for crimes committed on or after July 22, 2001.~~

5 ~~(b) Unless the context clearly requires otherwise, the following~~
6 ~~definitions apply only to the federal lifetime registration~~
7 ~~requirements under this subsection:~~

8 ~~(i) "Aggravated offense" means an adult conviction that meets the~~
9 ~~definition of 18 U.S.C. Sec. 2241, which is limited to the following:~~

10 ~~(A) Any sex offense involving sexual intercourse or sexual contact~~
11 ~~where the victim is under twelve years of age;~~

12 ~~(B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape~~
13 ~~of a child in the first degree), or RCW 9A.44.083 (child molestation in~~
14 ~~the first degree);~~

15 ~~(C) Any of the following offenses when committed by forcible~~
16 ~~compulsion or by the offender administering, by threat or force or~~
17 ~~without the knowledge or permission of that person, a drug, intoxicant,~~
18 ~~or other similar substance that substantially impairs the ability of~~
19 ~~that person to appraise or control conduct: RCW 9A.44.050 (rape in the~~
20 ~~second degree), RCW 9A.44.100 (indecent liberties), RCW 9A.44.160~~
21 ~~(custodial sexual misconduct in the first degree), RCW 9A.64.020~~
22 ~~(incest), or RCW 9.68A.040 (sexual exploitation of a minor);~~

23 ~~(D) Any of the following offenses when committed by forcible~~
24 ~~compulsion or by the offender administering, by threat or force or~~
25 ~~without the knowledge or permission of that person, a drug, intoxicant,~~
26 ~~or other similar substance that substantially impairs the ability of~~
27 ~~that person to appraise or control conduct, if the victim is twelve~~
28 ~~years of age or over but under sixteen years of age and the offender is~~
29 ~~eighteen years of age or over and is more than forty-eight months older~~
30 ~~than the victim: RCW 9A.44.076 (rape of a child in the second degree),~~
31 ~~RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086~~
32 ~~(child molestation in the second degree), or RCW 9A.44.089 (child~~
33 ~~molestation in the third degree);~~

34 ~~(E) A felony with a finding of sexual motivation under RCW~~
35 ~~9.94A.835 where the victim is under twelve years of age or that is~~
36 ~~committed by forcible compulsion or by the offender administering, by~~
37 ~~threat or force or without the knowledge or permission of that person,~~

1 ~~a drug, intoxicant, or other similar substance that substantially~~
2 ~~impairs the ability of that person to appraise or control conduct;~~
3 ~~(F) An offense that is, under chapter 9A.28 RCW, an attempt or~~
4 ~~solicitation to commit such an offense; or~~
5 ~~(G) An offense defined by federal law or the laws of another state~~
6 ~~that is equivalent to the offenses listed in (b)(i)(A) through (F) of~~
7 ~~this subsection.~~
8 ~~(ii) "Sexually violent offense" means an adult conviction that~~
9 ~~meets the definition of 42 U.S.C. Sec. 14071(a)(1)(A), which is limited~~
10 ~~to the following:~~
11 ~~(A) An aggravated offense;~~
12 ~~(B) An offense that is not an aggravated offense but meets the~~
13 ~~definition of 18 U.S.C. Sec. 2242, which is limited to RCW 9A.44.050(1)~~
14 ~~(b) through (f) (rape in the second degree) and RCW 9A.44.100(1) (b)~~
15 ~~through (f) (indecent liberties);~~
16 ~~(C) A felony with a finding of sexual motivation under RCW~~
17 ~~9.94A.835 where the victim is incapable of appraising the nature of the~~
18 ~~conduct or physically incapable of declining participation in, or~~
19 ~~communicating unwillingness to engage in, the conduct;~~
20 ~~(D) An offense that is, under chapter 9A.28 RCW, an attempt or~~
21 ~~solicitation to commit such an offense; or~~
22 ~~(E) An offense defined by federal law or the laws of another state~~
23 ~~that is equivalent to the offenses listed in (b)(ii)(A) through (D) of~~
24 ~~this subsection.~~
25 ~~(iii) "Criminal offense against a victim who is a minor" means, in~~
26 ~~addition to any aggravated offense or sexually violent offense where~~
27 ~~the victim was under eighteen years of age, an adult conviction for the~~
28 ~~following offenses where the victim is under eighteen years of age:~~
29 ~~(A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape~~
30 ~~of a child in the second degree), RCW 9A.44.079 (rape of a child in the~~
31 ~~third degree), RCW 9A.44.086 (child molestation in the second degree),~~
32 ~~RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093~~
33 ~~(sexual misconduct with a minor in the first degree), RCW 9A.44.096~~
34 ~~(sexual misconduct with a minor in the second degree), RCW 9A.44.160~~
35 ~~(custodial sexual misconduct in the first degree), RCW 9A.64.020~~
36 ~~(incest), RCW 9.68A.040 (sexual exploitation of a minor), RCW 9.68A.090~~
37 ~~(communication with a minor for immoral purposes), or RCW 9.68A.100~~
38 ~~(patronizing a juvenile prostitute);~~

1 ~~(B) RCW 9A.40.020 (kidnapping in the first degree), RCW 9A.40.030~~
2 ~~(kidnapping in the second degree), or RCW 9A.40.040 (unlawful~~
3 ~~imprisonment), where the victim is a minor and the offender is not the~~
4 ~~minor's parent;~~

5 ~~(C) A felony with a finding of sexual motivation under RCW~~
6 ~~9.94A.835 where the victim is a minor;~~

7 ~~(D) An offense that is, under chapter 9A.28 RCW, an attempt or~~
8 ~~solicitation to commit such an offense; or~~

9 ~~(E) An offense defined by federal law or the laws of another state~~
10 ~~that is equivalent to the offenses listed in (b)(iii)(A) through (D) of~~
11 ~~this subsection.~~

12 ~~(6) Unless relieved of the duty to register pursuant to this~~
13 ~~section, a violation of RCW 9A.44.130 is an ongoing offense for~~
14 ~~purposes of the statute of limitations under RCW 9A.04.080.~~

15 ~~(7))~~ (4) For a person required to register for a federal or out-
16 of-state conviction, the duty to register shall continue indefinitely.

17 (5) Nothing in this section prevents a person from being relieved
18 of the duty to register under sections 6 and 7 of this act.

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

22 ~~((+8))~~ (7) For purposes of determining whether a person has been
23 convicted of more than one sex offense, failure to register as a sex
24 offender or kidnapping offender is not a sex or kidnapping offense.

25 (8) The provisions of this section and sections 5 through 7 of this
26 act apply equally to a person who has been found not guilty by reason
27 of insanity under chapter 10.77 RCW of a sex offense or kidnapping
28 offense.

29 NEW SECTION. Sec. 5. (1) Upon the request of a person who is
30 listed in the Washington state patrol central registry of sex offenders
31 and kidnapping offenders, the county sheriff shall investigate whether
32 a person's duty to register has ended by operation of law pursuant to
33 RCW 9A.44.140.

34 (a) Using available records, the county sheriff shall verify that
35 the offender has spent the requisite time in the community and has not
36 been convicted of a disqualifying offense.

1 (b) If the county sheriff determines the person's duty to register
2 has ended by operation of law, the county sheriff shall request the
3 Washington state patrol remove the person's name from the central
4 registry.

5 (2) Nothing in this subsection prevents a county sheriff from
6 investigating, upon his or her own initiative, whether a person's duty
7 to register has ended by operation of law pursuant to RCW 9A.44.140.

8 (3) An appointed or elected public official, public employee, or
9 public agency as defined in RCW 4.24.470, or units of local government
10 and its employees, as provided in RCW 36.28A.010, are immune from civil
11 liability for damages for removing or requesting the removal of a
12 person from the central registry of sex offenders and kidnapping
13 offenders or the failure to remove or request removal of a person
14 within the time frames provided in RCW 9A.44.140.

15 NEW SECTION. **Sec. 6.** (1) A person who is required to register
16 under RCW 9A.44.130 may petition the superior court to be relieved of
17 the duty to register:

18 (a) If the person has a duty to register for a sex offense or
19 kidnapping offense committed when the offender was a juvenile,
20 regardless of whether the conviction was in this state, as provided in
21 section 7 of this act;

22 (b) If the person is required to register for a conviction in this
23 state and is not prohibited from petitioning for relief from
24 registration under subsection (2) of this section, when the person has
25 spent ten consecutive years in the community without being convicted of
26 a disqualifying offense during that time period; and

27 (c) If the person is required to register for a federal or out-of-
28 state conviction, when the person has spent fifteen consecutive years
29 in the community without being convicted of a disqualifying offense
30 during that time period.

31 (2)(a) A person may not petition for relief from registration if
32 the person has been:

33 (i) Determined to be a sexually violent predator as defined in RCW
34 71.09.020;

35 (ii) Convicted as an adult of a sex offense or kidnapping offense
36 that is a class A felony and that was committed with forcible
37 compulsion on or after June 8, 2000; or

1 (iii) Until July 1, 2012, convicted of one aggravated offense or
2 more than one sexually violent offense, as defined in subsection (5) of
3 this section, and the offense or offenses were committed on or after
4 March 12, 2002. After July 1, 2012, this subsection (2)(a)(iii) shall
5 have no further force and effect.

6 (b) Any person who may not be relieved of the duty to register may
7 petition the court to be exempted from any community notification
8 requirements that the person may be subject to fifteen years after the
9 later of the entry of the judgment and sentence or the last date of
10 release from confinement, including full-time residential treatment,
11 pursuant to the conviction, if the person has spent the time in the
12 community without being convicted of a disqualifying offense.

13 (3) A petition for relief from registration or exemption from
14 notification under this section shall be made to the court in which the
15 petitioner was convicted of the offense that subjects him or her to the
16 duty to register or, in the case of convictions in other states, a
17 foreign country, or a federal or military court, to the court in
18 Thurston county. The prosecuting attorney of the county shall be named
19 and served as the respondent in any such petition.

20 (4)(a) The court may relieve a petitioner of the duty to register
21 only if the petitioner shows by clear and convincing evidence that the
22 petitioner is sufficiently rehabilitated to warrant removal from the
23 central registry of sex offenders and kidnapping offenders.

24 (b) In determining whether the petitioner is sufficiently
25 rehabilitated to warrant removal from the registry, the following
26 factors are provided as guidance to assist the court in making its
27 determination:

28 (i) The nature of the registrable offense committed including the
29 number of victims and the length of the offense history;

30 (ii) Any subsequent criminal history;

31 (iii) The petitioner's compliance with supervision requirements;

32 (iv) The length of time since the charged incident(s) occurred;

33 (v) Any input from community corrections officers, law enforcement,
34 or treatment providers;

35 (vi) Participation in sex offender treatment;

36 (vii) Participation in other treatment and rehabilitative programs;

37 (viii) The offender's stability in employment and housing;

38 (ix) The offender's community and personal support system;

1 (x) Any risk assessments or evaluations prepared by a qualified
2 professional;

3 (xi) Any updated polygraph examination;

4 (xii) Any input of the victim;

5 (xiii) Any other factors the court may consider relevant.

6 (5)(a) A person who has been convicted of an aggravated offense, or
7 has been convicted of one or more prior sexually violent offenses or
8 criminal offenses against a victim who is a minor, as defined in (b) of
9 this subsection:

10 (i) Until July 1, 2012, may not be relieved of the duty to
11 register;

12 (ii) After July 1, 2012, may petition the court to be relieved of
13 the duty to register as provided in this section;

14 (iii) This provision shall apply to convictions for crimes
15 committed on or after July 22, 2001.

16 (b) Unless the context clearly requires otherwise, the following
17 definitions apply only to the federal lifetime registration
18 requirements under this subsection:

19 (i) "Aggravated offense" means an adult conviction that meets the
20 definition of 18 U.S.C. Sec. 2241, which is limited to the following:

21 (A) Any sex offense involving sexual intercourse or sexual contact
22 where the victim is under twelve years of age;

23 (B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape
24 of a child in the first degree), or RCW 9A.44.083 (child molestation in
25 the first degree);

26 (C) Any of the following offenses when committed by forcible
27 compulsion or by the offender administering, by threat or force or
28 without the knowledge or permission of that person, a drug, intoxicant,
29 or other similar substance that substantially impairs the ability of
30 that person to appraise or control conduct: RCW 9A.44.050 (rape in the
31 second degree), RCW 9A.44.100 (indecent liberties), RCW 9A.44.160
32 (custodial sexual misconduct in the first degree), RCW 9A.64.020
33 (incest), or RCW 9.68A.040 (sexual exploitation of a minor);

34 (D) Any of the following offenses when committed by forcible
35 compulsion or by the offender administering, by threat or force or
36 without the knowledge or permission of that person, a drug, intoxicant,
37 or other similar substance that substantially impairs the ability of
38 that person to appraise or control conduct, if the victim is twelve

1 years of age or over but under sixteen years of age and the offender is
2 eighteen years of age or over and is more than forty-eight months older
3 than the victim: RCW 9A.44.076 (rape of a child in the second degree),
4 RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086
5 (child molestation in the second degree), or RCW 9A.44.089 (child
6 molestation in the third degree);

7 (E) A felony with a finding of sexual motivation under RCW
8 9.94A.835 where the victim is under twelve years of age or that is
9 committed by forcible compulsion or by the offender administering, by
10 threat or force or without the knowledge or permission of that person,
11 a drug, intoxicant, or other similar substance that substantially
12 impairs the ability of that person to appraise or control conduct;

13 (F) An offense that is, under chapter 9A.28 RCW, an attempt or
14 solicitation to commit such an offense; or

15 (G) An offense defined by federal law or the laws of another state
16 that is equivalent to the offenses listed in (b)(i)(A) through (F) of
17 this subsection.

18 (ii) "Sexually violent offense" means an adult conviction that
19 meets the definition of 42 U.S.C. Sec. 14071(a)(1)(A), which is limited
20 to the following:

21 (A) An aggravated offense;

22 (B) An offense that is not an aggravated offense but meets the
23 definition of 18 U.S.C. Sec. 2242, which is limited to RCW 9A.44.050(1)
24 (b) through (f) (rape in the second degree) and RCW 9A.44.100(1) (b)
25 through (f) (indecent liberties);

26 (C) A felony with a finding of sexual motivation under RCW
27 9.94A.835 where the victim is incapable of appraising the nature of the
28 conduct or physically incapable of declining participation in, or
29 communicating unwillingness to engage in, the conduct;

30 (D) An offense that is, under chapter 9A.28 RCW, an attempt or
31 solicitation to commit such an offense; or

32 (E) An offense defined by federal law or the laws of another state
33 that is equivalent to the offenses listed in (b)(ii)(A) through (D) of
34 this subsection.

35 (iii) "Criminal offense against a victim who is a minor" means, in
36 addition to any aggravated offense or sexually violent offense where
37 the victim was under eighteen years of age, an adult conviction for the
38 following offenses where the victim is under eighteen years of age:

1 (A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape
2 of a child in the second degree), RCW 9A.44.079 (rape of a child in the
3 third degree), RCW 9A.44.086 (child molestation in the second degree),
4 RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093
5 (sexual misconduct with a minor in the first degree), RCW 9A.44.096
6 (sexual misconduct with a minor in the second degree), RCW 9A.44.160
7 (custodial sexual misconduct in the first degree), RCW 9A.64.020
8 (incest), RCW 9.68A.040 (sexual exploitation of a minor), RCW 9.68A.090
9 (communication with a minor for immoral purposes), or RCW 9.68A.100
10 (commercial sexual abuse of a minor);

11 (B) RCW 9A.40.020 (kidnapping in the first degree), RCW 9A.40.030
12 (kidnapping in the second degree), or RCW 9A.40.040 (unlawful
13 imprisonment), where the victim is a minor and the offender is not the
14 minor's parent;

15 (C) A felony with a finding of sexual motivation under RCW
16 9.94A.835 where the victim is a minor;

17 (D) An offense that is, under chapter 9A.28 RCW, an attempt or
18 solicitation to commit such an offense; or

19 (E) An offense defined by federal law or the laws of another state
20 that is equivalent to the offenses listed in (b)(iii)(A) through (D) of
21 this subsection.

22 NEW SECTION. **Sec. 7.** (1) An offender having a duty to register
23 under RCW 9A.44.130 for a sex offense or kidnapping offense committed
24 when the offender was a juvenile may petition the superior court to be
25 relieved of that duty as provided in this section.

26 (2) The court may relieve the petitioner of the duty to register
27 if:

28 (a) At least twenty-four months have passed since the adjudication
29 for the offense giving rise to the duty to register and the petitioner
30 has not been adjudicated of any additional sex offenses or kidnapping
31 offenses;

32 (b) The petitioner has not been adjudicated or convicted of a
33 violation of section 3 of this act (failure to register) during the
34 twenty-four months prior to filing the petition; and

35 (c)(i) The petitioner was fifteen years of age or older at the time
36 the sex offense or kidnapping offense was committed and the petitioner

1 shows by clear and convincing evidence that the petitioner is
2 sufficiently rehabilitated to warrant removal from the central registry
3 of sex offenders and kidnapping offenders; or

4 (ii) The petitioner was under the age of fifteen at the time the
5 sex offense or kidnapping offense was committed and the petitioner
6 shows by a preponderance of the evidence that the petitioner is
7 sufficiently rehabilitated to warrant removal from the central registry
8 of sex offenders and kidnapping offenders.

9 (3) A petition for relief from registration under this section
10 shall be made to the court in which the petitioner was convicted of the
11 offense that subjects him or her to the duty to register or, in the
12 case of convictions in other states, a foreign country, or a federal or
13 military court, to the court in Thurston county. The prosecuting
14 attorney of the county shall be named and served as the respondent in
15 any such petition.

16 (4) In determining whether the petitioner is sufficiently
17 rehabilitated to warrant removal from the central registry of sex
18 offenders and kidnapping offenders, the following factors are provided
19 as guidance to assist the court in making its determination, to the
20 extent the factors are applicable considering the age and circumstances
21 of the petitioner:

22 (a) The nature of the registrable offense committed including the
23 number of victims and the length of the offense history;

24 (b) Any subsequent criminal history;

25 (c) The petitioner's compliance with supervision requirements;

26 (d) The length of time since the charged incident(s) occurred;

27 (e) Any input from community corrections officers, juvenile parole
28 or probation officers, law enforcement, or treatment providers;

29 (f) Participation in sex offender treatment;

30 (g) Participation in other treatment and rehabilitative programs;

31 (h) The offender's stability in employment and housing;

32 (i) The offender's community and personal support system;

33 (j) Any risk assessments or evaluations prepared by a qualified
34 professional;

35 (k) Any updated polygraph examination;

36 (l) Any input of the victim;

37 (m) Any other factors the court may consider relevant.

1 (5) A juvenile prosecuted and convicted of a sex offense or
2 kidnapping offense as an adult may not petition to the superior court
3 under this section.

4 **Sec. 8.** RCW 9A.44.145 and 2009 c 210 s 1 are each amended to read
5 as follows:

6 (1) The state patrol shall notify:

7 (a) Registered sex and kidnapping offenders of any change to the
8 registration requirements; and

9 (b) No less than annually, an offender having a duty to register
10 under ((~~RCW 9A.44.130~~)) section 7 of this act for a sex offense or
11 kidnapping offense committed when the offender was a juvenile of their
12 ability to petition for relief from registration as provided in RCW
13 9A.44.140.

14 (2) For economic efficiency, the state patrol may combine the
15 notices in this section into one notice.

16 **Sec. 9.** RCW 9.94A.030 and 2009 c 375 s 4 are each amended to read
17 as follows:

18 Unless the context clearly requires otherwise, the definitions in
19 this section apply throughout this chapter.

20 (1) "Board" means the indeterminate sentence review board created
21 under chapter 9.95 RCW.

22 (2) "Collect," or any derivative thereof, "collect and remit," or
23 "collect and deliver," when used with reference to the department,
24 means that the department, either directly or through a collection
25 agreement authorized by RCW 9.94A.760, is responsible for monitoring
26 and enforcing the offender's sentence with regard to the legal
27 financial obligation, receiving payment thereof from the offender, and,
28 consistent with current law, delivering daily the entire payment to the
29 superior court clerk without depositing it in a departmental account.

30 (3) "Commission" means the sentencing guidelines commission.

31 (4) "Community corrections officer" means an employee of the
32 department who is responsible for carrying out specific duties in
33 supervision of sentenced offenders and monitoring of sentence
34 conditions.

35 (5) "Community custody" means that portion of an offender's
36 sentence of confinement in lieu of earned release time or imposed as

1 part of a sentence under this chapter and served in the community
2 subject to controls placed on the offender's movement and activities by
3 the department.

4 (6) "Community protection zone" means the area within eight hundred
5 eighty feet of the facilities and grounds of a public or private
6 school.

7 (7) "Community restitution" means compulsory service, without
8 compensation, performed for the benefit of the community by the
9 offender.

10 (8) "Confinement" means total or partial confinement.

11 (9) "Conviction" means an adjudication of guilt pursuant to Title
12 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
13 acceptance of a plea of guilty.

14 (10) "Crime-related prohibition" means an order of a court
15 prohibiting conduct that directly relates to the circumstances of the
16 crime for which the offender has been convicted, and shall not be
17 construed to mean orders directing an offender affirmatively to
18 participate in rehabilitative programs or to otherwise perform
19 affirmative conduct. However, affirmative acts necessary to monitor
20 compliance with the order of a court may be required by the department.

21 (11) "Criminal history" means the list of a defendant's prior
22 convictions and juvenile adjudications, whether in this state, in
23 federal court, or elsewhere.

24 (a) The history shall include, where known, for each conviction (i)
25 whether the defendant has been placed on probation and the length and
26 terms thereof; and (ii) whether the defendant has been incarcerated and
27 the length of incarceration.

28 (b) A conviction may be removed from a defendant's criminal history
29 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or
30 a similar out-of-state statute, or if the conviction has been vacated
31 pursuant to a governor's pardon.

32 (c) The determination of a defendant's criminal history is distinct
33 from the determination of an offender score. A prior conviction that
34 was not included in an offender score calculated pursuant to a former
35 version of the sentencing reform act remains part of the defendant's
36 criminal history.

37 (12) "Criminal street gang" means any ongoing organization,
38 association, or group of three or more persons, whether formal or

1 informal, having a common name or common identifying sign or symbol,
2 having as one of its primary activities the commission of criminal
3 acts, and whose members or associates individually or collectively
4 engage in or have engaged in a pattern of criminal street gang
5 activity. This definition does not apply to employees engaged in
6 concerted activities for their mutual aid and protection, or to the
7 activities of labor and bona fide nonprofit organizations or their
8 members or agents.

9 (13) "Criminal street gang associate or member" means any person
10 who actively participates in any criminal street gang and who
11 intentionally promotes, furthers, or assists in any criminal act by the
12 criminal street gang.

13 (14) "Criminal street gang-related offense" means any felony or
14 misdemeanor offense, whether in this state or elsewhere, that is
15 committed for the benefit of, at the direction of, or in association
16 with any criminal street gang, or is committed with the intent to
17 promote, further, or assist in any criminal conduct by the gang, or is
18 committed for one or more of the following reasons:

- 19 (a) To gain admission, prestige, or promotion within the gang;
- 20 (b) To increase or maintain the gang's size, membership, prestige,
21 dominance, or control in any geographical area;
- 22 (c) To exact revenge or retribution for the gang or any member of
23 the gang;
- 24 (d) To obstruct justice, or intimidate or eliminate any witness
25 against the gang or any member of the gang;
- 26 (e) To directly or indirectly cause any benefit, aggrandizement,
27 gain, profit, or other advantage for the gang, its reputation,
28 influence, or membership; or
- 29 (f) To provide the gang with any advantage in, or any control or
30 dominance over any criminal market sector, including, but not limited
31 to, manufacturing, delivering, or selling any controlled substance
32 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
33 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
34 RCW); human trafficking (RCW 9A.40.100); or promoting pornography
35 (chapter 9.68 RCW).

36 (15) "Day fine" means a fine imposed by the sentencing court that
37 equals the difference between the offender's net daily income and the

1 reasonable obligations that the offender has for the support of the
2 offender and any dependents.

3 (16) "Day reporting" means a program of enhanced supervision
4 designed to monitor the offender's daily activities and compliance with
5 sentence conditions, and in which the offender is required to report
6 daily to a specific location designated by the department or the
7 sentencing court.

8 (17) "Department" means the department of corrections.

9 (18) "Determinate sentence" means a sentence that states with
10 exactitude the number of actual years, months, or days of total
11 confinement, of partial confinement, of community custody, the number
12 of actual hours or days of community restitution work, or dollars or
13 terms of a legal financial obligation. The fact that an offender
14 through earned release can reduce the actual period of confinement
15 shall not affect the classification of the sentence as a determinate
16 sentence.

17 (19) "Disposable earnings" means that part of the earnings of an
18 offender remaining after the deduction from those earnings of any
19 amount required by law to be withheld. For the purposes of this
20 definition, "earnings" means compensation paid or payable for personal
21 services, whether denominated as wages, salary, commission, bonuses, or
22 otherwise, and, notwithstanding any other provision of law making the
23 payments exempt from garnishment, attachment, or other process to
24 satisfy a court-ordered legal financial obligation, specifically
25 includes periodic payments pursuant to pension or retirement programs,
26 or insurance policies of any type, but does not include payments made
27 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
28 or Title 74 RCW.

29 (20) "Drug offender sentencing alternative" is a sentencing option
30 available to persons convicted of a felony offense other than a violent
31 offense or a sex offense and who are eligible for the option under RCW
32 9.94A.660.

33 (21) "Drug offense" means:

34 (a) Any felony violation of chapter 69.50 RCW except possession of
35 a controlled substance (RCW 69.50.4013) or forged prescription for a
36 controlled substance (RCW 69.50.403);

37 (b) Any offense defined as a felony under federal law that relates

1 to the possession, manufacture, distribution, or transportation of a
2 controlled substance; or

3 (c) Any out-of-state conviction for an offense that under the laws
4 of this state would be a felony classified as a drug offense under (a)
5 of this subsection.

6 (22) "Earned release" means earned release from confinement as
7 provided in RCW 9.94A.728.

8 (23) "Escape" means:

9 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
10 first degree (RCW 9A.76.110), escape in the second degree (RCW
11 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
12 willful failure to return from work release (RCW 72.65.070), or willful
13 failure to be available for supervision by the department while in
14 community custody (RCW 72.09.310); or

15 (b) Any federal or out-of-state conviction for an offense that
16 under the laws of this state would be a felony classified as an escape
17 under (a) of this subsection.

18 (24) "Felony traffic offense" means:

19 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
20 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
21 run injury-accident (RCW 46.52.020(4)), felony driving while under the
22 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or
23 felony physical control of a vehicle while under the influence of
24 intoxicating liquor or any drug (RCW 46.61.504(6)); or

25 (b) Any federal or out-of-state conviction for an offense that
26 under the laws of this state would be a felony classified as a felony
27 traffic offense under (a) of this subsection.

28 (25) "Fine" means a specific sum of money ordered by the sentencing
29 court to be paid by the offender to the court over a specific period of
30 time.

31 (26) "First-time offender" means any person who has no prior
32 convictions for a felony and is eligible for the first-time offender
33 waiver under RCW 9.94A.650.

34 (27) "Home detention" means a program of partial confinement
35 available to offenders wherein the offender is confined in a private
36 residence subject to electronic surveillance.

37 (28) "Legal financial obligation" means a sum of money that is
38 ordered by a superior court of the state of Washington for legal

1 financial obligations which may include restitution to the victim,
2 statutorily imposed crime victims' compensation fees as assessed
3 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
4 court-appointed attorneys' fees, and costs of defense, fines, and any
5 other financial obligation that is assessed to the offender as a result
6 of a felony conviction. Upon conviction for vehicular assault while
7 under the influence of intoxicating liquor or any drug, RCW
8 46.61.522(1)(b), or vehicular homicide while under the influence of
9 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
10 obligations may also include payment to a public agency of the expense
11 of an emergency response to the incident resulting in the conviction,
12 subject to RCW 38.52.430.

13 (29) "Most serious offense" means any of the following felonies or
14 a felony attempt to commit any of the following felonies:

15 (a) Any felony defined under any law as a class A felony or
16 criminal solicitation of or criminal conspiracy to commit a class A
17 felony;

18 (b) Assault in the second degree;

19 (c) Assault of a child in the second degree;

20 (d) Child molestation in the second degree;

21 (e) Controlled substance homicide;

22 (f) Extortion in the first degree;

23 (g) Incest when committed against a child under age fourteen;

24 (h) Indecent liberties;

25 (i) Kidnapping in the second degree;

26 (j) Leading organized crime;

27 (k) Manslaughter in the first degree;

28 (l) Manslaughter in the second degree;

29 (m) Promoting prostitution in the first degree;

30 (n) Rape in the third degree;

31 (o) Robbery in the second degree;

32 (p) Sexual exploitation;

33 (q) Vehicular assault, when caused by the operation or driving of
34 a vehicle by a person while under the influence of intoxicating liquor
35 or any drug or by the operation or driving of a vehicle in a reckless
36 manner;

37 (r) Vehicular homicide, when proximately caused by the driving of

1 any vehicle by any person while under the influence of intoxicating
2 liquor or any drug as defined by RCW 46.61.502, or by the operation of
3 any vehicle in a reckless manner;

4 (s) Any other class B felony offense with a finding of sexual
5 motivation;

6 (t) Any other felony with a deadly weapon verdict under RCW
7 9.94A.825;

8 (u) Any felony offense in effect at any time prior to December 2,
9 1993, that is comparable to a most serious offense under this
10 subsection, or any federal or out-of-state conviction for an offense
11 that under the laws of this state would be a felony classified as a
12 most serious offense under this subsection;

13 (v)(i) A prior conviction for indecent liberties under RCW
14 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
15 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
16 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
17 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

18 (ii) A prior conviction for indecent liberties under RCW
19 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
20 if: (A) The crime was committed against a child under the age of
21 fourteen; or (B) the relationship between the victim and perpetrator is
22 included in the definition of indecent liberties under RCW
23 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
24 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
25 through July 27, 1997;

26 (w) Any out-of-state conviction for a felony offense with a finding
27 of sexual motivation if the minimum sentence imposed was ten years or
28 more; provided that the out-of-state felony offense must be comparable
29 to a felony offense under Title 9 or 9A RCW and the out-of-state
30 definition of sexual motivation must be comparable to the definition of
31 sexual motivation contained in this section.

32 (30) "Nonviolent offense" means an offense which is not a violent
33 offense.

34 (31) "Offender" means a person who has committed a felony
35 established by state law and is eighteen years of age or older or is
36 less than eighteen years of age but whose case is under superior court
37 jurisdiction under RCW 13.04.030 or has been transferred by the
38 appropriate juvenile court to a criminal court pursuant to RCW

1 13.40.110. In addition, for the purpose of community custody
2 requirements under this chapter, "offender" also means a misdemeanor or
3 gross misdemeanor probationer convicted of an offense included in RCW
4 9.94A.501(1) and ordered by a superior court to probation under the
5 supervision of the department pursuant to RCW 9.92.060, 9.95.204, or
6 9.95.210. Throughout this chapter, the terms "offender" and
7 "defendant" are used interchangeably.

8 (32) "Partial confinement" means confinement for no more than one
9 year in a facility or institution operated or utilized under contract
10 by the state or any other unit of government, or, if home detention or
11 work crew has been ordered by the court, in an approved residence, for
12 a substantial portion of each day with the balance of the day spent in
13 the community. Partial confinement includes work release, home
14 detention, work crew, and a combination of work crew and home
15 detention.

16 (33) "Pattern of criminal street gang activity" means:

17 (a) The commission, attempt, conspiracy, or solicitation of, or any
18 prior juvenile adjudication of or adult conviction of, two or more of
19 the following criminal street gang-related offenses:

20 (i) Any "serious violent" felony offense as defined in this
21 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
22 Child 1 (RCW 9A.36.120);

23 (ii) Any "violent" offense as defined by this section, excluding
24 Assault of a Child 2 (RCW 9A.36.130);

25 (iii) Deliver or Possession with Intent to Deliver a Controlled
26 Substance (chapter 69.50 RCW);

27 (iv) Any violation of the firearms and dangerous weapon act
28 (chapter 9.41 RCW);

29 (v) Theft of a Firearm (RCW 9A.56.300);

30 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

31 (vii) Malicious Harassment (RCW 9A.36.080);

32 (viii) Harassment where a subsequent violation or deadly threat is
33 made (RCW 9A.46.020(2)(b));

34 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

35 (x) Any felony conviction by a person eighteen years of age or
36 older with a special finding of involving a juvenile in a felony
37 offense under RCW 9.94A.833;

38 (xi) Residential Burglary (RCW 9A.52.025);

1 (xii) Burglary 2 (RCW 9A.52.030);
2 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
3 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
4 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
5 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
6 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);
7 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
8 9A.56.075);
9 (xix) Extortion 1 (RCW 9A.56.120);
10 (xx) Extortion 2 (RCW 9A.56.130);
11 (xxi) Intimidating a Witness (RCW 9A.72.110);
12 (xxii) Tampering with a Witness (RCW 9A.72.120);
13 (xxiii) Reckless Endangerment (RCW 9A.36.050);
14 (xxiv) Coercion (RCW 9A.36.070);
15 (xxv) Harassment (RCW 9A.46.020); or
16 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
17 (b) That at least one of the offenses listed in (a) of this
18 subsection shall have occurred after July 1, 2008;
19 (c) That the most recent committed offense listed in (a) of this
20 subsection occurred within three years of a prior offense listed in (a)
21 of this subsection; and
22 (d) Of the offenses that were committed in (a) of this subsection,
23 the offenses occurred on separate occasions or were committed by two or
24 more persons.
25 (34) "Persistent offender" is an offender who:
26 (a)(i) Has been convicted in this state of any felony considered a
27 most serious offense; and
28 (ii) Has, before the commission of the offense under (a) of this
29 subsection, been convicted as an offender on at least two separate
30 occasions, whether in this state or elsewhere, of felonies that under
31 the laws of this state would be considered most serious offenses and
32 would be included in the offender score under RCW 9.94A.525; provided
33 that of the two or more previous convictions, at least one conviction
34 must have occurred before the commission of any of the other most
35 serious offenses for which the offender was previously convicted; or
36 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
37 of a child in the first degree, child molestation in the first degree,
38 rape in the second degree, rape of a child in the second degree, or

1 indecent liberties by forcible compulsion; (B) any of the following
2 offenses with a finding of sexual motivation: Murder in the first
3 degree, murder in the second degree, homicide by abuse, kidnapping in
4 the first degree, kidnapping in the second degree, assault in the first
5 degree, assault in the second degree, assault of a child in the first
6 degree, assault of a child in the second degree, or burglary in the
7 first degree; or (C) an attempt to commit any crime listed in this
8 subsection (34)(b)(i); and

9 (ii) Has, before the commission of the offense under (b)(i) of this
10 subsection, been convicted as an offender on at least one occasion,
11 whether in this state or elsewhere, of an offense listed in (b)(i) of
12 this subsection or any federal or out-of-state offense or offense under
13 prior Washington law that is comparable to the offenses listed in
14 (b)(i) of this subsection. A conviction for rape of a child in the
15 first degree constitutes a conviction under (b)(i) of this subsection
16 only when the offender was sixteen years of age or older when the
17 offender committed the offense. A conviction for rape of a child in
18 the second degree constitutes a conviction under (b)(i) of this
19 subsection only when the offender was eighteen years of age or older
20 when the offender committed the offense.

21 (35) "Predatory" means: (a) The perpetrator of the crime was a
22 stranger to the victim, as defined in this section; (b) the perpetrator
23 established or promoted a relationship with the victim prior to the
24 offense and the victimization of the victim was a significant reason
25 the perpetrator established or promoted the relationship; or (c) the
26 perpetrator was: (i) A teacher, counselor, volunteer, or other person
27 in authority in any public or private school and the victim was a
28 student of the school under his or her authority or supervision. For
29 purposes of this subsection, "school" does not include home-based
30 instruction as defined in RCW 28A.225.010; (ii) a coach, trainer,
31 volunteer, or other person in authority in any recreational activity
32 and the victim was a participant in the activity under his or her
33 authority or supervision; or (iii) a pastor, elder, volunteer, or other
34 person in authority in any church or religious organization, and the
35 victim was a member or participant of the organization under his or her
36 authority.

37 (36) "Private school" means a school regulated under chapter
38 28A.195 or 28A.205 RCW.

1 (37) "Public school" has the same meaning as in RCW 28A.150.010.

2 (38) "Restitution" means a specific sum of money ordered by the
3 sentencing court to be paid by the offender to the court over a
4 specified period of time as payment of damages. The sum may include
5 both public and private costs.

6 (39) "Risk assessment" means the application of the risk instrument
7 recommended to the department by the Washington state institute for
8 public policy as having the highest degree of predictive accuracy for
9 assessing an offender's risk of reoffense.

10 (40) "Serious traffic offense" means:

11 (a) Nonfelony driving while under the influence of intoxicating
12 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
13 while under the influence of intoxicating liquor or any drug (RCW
14 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
15 attended vehicle (RCW 46.52.020(5)); or

16 (b) Any federal, out-of-state, county, or municipal conviction for
17 an offense that under the laws of this state would be classified as a
18 serious traffic offense under (a) of this subsection.

19 (41) "Serious violent offense" is a subcategory of violent offense
20 and means:

21 (a)(i) Murder in the first degree;

22 (ii) Homicide by abuse;

23 (iii) Murder in the second degree;

24 (iv) Manslaughter in the first degree;

25 (v) Assault in the first degree;

26 (vi) Kidnapping in the first degree;

27 (vii) Rape in the first degree;

28 (viii) Assault of a child in the first degree; or

29 (ix) An attempt, criminal solicitation, or criminal conspiracy to
30 commit one of these felonies; or

31 (b) Any federal or out-of-state conviction for an offense that
32 under the laws of this state would be a felony classified as a serious
33 violent offense under (a) of this subsection.

34 (42) "Sex offense" means:

35 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
36 (~~RCW 9A.44.130(12)~~) section 3 of this act;

37 (ii) A violation of RCW 9A.64.020;

1 (iii) A felony that is a violation of chapter 9.68A RCW other than
2 RCW 9.68A.080; (~~or~~)

3 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
4 criminal solicitation, or criminal conspiracy to commit such crimes; or

5 (v) A felony violation of section 3(1) of this act (failure to
6 register) if the person has been convicted of violating section 3(1) of
7 this act (failure to register) on at least one prior occasion;

8 (b) Any conviction for a felony offense in effect at any time prior
9 to July 1, 1976, that is comparable to a felony classified as a sex
10 offense in (a) of this subsection;

11 (c) A felony with a finding of sexual motivation under RCW
12 9.94A.835 or 13.40.135; or

13 (d) Any federal or out-of-state conviction for an offense that
14 under the laws of this state would be a felony classified as a sex
15 offense under (a) of this subsection.

16 (43) "Sexual motivation" means that one of the purposes for which
17 the defendant committed the crime was for the purpose of his or her
18 sexual gratification.

19 (44) "Standard sentence range" means the sentencing court's
20 discretionary range in imposing a nonappealable sentence.

21 (45) "Statutory maximum sentence" means the maximum length of time
22 for which an offender may be confined as punishment for a crime as
23 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
24 crime, or other statute defining the maximum penalty for a crime.

25 (46) "Stranger" means that the victim did not know the offender
26 twenty-four hours before the offense.

27 (47) "Total confinement" means confinement inside the physical
28 boundaries of a facility or institution operated or utilized under
29 contract by the state or any other unit of government for twenty-four
30 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

31 (48) "Transition training" means written and verbal instructions
32 and assistance provided by the department to the offender during the
33 two weeks prior to the offender's successful completion of the work
34 ethic camp program. The transition training shall include instructions
35 in the offender's requirements and obligations during the offender's
36 period of community custody.

37 (49) "Victim" means any person who has sustained emotional,

1 psychological, physical, or financial injury to person or property as
2 a direct result of the crime charged.

3 (50) "Violent offense" means:

4 (a) Any of the following felonies:

5 (i) Any felony defined under any law as a class A felony or an
6 attempt to commit a class A felony;

7 (ii) Criminal solicitation of or criminal conspiracy to commit a
8 class A felony;

9 (iii) Manslaughter in the first degree;

10 (iv) Manslaughter in the second degree;

11 (v) Indecent liberties if committed by forcible compulsion;

12 (vi) Kidnapping in the second degree;

13 (vii) Arson in the second degree;

14 (viii) Assault in the second degree;

15 (ix) Assault of a child in the second degree;

16 (x) Extortion in the first degree;

17 (xi) Robbery in the second degree;

18 (xii) Drive-by shooting;

19 (xiii) Vehicular assault, when caused by the operation or driving
20 of a vehicle by a person while under the influence of intoxicating
21 liquor or any drug or by the operation or driving of a vehicle in a
22 reckless manner; and

23 (xiv) Vehicular homicide, when proximately caused by the driving of
24 any vehicle by any person while under the influence of intoxicating
25 liquor or any drug as defined by RCW 46.61.502, or by the operation of
26 any vehicle in a reckless manner;

27 (b) Any conviction for a felony offense in effect at any time prior
28 to July 1, 1976, that is comparable to a felony classified as a violent
29 offense in (a) of this subsection; and

30 (c) Any federal or out-of-state conviction for an offense that
31 under the laws of this state would be a felony classified as a violent
32 offense under (a) or (b) of this subsection.

33 (51) "Work crew" means a program of partial confinement consisting
34 of civic improvement tasks for the benefit of the community that
35 complies with RCW 9.94A.725.

36 (52) "Work ethic camp" means an alternative incarceration program
37 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
38 the cost of corrections by requiring offenders to complete a

1 comprehensive array of real-world job and vocational experiences,
2 character-building work ethics training, life management skills
3 development, substance abuse rehabilitation, counseling, literacy
4 training, and basic adult education.

5 (53) "Work release" means a program of partial confinement
6 available to offenders who are employed or engaged as a student in a
7 regular course of study at school.

8 **Sec. 10.** RCW 9.94A.501 and 2009 c 376 s 2 are each amended to read
9 as follows:

10 (1) The department shall supervise every offender convicted of a
11 misdemeanor or gross misdemeanor offense who is sentenced to probation
12 in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, for
13 an offense included in (a) and (b) of this subsection. The superior
14 court shall order probation for:

15 (a) Offenders convicted of fourth degree assault, violation of a
16 domestic violence court order pursuant to RCW 10.99.040, 10.99.050,
17 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145,
18 and who also have a prior conviction for one or more of the following:

19 (i) A violent offense;

20 (ii) A sex offense;

21 (iii) A crime against a person as provided in RCW 9.94A.411;

22 (iv) Fourth degree assault; or

23 (v) Violation of a domestic violence court order; and

24 (b) Offenders convicted of:

25 (i) Sexual misconduct with a minor second degree;

26 (ii) Custodial sexual misconduct second degree;

27 (iii) Communication with a minor for immoral purposes; and

28 (iv) Violation of section 3(2) of this act (failure to register)
29 (~~pursuant to RCW 9A.44.130~~)).

30 (2) Misdemeanor and gross misdemeanor offenders supervised by the
31 department pursuant to this section shall be placed on community
32 custody.

33 (3) The department shall supervise every felony offender sentenced
34 to community custody whose risk assessment, conducted pursuant to
35 subsection (6) of this section, classifies the offender as one who is
36 at a high risk to reoffend.

1 (4) Notwithstanding any other provision of this section, the
2 department shall supervise an offender sentenced to community custody
3 regardless of risk classification if the offender:

4 (a) Has a current conviction for a sex offense or a serious violent
5 offense as defined in RCW 9.94A.030;

6 (b) Has been identified by the department as a dangerous mentally
7 ill offender pursuant to RCW 72.09.370;

8 (c) Has an indeterminate sentence and is subject to parole pursuant
9 to RCW 9.95.017;

10 (d) Has a current conviction for violating section 3(1) of this act
11 (failure to register);

12 (e) Was sentenced under RCW 9.94A.650, 9.94A.660, or 9.94A.670; or
13 ~~((e))~~ (f) Is subject to supervision pursuant to RCW 9.94A.745.

14 (5) The department is not authorized to, and may not, supervise any
15 offender sentenced to a term of community custody or any probationer
16 unless the offender or probationer is one for whom supervision is
17 required under subsection (1), (2), (3), or (4) of this section.

18 (6) The department shall conduct a risk assessment for every felony
19 offender sentenced to a term of community custody who may be subject to
20 supervision under this section.

21 **Sec. 11.** RCW 9.94A.701 and 2009 c 375 s 5 are each amended to read
22 as follows:

23 (1) If an offender is sentenced to the custody of the department
24 for one of the following crimes, the court shall, in addition to the
25 other terms of the sentence, sentence the offender to community custody
26 for three years:

27 (a) A sex offense not sentenced under RCW 9.94A.507; or

28 (b) A serious violent offense(~~(+or~~

29 ~~(c) A violation of RCW 9A.44.130(11)(a) committed on or after June~~
30 ~~7, 2006, when a court sentences the person to a term of confinement of~~
31 ~~one year or less)).~~

32 (2) A court shall, in addition to the other terms of the sentence,
33 sentence an offender to community custody for eighteen months when the
34 court sentences the person to the custody of the department for a
35 violent offense that is not considered a serious violent offense.

36 (3) A court shall, in addition to the other terms of the sentence,

1 sentence an offender to community custody for one year when the court
2 sentences the person to the custody of the department for:

3 (a) Any crime against persons under RCW 9.94A.411(2);

4 (b) An offense involving the unlawful possession of a firearm under
5 RCW 9.41.040, where the offender is a criminal street gang member or
6 associate; (~~(or)~~)

7 (c) A felony offense under chapter 69.50 or 69.52 RCW, committed on
8 or after July 1, 2000; or

9 (d) A felony violation of section 3(1) of this act (failure to
10 register) that is the offender's first violation for a felony failure
11 to register.

12 (4) If an offender is sentenced under the drug offender sentencing
13 alternative, the court shall impose community custody as provided in
14 RCW 9.94A.660.

15 (5) If an offender is sentenced under the special (~~(sexual-[sex])~~)
16 sex offender sentencing alternative, the court shall impose community
17 custody as provided in RCW 9.94A.670.

18 (6) If an offender is sentenced to a work ethic camp, the court
19 shall impose community custody as provided in RCW 9.94A.690.

20 (7) If a sex offender is sentenced as a nonpersistent offender
21 pursuant to RCW 9.94A.507, the court shall impose community custody as
22 provided in that section.

23 (8) The term of community custody specified by this section shall
24 be reduced by the court whenever an offender's standard range term of
25 confinement in combination with the term of community custody exceeds
26 the statutory maximum for the crime as provided in RCW 9A.20.021.

27 **Sec. 12.** RCW 9.94A.702 and 2008 c 231 s 8 are each amended to read
28 as follows:

29 (1) If an offender is sentenced to a term of confinement for one
30 year or less for one of the following offenses, the court may impose up
31 to one year of community custody:

32 (a) A sex offense(~~(, other than failure to register under RCW~~
33 ~~9A.44.130(1))~~);

34 (b) A violent offense;

35 (c) A crime against a person under RCW 9.94A.411; (~~(or)~~)

36 (d) A felony violation of chapter 69.50 or 69.52 RCW, or an
37 attempt, conspiracy, or solicitation to commit such a crime; or

1 NEW SECTION. **Sec. 16.** Sections 1, 3, and 5 through 7 of this act
2 are each added to chapter 9A.44 RCW.

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