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By Representatives Keiser, O'Brien, Costa, Sterk, Conway, Wood, Hatfield, Kenney, Anderson, Dickerson, Ogden and Gombosky

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1 AN ACT Relating to sex and kidnapping offenders; amending RCW
2 4.24.5501 and 13.40.217; reenacting and amending RCW 4.24.550,
3 9A.44.130, and 70.48.470; adding a new section to chapter 9A.44 RCW;
4 and prescribing penalties.

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

6 **Sec. 1.** RCW 4.24.550 and 1997 c 364 s 1 and 1997 c 113 s 2 are
7 each reenacted and amended to read as follows:

8 (1) Public agencies are authorized to release information to the
9 public regarding sex offenders and kidnapping offenders when the agency
10 determines that disclosure of the information is relevant and necessary
11 to protect the public and counteract the danger created by the
12 particular offender. This authorization applies to information
13 regarding: (a) Any person adjudicated or convicted of a sex offense as
14 defined in RCW ((9-94A-030)) 9A.44.130 or a kidnapping offense as
15 defined in RCW 9A.44.130; (b) any person under the jurisdiction of the
16 indeterminate sentence review board as the result of a sex offense or
17 kidnapping offense; (c) any person committed as a sexually violent
18 predator under chapter 71.09 RCW or as a sexual psychopath under
19 chapter 71.06 RCW; (d) any person found not guilty of a sex offense or

1 kidnapping offense by reason of insanity under chapter 10.77 RCW; and
2 (e) any person found incompetent to stand trial for a sex offense or
3 kidnapping offense and subsequently committed under chapter 71.05 or
4 71.34 RCW.

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

11 (3) Local law enforcement agencies shall consider the following
12 guidelines in determining the extent of a public disclosure made under
13 this section: (a) For offenders classified as risk level I, the agency
14 shall share information with other appropriate law enforcement agencies
15 and may disclose, upon request, relevant, necessary, and accurate
16 information to any victim or witness to the offense and to any
17 individual community member who lives near the residence where the
18 offender resides, expects to reside, or is regularly found; (b) for
19 offenders classified as risk level II, the agency may also disclose
20 relevant, necessary, and accurate information to public and private
21 schools, child day care centers, family day care providers, businesses
22 and organizations that serve primarily children, women, or vulnerable
23 adults, and neighbors and community groups near the residence where the
24 offender resides, expects to reside, or is regularly found; and (c) for
25 offenders classified as risk level III, the agency may also disclose
26 relevant, necessary, and accurate information to the public at large.
27 In addition, for offenders classified as risk level III the agency must
28 make reasonable attempts to provide relevant, necessary, and accurate
29 information to the employer of the offender as provided in section 4 of
30 this act.

31 (4) Local law enforcement agencies that disseminate information
32 pursuant to this section shall: (a) Review available risk level
33 classifications made by the department of corrections, the department
34 of social and health services, and the indeterminate sentence review
35 board; (b) assign risk level classifications to all sex offenders about
36 whom information will be disseminated; and (c) make a good faith effort
37 to notify the public and residents at least fourteen days before
38 ((the)) a sex offender or kidnapping offender is released from
39 confinement or, where an offender moves from another jurisdiction, as

1 soon as possible after the agency learns of the offender's move, except
2 that in no case may this notification provision be construed to require
3 an extension of an offender's release date.

4 (5) An appointed or elected public official, public employee, or
5 public agency as defined in RCW 4.24.470 is immune from civil liability
6 for damages for any discretionary risk level classification decisions
7 or release of relevant and necessary information, unless it is shown
8 that the official, employee, or agency acted with gross negligence or
9 in bad faith. The immunity in this section applies to risk level
10 classification decisions and the release of relevant and necessary
11 information regarding any individual for whom disclosure is authorized.
12 The decision of a local law enforcement agency or official to classify
13 a sex offender to a risk level other than the one assigned by the
14 department of corrections, the department of social and health
15 services, or the indeterminate sentence review board, or the release of
16 any relevant and necessary information based on that different
17 classification shall not, by itself, be considered gross negligence or
18 bad faith. The immunity provided under this section applies to the
19 release of relevant and necessary information to other public
20 officials, public employees, or public agencies, and to the general
21 public.

22 (6) Except as may otherwise be provided by law, nothing in this
23 section shall impose any liability upon a public official, public
24 employee, or public agency for failing to release information
25 authorized under this section.

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

29 (8) When a local law enforcement agency or official classifies a
30 sex offender differently than the offender is classified by the
31 department of corrections, the department of social and health
32 services, or the indeterminate sentence review board, the law
33 enforcement agency or official shall notify the appropriate department
34 or the board and submit its reasons supporting the change in
35 classification.

36 **Sec. 2.** RCW 4.24.5501 and 1997 c 364 s 6 are each amended to read
37 as follows:

1 (1) By December 1, 1997, the Washington association of sheriffs and
2 police chiefs shall develop a model policy for law enforcement agencies
3 to follow when they disclose information about sex offenders to the
4 public under RCW 4.24.550. The model policy shall be designed to
5 further the objectives of providing adequate notice to the community
6 concerning sex offenders who are or will be residing in the community
7 and of assisting community members in developing constructive plans to
8 prepare themselves and their children for residing near released sex
9 offenders.

10 (2) In developing the policy, the association shall consult with
11 representatives of the following agencies and professions: (a) The
12 department of corrections; (b) the department of social and health
13 services; (c) the indeterminate sentence review board; (d) the
14 Washington state council of police officers; (e) local correctional
15 agencies; (f) the Washington association of prosecuting attorneys; (g)
16 the Washington public defender association; (h) the Washington
17 association for the treatment of sexual abusers; and (i) victim
18 advocates.

19 (3) The model policy shall, at a minimum, include recommendations
20 to address the following issues: (a) Procedures for local agencies or
21 officials to accomplish the notifications required under RCW
22 4.24.550(8); (b) contents and form of community notification documents,
23 including procedures for ensuring the accuracy of factual information
24 contained in the notification documents, and ways of protecting the
25 privacy of victims of the offenders' crimes; (c) methods for local
26 agencies to distribute employer notifications; (d) methods of
27 distributing community notification documents; (~~(d)~~) (e) methods of
28 providing follow-up notifications to community residents at specified
29 intervals and of disclosing information about offenders to law
30 enforcement agencies in other jurisdictions if necessary to protect the
31 public; (~~(e)~~) (f) methods of educating community residents at public
32 meetings on how they can use the information in the notification
33 document in a reasonable manner to enhance their individual and
34 collective safety; (~~(f)~~) (g) procedures for educating community
35 members regarding the right of sex offenders not to be the subject of
36 harassment or criminal acts as a result of the notification process;
37 and (~~(g)~~) (h) other matters the Washington association of sheriffs
38 and police chiefs deems necessary to ensure the effective and fair
39 administration of RCW 4.24.550.

1 **Sec. 3.** RCW 9A.44.130 and 1997 c 340 s 3 and 1997 c 113 s 3 are
2 each reenacted and amended to read as follows:

3 (1) Any adult or juvenile residing in this state who has been found
4 to have committed or has been convicted of any sex offense or
5 kidnapping offense, or who has been found not guilty by reason of
6 insanity under chapter 10.77 RCW of committing any sex offense or
7 kidnapping offense, shall register with the county sheriff for the
8 county of the person's residence.

9 (2) The person shall provide the county sheriff with the following
10 information when registering: (a) Name; (b) address; (c) date and
11 place of birth; (d) place of employment; (e) crime for which convicted;
12 (f) date and place of conviction; (g) aliases used; and (h) social
13 security number.

14 (3)(a) Offenders shall register within the following deadlines.
15 For purposes of this section the term "conviction" refers to adult
16 convictions and juvenile adjudications for sex offenses or kidnapping
17 offenses:

18 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
19 offense on, before, or after February 28, 1990, and who, on or after
20 July 28, 1991, are in custody, as a result of that offense, of the
21 state department of corrections, the state department of social and
22 health services, a local division of youth services, or a local jail or
23 juvenile detention facility, and (B) kidnapping offenders who on or
24 after July 27, 1997, are in custody of the state department of
25 corrections, the state department of social and health services, a
26 local division of youth services, or a local jail or juvenile detention
27 facility, must register within twenty-four hours from the time of
28 release with the county sheriff for the county of the person's
29 residence. The agency that has jurisdiction over the offender shall:
30 (I) Provide notice to the offender of the duty to register; and (II)
31 for sex offenders released on or after July 31, 1998, inform applicable
32 offenders of their classified sex offender risk level. Failure to
33 register within twenty-four hours of release constitutes a violation of
34 this section and is punishable as provided in subsection (7) of this
35 section.

36 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
37 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
38 but are under the jurisdiction of the indeterminate sentence review
39 board or under the department of correction's active supervision, as

1 defined by the department of corrections, the state department of
2 social and health services, or a local division of youth services, for
3 sex offenses committed before, on, or after February 28, 1990, must
4 register within ten days of July 28, 1991. Kidnapping offenders who,
5 on July 27, 1997, are not in custody but are under the jurisdiction of
6 the indeterminate sentence review board or under the department of
7 correction's active supervision, as defined by the department of
8 corrections, the state department of social and health services, or a
9 local division of youth services, for kidnapping offenses committed
10 before, on, or after July 27, 1997, must register within ten days of
11 July 27, 1997. A change in supervision status of a sex offender who
12 was required to register under this subsection (3)(a)(ii) as of July
13 28, 1991, or a kidnapping offender required to register as of July 27,
14 1997, shall not relieve the offender of the duty to register or to
15 reregister following a change in residence. The obligation to register
16 shall only cease pursuant to RCW 9A.44.140.

17 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
18 or after July 23, 1995, and kidnapping offenders who, on or after July
19 27, 1997, as a result of that offense are in the custody of the United
20 States bureau of prisons or other federal or military correctional
21 agency for sex offenses committed before, on, or after February 28,
22 1990, or kidnapping offenses committed on, before, or after July 27,
23 1997, must register within twenty-four hours from the time of release
24 with the county sheriff for the county of the person's residence. Sex
25 offenders who, on July 23, 1995, are not in custody but are under the
26 jurisdiction of the United States bureau of prisons, United States
27 courts, United States parole commission, or military parole board for
28 sex offenses committed before, on, or after February 28, 1990, must
29 register within ten days of July 23, 1995. Kidnapping offenders who,
30 on July 27, 1997, are not in custody but are under the jurisdiction of
31 the United States bureau of prisons, United States courts, United
32 States parole commission, or military parole board for kidnapping
33 offenses committed before, on, or after July 27, 1997, must register
34 within ten days of July 27, 1997. A change in supervision status of a
35 sex offender who was required to register under this subsection
36 (3)(a)(iii) as of July 23, 1995, or a kidnapping offender required to
37 register as of July 27, 1997 shall not relieve the offender of the duty
38 to register or to reregister following a change in residence. The
39 obligation to register shall only cease pursuant to RCW 9A.44.140.

1 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
2 who are convicted of a sex offense on or after July 28, 1991, for a sex
3 offense that was committed on or after February 28, 1990, and
4 kidnapping offenders who are convicted on or after July 27, 1997, for
5 a kidnapping offense that was committed on or after July 27, 1997, but
6 who are not sentenced to serve a term of confinement immediately upon
7 sentencing, shall report to the county sheriff to register immediately
8 upon completion of being sentenced.

9 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
10 RESIDENTS. Sex offenders and kidnapping offenders who move to
11 Washington state from another state or a foreign country that are not
12 under the jurisdiction of the state department of corrections, the
13 indeterminate sentence review board, or the state department of social
14 and health services at the time of moving to Washington, must register
15 within thirty days of establishing residence or reestablishing
16 residence if the person is a former Washington resident. The duty to
17 register under this subsection applies to sex offenders convicted under
18 the laws of another state or a foreign country, federal or military
19 statutes, or Washington state for offenses committed on or after
20 February 28, 1990, and to kidnapping offenders convicted under the laws
21 of another state or a foreign country, federal or military statutes, or
22 Washington state for offenses committed on or after July 27, 1997. Sex
23 offenders and kidnapping offenders from other states or a foreign
24 country who, when they move to Washington, are under the jurisdiction
25 of the department of corrections, the indeterminate sentence review
26 board, or the department of social and health services must register
27 within twenty-four hours of moving to Washington. The agency that has
28 jurisdiction over the offender shall notify the offender of the
29 registration requirements before the offender moves to Washington.

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

1 residence. The state department of social and health services shall
2 provide notice to the adult or juvenile in its custody of the duty to
3 register. Any adult or juvenile who has been found not guilty by
4 reason of insanity of committing a sex offense on, before, or after
5 February 28, 1990, but who was released before July 23, 1995, or any
6 adult or juvenile who has been found not guilty by reason of insanity
7 of committing a kidnapping offense but who was released before July 27,
8 1997, shall be required to register within twenty-four hours of
9 receiving notice of this registration requirement. The state
10 department of social and health services shall make reasonable attempts
11 within available resources to notify sex offenders who were released
12 before July 23, 1995, and kidnapping offenders who were released before
13 July 27, 1997. Failure to register within twenty-four hours of
14 release, or of receiving notice, constitutes a violation of this
15 section and is punishable as provided in subsection (7) of this
16 section.

17 (b) Failure to register within the time required under this section
18 constitutes a per se violation of this section and is punishable as
19 provided in subsection (7) of this section. The county sheriff shall
20 not be required to determine whether the person is living within the
21 county.

22 (c) An arrest on charges of failure to register, service of an
23 information, or a complaint for a violation of this section, or
24 arraignment on charges for a violation of this section, constitutes
25 actual notice of the duty to register. Any person charged with the
26 crime of failure to register under this section who asserts as a
27 defense the lack of notice of the duty to register shall register
28 immediately following actual notice of the duty through arrest,
29 service, or arraignment. Failure to register as required under this
30 subsection (c) constitutes grounds for filing another charge of failing
31 to register. Registering following arrest, service, or arraignment on
32 charges shall not relieve the offender from criminal liability for
33 failure to register prior to the filing of the original charge.

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

37 (4)(a) If any person required to register pursuant to this section
38 changes his or her residence address within the same county, the person
39 must send written notice of the change of address to the county sheriff

1 at least fourteen days before moving. If any person required to
2 register pursuant to this section moves to a new county, the person
3 must send written notice of the change of address at least fourteen
4 days before moving to the county sheriff in the new county of residence
5 and must register with that county sheriff within twenty-four hours of
6 moving. The person must also send written notice within ten days of
7 the change of address in the new county to the county sheriff with whom
8 the person last registered. If any person required to register
9 pursuant to this section moves out of Washington state, the person must
10 also send written notice within ten days of moving to the new state or
11 a foreign country to the county sheriff with whom the person last
12 registered in Washington state.

13 (b) It is an affirmative defense to a charge that the person failed
14 to send a notice at least fourteen days in advance of moving as
15 required under (a) of this subsection that the person did not know the
16 location of his or her new residence at least fourteen days before
17 moving. The defendant must establish the defense by a preponderance of
18 the evidence and, to prevail on the defense, must also prove by a
19 preponderance that the defendant sent the required notice within
20 twenty-four hours of determining the new address.

21 (5) The county sheriff shall obtain a photograph of the individual
22 and shall obtain a copy of the individual's fingerprints.

23 (6) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
24 70.48.470, and 72.09.330:

25 (a) "Sex offense" means any offense defined as a sex offense by RCW
26 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation of a
27 minor), 9.68A.050 (dealing in depictions of minor engaged in sexually
28 explicit conduct), 9.68A.060 (sending, bringing into state depictions
29 of minor engaged in sexually explicit conduct), 9.68A.090
30 (communication with minor for immoral purposes), 9.68A.100 (patronizing
31 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in
32 the second degree), as well as any gross misdemeanor that is, under
33 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or
34 criminal conspiracy to commit an offense that is classified as a sex
35 offense under RCW 9.94A.030.

36 (b) "Kidnapping offense" means the crimes of kidnapping in the
37 first degree, kidnapping in the second degree, and unlawful
38 imprisonment as defined in chapter 9A.40 RCW, where the victim is a
39 minor and the offender is not the minor's parent.

1 (7) A person who knowingly fails to register or who moves without
2 notifying the county sheriff as required by this section is guilty of
3 a class C felony if the crime for which the individual was convicted
4 was a felony or a federal or out-of-state conviction for an offense
5 that under the laws of this state would be a felony. If the crime was
6 other than a felony or a federal or out-of-state conviction for an
7 offense that under the laws of this state would be other than a felony,
8 violation of this section is a gross misdemeanor.

9 (8) A sex offender released on or after July 31, 1998, classified
10 as a risk level III, must send written notice of a change of employer
11 to the county sheriff within forty-eight hours of commencement of
12 employment. A sex offender under this subsection who knowingly fails
13 to register his or her place of employment or obtains or changes his or
14 her place of employment without notifying the county sheriff as
15 required by this section is guilty of a class C felony if the crime for
16 which the individual was convicted was a felony or a federal or out-of-
17 state conviction for an offense that under the laws of this state would
18 be a felony. If the sex offense was other than a felony or a federal
19 or out-of-state conviction for an offense that under the laws of this
20 state would be other than a felony, violation of this section is a
21 gross misdemeanor.

22 NEW SECTION. Sec. 4. A new section is added to chapter 9A.44 RCW
23 to read as follows:

24 When a sex offender registers with the county sheriff pursuant to
25 this chapter, the county sheriff shall make reasonable attempts to
26 provide relevant, necessary, and accurate information to any employer
27 of a sex offender classified as risk level III. Reasonable attempts at
28 informing an employer shall include at a minimum sending certified
29 mail, with return receipt requested, to the sex offender's employer at
30 the employer's registered address. If the employer does not sign the
31 return receipt the sheriff shall contact the employer by telephone,
32 electronic mail, or in person. The sheriff shall make reasonable
33 attempts to locate any sex offender whose place of employment cannot be
34 verified at the employer's registered address.

35 **Sec. 5.** RCW 13.40.217 and 1997 c 364 s 2 are each amended to read
36 as follows:

1 (1) In addition to any other information required to be released
2 under this chapter, the department is authorized, pursuant to RCW
3 4.24.550, to release relevant information that is necessary to protect
4 the public concerning juveniles adjudicated of sex offenses.

5 (2) In order for public agencies to have the information necessary
6 for notifying the public about sex offenders as authorized in RCW
7 4.24.550, the secretary shall issue to appropriate law enforcement
8 agencies narrative notices regarding the pending release of sex
9 offenders from the department's juvenile rehabilitation facilities.
10 The narrative notices shall, at a minimum, describe the identity and
11 criminal history behavior of the offender and shall include the
12 department's risk level classification for the offender. For sex
13 offenders classified as either risk level II or III, the narrative
14 notices shall also include the reasons underlying the classification.

15 (3) For the purposes of this section, the department shall classify
16 as risk level I those offenders whose risk assessments indicate a low
17 risk of reoffense within the community at large. The department shall
18 classify as risk level II those offenders whose risk assessments
19 indicate a moderate risk of reoffense within the community at large.
20 The department shall classify as risk level III those offenders whose
21 risk assessments indicate a high risk of reoffense within the community
22 at large.

23 (4) The agency that has jurisdiction over the offender shall: (a)
24 Provide notice to the offender of the duty to register; and (b) for sex
25 offenders released on or after July 31, 1998, inform applicable
26 offenders of their classified sex offender risk level.

27 **Sec. 6.** RCW 70.48.470 and 1997 c 364 s 3 and 1997 c 113 s 7 are
28 each reenacted and amended to read as follows:

29 (1) A person having charge of a jail shall notify in writing any
30 confined person who is in the custody of the jail for a conviction of
31 a sex offense or kidnapping offense as defined in RCW 9A.44.130 of the
32 registration requirements of RCW 9A.44.130 at the time of the inmate's
33 release from confinement, and shall obtain written acknowledgment of
34 such notification. The person shall also obtain from the inmate the
35 ~~((county of the inmate's residence upon release from jail and, where~~
36 ~~applicable, the city))~~ following information: (a) Name; (b) address;
37 (c) date and place of birth; (d) place of employment; (e) crime for

1 which convicted; (f) date and place of conviction; (g) aliases used;
2 and (h) social security number.

3 (2) The chief law enforcement officer of the jail or his or her
4 designee that has jurisdiction over the offender shall: (a) Provide
5 notice to the offender of the duty to register; and (b) for sex
6 offenders released on or after July 31, 1998, inform offenders of their
7 classified sex offender risk level.

8 (3) When a sex offender or kidnapping offender under local
9 government jurisdiction will reside in a county other than the county
10 of conviction upon discharge or release, the chief law enforcement
11 officer of the jail or his or her designee shall give notice of the
12 inmate's discharge or release to the sheriff of the county and, where
13 applicable, to the police chief of the city where the offender will
14 reside.

15 NEW SECTION. **Sec. 7.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

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