

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5759

Chapter 364, Laws of 1997

55th Legislature
1997 Regular Session

SEX OFFENDERS--RISK LEVEL CLASSIFICATION--PUBLIC NOTICE PROCEDURES

EFFECTIVE DATE: 7/27/97

Passed by the Senate April 22, 1997
YEAS 44 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 10, 1997
YEAS 98 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 14, 1997

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5759** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MIKE O'CONNELL

Secretary

FILED

May 14, 1997 - 2:27 p.m.

GARY LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5759

AS AMENDED BY THE HOUSE

Passed Legislature - 1997 Regular Session

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove, Zarelli, Franklin, Winsley, Oke and Roach)

Read first time 02/26/97.

1 AN ACT Relating to sex offender risk level classification and
2 public notification procedures; amending RCW 4.24.550, 13.40.217,
3 70.48.470, and 9.95.145; adding a new section to chapter 72.09 RCW; and
4 creating new sections.

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

6 **Sec. 1.** RCW 4.24.550 and 1996 c 215 s 1 are each amended to read
7 as follows:

8 (1) Public agencies are authorized to release ~~((relevant and~~
9 ~~necessary))~~ information to the public regarding sex offenders ~~((to the~~
10 ~~public when the release of the information is necessary for public~~
11 ~~protection))~~ when the agency determines that disclosure of the
12 information is relevant and necessary to protect the public and
13 counteract the danger created by the particular offender. This
14 authorization applies to information regarding: (a) Any person
15 adjudicated or convicted of a sex offense as defined in RCW 9.94A.030;
16 (b) any person under the jurisdiction of the indeterminate sentence
17 review board as the result of a sex offense; (c) any person committed
18 as a sexually violent predator under chapter 71.09 RCW or as a sexual
19 psychopath under chapter 71.06 RCW; (d) any person found not guilty of

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

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

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

26 (4) Local law enforcement agencies (~~and officials who decide to~~
27 release)) that disseminate information pursuant to this section shall:
28 (a) Review available risk level classifications made by the department
29 of corrections, the department of social and health services, and the
30 indeterminate sentence review board; (b) assign risk level
31 classifications to all sex offenders about whom information will be
32 disseminated; and (c) make a good faith effort to notify the public and
33 residents at least fourteen days before the sex offender is released
34 from confinement or, where an offender moves from another jurisdiction,
35 as soon as possible after the agency learns of the offender's move,
36 except that in no case may this notification provision be construed to
37 require an extension of an offender's release date. (~~If a change~~
38 occurs in the release plan, this notification provision will not
39 require an extension of the release date. The department of

1 corrections and the department of social and health services shall
2 provide local law enforcement officials with all relevant information
3 on sex offenders about to be released or placed into the community in
4 a timely manner. When a sex offender under county jurisdiction will be
5 released from jail and will reside in a county other than the county of
6 incarceration, the chief law enforcement officer of the jail, or his or
7 her designee, shall notify the sheriff in the county where the offender
8 will reside of the offender's release as provided in RCW 70.48.470.

9 ~~(3))~~ (5) An appointed or elected public official, public employee,
10 or public agency as defined in RCW 4.24.470 is immune from civil
11 liability for damages for any discretionary ((decision to release))
12 risk level classification decisions ((and the)) or release of relevant
13 and necessary information, unless it is shown that the official,
14 employee, or agency acted with gross negligence or in bad faith. The
15 ((authorization and)) immunity in this section applies to risk level
16 classification decisions and the release of relevant and necessary
17 information regarding((:—(a) A person convicted of, or juvenile found
18 to have committed, a sex offense as defined by RCW 9.94A.030; (b) a
19 person found not guilty of a sex offense by reason of insanity under
20 chapter 10.77 RCW; (c) a person found incompetent to stand trial for a
21 sex offense and subsequently committed under chapter 71.05 or 71.34
22 RCW; (d) a person committed as a sexual psychopath under chapter 71.06
23 RCW; or (e) a person committed as a sexually violent predator under
24 chapter 71.09 RCW)) any individual for whom disclosure is authorized.
25 The decision of a local law enforcement agency or official to classify
26 a sex offender to a risk level other than the one assigned by the
27 department of corrections, the department of social and health
28 services, or the indeterminate sentence review board, or the release of
29 any relevant and necessary information based on that different
30 classification shall not, by itself, be considered gross negligence or
31 bad faith. The immunity provided under this section applies to the
32 release of relevant and necessary information to other public
33 officials, public employees ((or officials)), or public agencies, and
34 to the general public.

35 ~~((4))~~ (6) Except as may otherwise be provided by ((statute)) law,
36 nothing in this section shall impose any liability upon a public
37 official, public employee, or public agency for failing to release
38 information ((as provided in subsections (2) and (3) of)) authorized
39 under this section.

1 (~~(5)~~) (7) Nothing in this section implies that information
2 regarding persons designated in subsection(~~(s (2) and (3))~~) (1) of this
3 section is confidential except as may otherwise be provided by
4 (~~(statute)~~) law.

5 (8) When a local law enforcement agency or official classifies a
6 sex offender differently than the offender is classified by the
7 department of corrections, the department of social and health
8 services, or the indeterminate sentence review board, the law
9 enforcement agency or official shall notify the appropriate department
10 or the board and submit its reasons supporting the change in
11 classification.

12 **Sec. 2.** RCW 13.40.217 and 1990 c 3 s 102 are each amended to read
13 as follows:

14 (1) In addition to any other information required to be released
15 under this chapter, the department is authorized, pursuant to RCW
16 4.24.550, to release relevant information that is necessary to protect
17 the public concerning juveniles adjudicated of sex offenses.

18 (2) In order for public agencies to have the information necessary
19 for notifying the public about sex offenders as authorized in RCW
20 4.24.550, the secretary shall issue to appropriate law enforcement
21 agencies narrative notices regarding the pending release of sex
22 offenders from the department's juvenile rehabilitation facilities.
23 The narrative notices shall, at a minimum, describe the identity and
24 criminal history behavior of the offender and shall include the
25 department's risk level classification for the offender. For sex
26 offenders classified as either risk level II or III, the narrative
27 notices shall also include the reasons underlying the classification.

28 (3) For the purposes of this section, the department shall classify
29 as risk level I those offenders whose risk assessments indicate a low
30 risk of reoffense within the community at large. The department shall
31 classify as risk level II those offenders whose risk assessments
32 indicate a moderate risk of reoffense within the community at large.
33 The department shall classify as risk level III those offenders whose
34 risk assessments indicate a high risk of reoffense within the community
35 at large.

36 **Sec. 3.** RCW 70.48.470 and 1996 c 215 s 2 are each amended to read
37 as follows:

1 (1) A person having charge of a jail shall notify in writing any
2 confined person who is in the custody of the jail for a conviction of
3 a (~~sexual~~[sex]) sex offense as defined in RCW 9.94A.030 of the
4 registration requirements of RCW 9A.44.130 at the time of the inmate's
5 release from confinement, and shall obtain written acknowledgment of
6 such notification. The person shall also obtain from the inmate the
7 county of the inmate's residence upon release from jail and, where
8 applicable, the city.

9 (2) (~~If an inmate convicted of a sexual offense will reside in a~~
10 ~~county other than the county of incarceration upon release, the chief~~
11 ~~law enforcement officer, or his or her designee, shall notify the~~
12 ~~sheriff of the county where the inmate will reside of the inmate's~~
13 ~~impending release. Notice shall be provided at least fourteen days~~
14 ~~prior to the inmate's release, or if the release date is not known at~~
15 ~~least fourteen days prior to release, notice shall be provided not~~
16 ~~later than the day after the inmate's release)) When a sex offender
17 under local government jurisdiction will reside in a county other than
18 the county of conviction upon discharge or release, the chief law
19 enforcement officer of the jail or his or her designee shall give
20 notice of the inmate's discharge or release to the sheriff of the
21 county and, where applicable, to the police chief of the city where the
22 offender will reside.~~

23 NEW SECTION. Sec. 4. A new section is added to chapter 72.09 RCW
24 to read as follows:

25 (1) In addition to any other information required to be released
26 under this chapter, the department is authorized, pursuant to RCW
27 4.24.550, to release relevant information that is necessary to protect
28 the public concerning offenders convicted of sex offenses.

29 (2) In order for public agencies to have the information necessary
30 to notify the public as authorized in RCW 4.24.550, the secretary shall
31 establish and administer an end-of-sentence review committee for the
32 purposes of assigning risk levels, reviewing available release plans,
33 and making appropriate referrals for sex offenders. The committee
34 shall assess, on a case-by-case basis, the public risk posed by sex
35 offenders who are: (a) Preparing for their release from confinement
36 for sex offenses committed on or after July 1, 1984; and (b) accepted
37 from another state under a reciprocal agreement under the interstate
38 compact authorized in chapter 72.74 RCW.

1 (3) Notwithstanding any other provision of law, the committee shall
2 have access to all relevant records and information in the possession
3 of public agencies relating to the offenders under review, including
4 police reports; prosecutors' statements of probable cause; presentence
5 investigations and reports; complete judgments and sentences; current
6 classification referrals; criminal history summaries; violation and
7 disciplinary reports; all psychological evaluations and psychiatric
8 hospital reports; sex offender treatment program reports; and juvenile
9 records. Records and information obtained under this subsection shall
10 not be disclosed outside the committee unless otherwise authorized by
11 law.

12 (4) The committee shall review each sex offender under its
13 authority before the offender's release from confinement or start of
14 the offender's term of community placement or community custody in
15 order to: (a) Classify the offender into a risk level for the purposes
16 of public notification under RCW 4.24.550; (b) where available, review
17 the offender's proposed release plan in accordance with the
18 requirements of RCW 72.09.340; and (c) make appropriate referrals.

19 (5) The committee shall classify as risk level I those sex
20 offenders whose risk assessments indicate a low risk of reoffense
21 within the community at large. The committee shall classify as risk
22 level II those offenders whose risk assessments indicate a moderate
23 risk of reoffense within the community at large. The committee shall
24 classify as risk level III those offenders whose risk assessments
25 indicate a high risk of reoffense within the community at large.

26 (6) The committee shall issue to appropriate law enforcement
27 agencies, for their use in making public notifications under RCW
28 4.24.550, narrative notices regarding the pending release of sex
29 offenders from the department's facilities. The narrative notices
30 shall, at a minimum, describe the identity and criminal history
31 behavior of the offender and shall include the department's risk level
32 classification for the offender. For sex offenders classified as
33 either risk level II or III, the narrative notices shall also include
34 the reasons underlying the classification.

35 **Sec. 5.** RCW 9.95.145 and 1990 c 3 s 127 are each amended to read
36 as follows:

37 (1) In addition to any other information required to be released
38 under this chapter, the indeterminate sentence review board may,

1 pursuant to RCW 4.24.550, release information concerning inmates under
2 the jurisdiction of the indeterminate sentence review board who are
3 convicted of sex offenses as defined in RCW 9.94A.030.

4 (2) In order for public agencies to have the information necessary
5 for notifying the public about sex offenders as authorized in RCW
6 4.24.550, the board shall issue to appropriate law enforcement agencies
7 narrative notices regarding the pending release from confinement of sex
8 offenders under the board's jurisdiction. The narrative notices shall,
9 at a minimum, describe the identity and criminal history behavior of
10 the offender. For sex offenders being discharged from custody on
11 serving the maximum punishment provided by law or fixed by the court,
12 the narrative notices shall also include the board's risk level
13 classification for the offender and the reasons underlying the
14 classification.

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

22 NEW SECTION. Sec. 6. (1) By December 1, 1997, the Washington
23 association of sheriffs and police chiefs shall develop a model policy
24 for law enforcement agencies to follow when they disclose information
25 about sex offenders to the public under RCW 4.24.550. The model policy
26 shall be designed to further the objectives of providing adequate
27 notice to the community concerning sex offenders who are or will be
28 residing in the community and of assisting community members in
29 developing constructive plans to prepare themselves and their children
30 for residing near released sex offenders.

31 (2) In developing the policy, the association shall consult with
32 representatives of the following agencies and professions: (a) The
33 department of corrections; (b) the department of social and health
34 services; (c) the indeterminate sentence review board; (d) the
35 Washington state council of police officers; (e) local correctional
36 agencies; (f) the Washington association of prosecuting attorneys; (g)
37 the Washington public defender association; (h) the Washington

1 association for the treatment of sexual abusers; and (i) victim
2 advocates.

3 (3) The model policy shall, at a minimum, include recommendations
4 to address the following issues: (a) Procedures for local agencies or
5 officials to accomplish the notifications required under RCW
6 4.24.550(8); (b) contents and form of community notification documents,
7 including procedures for ensuring the accuracy of factual information
8 contained in the notification documents, and ways of protecting the
9 privacy of victims of the offenders' crimes; (c) methods of
10 distributing community notification documents; (d) methods of providing
11 follow-up notifications to community residents at specified intervals
12 and of disclosing information about offenders to law enforcement
13 agencies in other jurisdictions if necessary to protect the public; (e)
14 methods of educating community residents at public meetings on how they
15 can use the information in the notification document in a reasonable
16 manner to enhance their individual and collective safety; (f)
17 procedures for educating community members regarding the right of sex
18 offenders not to be the subject of harassment or criminal acts as a
19 result of the notification process; and (g) other matters the
20 Washington association of sheriffs and police chiefs deems necessary to
21 ensure the effective and fair administration of RCW 4.24.550.

22 NEW SECTION. **Sec. 7.** (1) The department of corrections, the
23 department of social and health services, and the indeterminate
24 sentence review board shall jointly develop, by September 1, 1997, a
25 consistent approach to risk assessment for the purposes of implementing
26 this act, including consistent standards for classifying sex offenders
27 into risk levels I, II, and III.

28 (2) The department of social and health services, the department of
29 corrections, and the indeterminate sentence review board shall each
30 prepare and deliver to the legislature, by December 1, 1998, a report
31 indicating the number of sex offenders released after the effective
32 date of this section and classified in each level of risk category.
33 The reports shall also include information on the number,
34 jurisdictions, and circumstances where the risk level classification
35 made by a local law enforcement agency or official for specific sex
36 offenders differed from the risk level classification made by the
37 department or the indeterminate sentence review board for the same
38 offender.

1 NEW SECTION. **Sec. 8.** If specific funding for the purposes of this
2 act, referencing this act by bill or chapter number, is not provided by
3 June 30, 1997, in the omnibus appropriations act, this act is null and
4 void.

5 NEW SECTION. **Sec. 9.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

 Passed the Senate April 22, 1997.

 Passed the House April 10, 1997.

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