
SUBSTITUTE HOUSE BILL 1004

State of Washington

56th Legislature

1999 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Ballasiotes, O'Brien, Benson, Radcliff, Mitchell, Quall, Dickerson, Cairnes, Morris, Hurst, Campbell, Koster, Bush, Mulliken, Kastama, Miloscia, Conway, Esser, Scott, McIntire, Kessler, Keiser, Mielke, Carrell, McDonald, Dunn, Kenney, Ogden, Schoesler, Rockefeller and Wood)

Read first time 03/05/1999.

1 AN ACT Relating to transient sex offenders; reenacting and amending
2 RCW 9A.44.130; and providing an effective date.

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

4 **Sec. 1.** RCW 9A.44.130 and 1998 c 220 s 1 and 1998 c 139 s 1 are
5 each reenacted and amended to read as follows:

6 (1) Any adult or juvenile residing, or who is a student, is
7 employed, or carries on a vocation in this state who has been found to
8 have committed or has been convicted of any sex offense or kidnapping
9 offense, or who has been found not guilty by reason of insanity under
10 chapter 10.77 RCW of committing any sex offense or kidnapping offense,
11 shall register with the county sheriff for the county of the person's
12 residence, or if the person is not a resident of Washington, the county
13 of the person's school, or place of employment or vocation. A person
14 otherwise required to register under this section shall not be relieved
15 of the duty to register by declaring transient status. Such persons
16 must declare a county of residence and register with the county
17 sheriff. Where a person required to register under this section is in
18 custody of the state department of corrections, the state department of
19 social and health services, a local division of youth services, or a
20 local jail or juvenile detention facility as a result of a sex offense
21 or kidnapping offense, the person shall also register at the time of

1 release from custody with an official designated by the agency that has
2 jurisdiction over the person. In addition, any such adult or juvenile
3 who is admitted to a public or private institution of higher education
4 shall, within ten days of enrolling or by the first business day after
5 arriving at the institution, whichever is earlier, notify the sheriff
6 for the county of the person's residence of the person's intent to
7 attend the institution. Persons required to register under this
8 section who are enrolled in a public or private institution of higher
9 education on June 11, 1998, must notify the county sheriff immediately.
10 The sheriff shall notify the institution's department of public safety
11 and shall provide that department with the same information provided to
12 a county sheriff under subsections (3) and (4) of this section.

13 (2) This section may not be construed to confer any powers pursuant
14 to RCW 4.24.500 upon the public safety department of any public or
15 private institution of higher education.

16 (3) The person shall provide the following information when
17 registering: (a) Name; (b) address; (c) date and place of birth; (d)
18 place of employment; (e) crime for which convicted; (f) date and place
19 of conviction; (g) aliases used; (h) social security number; (i)
20 photograph; and (j) fingerprints.

21 (4) An offender who is unable to provide an address as required
22 under subsections (1) and (3) of this section and registers as
23 transient shall be required to:

24 (a) Report in person to the county sheriff's office monthly and
25 provide the sheriff's office with information as to where he or she has
26 been staying and where he or she plans to stay if he or she has been
27 classified as a risk level I sex offender; and

28 (b) Report in person to the county sheriff's office weekly and
29 provide the sheriff's office with information as to where he or she has
30 been staying and where he or she plans to stay if he or she has been
31 classified as a risk level II or III sex offender.

32 An offender registering as transient is indicating he or she will
33 be residing in the county of registration but has no specific location.
34 Offenders classified as risk level II or III are subject to community
35 notification with the broadest dissemination possible as required in
36 RCW 4.24.550.

37 For purposes of reporting under this subsection (4), county
38 sheriffs may enter into agreements with other law enforcement agencies,

1 including jails, to accept the reports required under this subsection
2 (4).

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

7 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
8 offense on, before, or after February 28, 1990, and who, on or after
9 July 28, 1991, are in custody, as a result of that offense, of the
10 state department of corrections, the state department of social and
11 health services, a local division of youth services, or a local jail or
12 juvenile detention facility, and (B) kidnapping offenders who on or
13 after July 27, 1997, are in custody of the state department of
14 corrections, the state department of social and health services, a
15 local division of youth services, or a local jail or juvenile detention
16 facility, must register at the time of release from custody with an
17 official designated by the agency that has jurisdiction over the
18 offender. The agency shall within three days forward the registration
19 information to the county sheriff for the county of the offender's
20 anticipated residence. The offender must also register within twenty-
21 four hours from the time of release with the county sheriff for the
22 county of the person's residence, or if the person is not a resident of
23 Washington, the county of the person's school, or place of employment
24 or vocation. The agency that has jurisdiction over the offender shall
25 provide notice to the offender of the duty to register. Failure to
26 register at the time of release and within twenty-four hours of release
27 constitutes a violation of this section and is punishable as provided
28 in subsection ~~((9))~~ (10) of this section.

29 When the agency with jurisdiction intends to release an offender
30 with a duty to register under this section, and the agency has
31 knowledge that the offender is eligible for developmental disability
32 services from the department of social and health services, the agency
33 shall notify the division of developmental disabilities of the release.
34 Notice shall occur not more than thirty days before the offender is to
35 be released. The agency and the division shall assist the offender in
36 meeting the initial registration requirement under this section.
37 Failure to provide such assistance shall not constitute a defense for
38 any violation of this section.

1 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
2 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
3 but are under the jurisdiction of the indeterminate sentence review
4 board or under the department of correction's active supervision, as
5 defined by the department of corrections, the state department of
6 social and health services, or a local division of youth services, for
7 sex offenses committed before, on, or after February 28, 1990, must
8 register within ten days of July 28, 1991. Kidnapping offenders who,
9 on July 27, 1997, are not in custody but are under the jurisdiction of
10 the indeterminate sentence review board or under the department of
11 correction's active supervision, as defined by the department of
12 corrections, the state department of social and health services, or a
13 local division of youth services, for kidnapping offenses committed
14 before, on, or after July 27, 1997, must register within ten days of
15 July 27, 1997. A change in supervision status of a sex offender who
16 was required to register under this subsection (~~(4)~~) (5)(a)(ii) as of
17 July 28, 1991, or a kidnapping offender required to register as of July
18 27, 1997, shall not relieve the offender of the duty to register or to
19 reregister following a change in residence. The obligation to register
20 shall only cease pursuant to RCW 9A.44.140.

21 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
22 or after July 23, 1995, and kidnapping offenders who, on or after July
23 27, 1997, as a result of that offense are in the custody of the United
24 States bureau of prisons or other federal or military correctional
25 agency for sex offenses committed before, on, or after February 28,
26 1990, or kidnapping offenses committed on, before, or after July 27,
27 1997, must register within twenty-four hours from the time of release
28 with the county sheriff for the county of the person's residence, or if
29 the person is not a resident of Washington, the county of the person's
30 school, or place of employment or vocation. Sex offenders who, on July
31 23, 1995, are not in custody but are under the jurisdiction of the
32 United States bureau of prisons, United States courts, United States
33 parole commission, or military parole board for sex offenses committed
34 before, on, or after February 28, 1990, must register within ten days
35 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not
36 in custody but are under the jurisdiction of the United States bureau
37 of prisons, United States courts, United States parole commission, or
38 military parole board for kidnapping offenses committed before, on, or
39 after July 27, 1997, must register within ten days of July 27, 1997.

1 A change in supervision status of a sex offender who was required to
2 register under this subsection (~~(4)~~) (5)(a)(iii) as of July 23, 1995,
3 or a kidnapping offender required to register as of July 27, 1997 shall
4 not relieve the offender of the duty to register or to reregister
5 following a change in residence, or if the person is not a resident of
6 Washington, the county of the person's school, or place of employment
7 or vocation. The obligation to register shall only cease pursuant to
8 RCW 9A.44.140.

9 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
10 who are convicted of a sex offense on or after July 28, 1991, for a sex
11 offense that was committed on or after February 28, 1990, and
12 kidnapping offenders who are convicted on or after July 27, 1997, for
13 a kidnapping offense that was committed on or after July 27, 1997, but
14 who are not sentenced to serve a term of confinement immediately upon
15 sentencing, shall report to the county sheriff to register immediately
16 upon completion of being sentenced.

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

38 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
39 or juvenile who has been found not guilty by reason of insanity under

1 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
2 February 28, 1990, and who, on or after July 23, 1995, is in custody,
3 as a result of that finding, of the state department of social and
4 health services, or (B) committing a kidnapping offense on, before, or
5 after July 27, 1997, and who on or after July 27, 1997, is in custody,
6 as a result of that finding, of the state department of social and
7 health services, must register within twenty-four hours from the time
8 of release with the county sheriff for the county of the person's
9 residence. The state department of social and health services shall
10 provide notice to the adult or juvenile in its custody of the duty to
11 register. Any adult or juvenile who has been found not guilty by
12 reason of insanity of committing a sex offense on, before, or after
13 February 28, 1990, but who was released before July 23, 1995, or any
14 adult or juvenile who has been found not guilty by reason of insanity
15 of committing a kidnapping offense but who was released before July 27,
16 1997, shall be required to register within twenty-four hours of
17 receiving notice of this registration requirement. The state
18 department of social and health services shall make reasonable attempts
19 within available resources to notify sex offenders who were released
20 before July 23, 1995, and kidnapping offenders who were released before
21 July 27, 1997. Failure to register within twenty-four hours of
22 release, or of receiving notice, constitutes a violation of this
23 section and is punishable as provided in subsection ~~((+9))~~ (10) of
24 this section.

25 (b) Failure to register within the time required under this section
26 constitutes a per se violation of this section and is punishable as
27 provided in subsection ~~((+9))~~ (10) of this section. The county
28 sheriff shall not be required to determine whether the person is living
29 within the county.

30 (c) An arrest on charges of failure to register, service of an
31 information, or a complaint for a violation of this section, or
32 arraignment on charges for a violation of this section, constitutes
33 actual notice of the duty to register. Any person charged with the
34 crime of failure to register under this section who asserts as a
35 defense the lack of notice of the duty to register shall register
36 immediately following actual notice of the duty through arrest,
37 service, or arraignment. Failure to register as required under this
38 subsection ~~((+4))~~ (5)(c) constitutes grounds for filing another charge
39 of failing to register. Registering following arrest, service, or

1 arraignment on charges shall not relieve the offender from criminal
2 liability for failure to register prior to the filing of the original
3 charge.

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

7 (~~(5)~~) (6)(a) If any person required to register pursuant to this
8 section changes his or her residence address within the same county,
9 the person must send written notice of the change of address to the
10 county sheriff within seventy-two hours of moving. If any person
11 required to register pursuant to this section moves to a new county,
12 the person must send written notice of the change of address at least
13 fourteen days before moving to the county sheriff in the new county of
14 residence and must register with that county sheriff within twenty-four
15 hours of moving. The person must also send written notice within ten
16 days of the change of address in the new county to the county sheriff
17 with whom the person last registered. The county sheriff with whom the
18 person last registered shall promptly forward the information
19 concerning the change of address to the county sheriff for the county
20 of the person's new residence. If any person required to register
21 pursuant to this section moves out of Washington state, the person must
22 also send written notice within ten days of moving to the new state or
23 a foreign country to the county sheriff with whom the person last
24 registered in Washington state. Upon receipt of notice of change of
25 address to a new state, the county sheriff shall promptly forward the
26 information regarding the change of address to the agency designated by
27 the new state as the state's offender registration agency.

28 (b) It is an affirmative defense to a charge that the person failed
29 to send a notice at least fourteen days in advance of moving as
30 required under (a) of this subsection that the person did not know the
31 location of his or her new residence at least fourteen days before
32 moving. The defendant must establish the defense by a preponderance of
33 the evidence and, to prevail on the defense, must also prove by a
34 preponderance that the defendant sent the required notice within
35 twenty-four hours of determining the new address.

36 (~~(6)~~) (7) A sex offender subject to registration requirements
37 under this section who applies to change his or her name under RCW
38 4.24.130 or any other law shall submit a copy of the application to the
39 county sheriff of the county of the person's residence and to the state

1 patrol not fewer than five days before the entry of an order granting
2 the name change. No sex offender under the requirement to register
3 under this section at the time of application shall be granted an order
4 changing his or her name if the court finds that doing so will
5 interfere with legitimate law enforcement interests, except that no
6 order shall be denied when the name change is requested for religious
7 or legitimate cultural reasons or in recognition of marriage or
8 dissolution of marriage. A sex offender under the requirement to
9 register under this section who receives an order changing his or her
10 name shall submit a copy of the order to the county sheriff of the
11 county of the person's residence and to the state patrol within five
12 days of the entry of the order.

13 ~~((7))~~ (8) The county sheriff shall obtain a photograph of the
14 individual and shall obtain a copy of the individual's fingerprints.

15 ~~((8))~~ (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
16 70.48.470, and 72.09.330:

17 (a) "Sex offense" means any offense defined as a sex offense by RCW
18 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation of a
19 minor), 9.68A.050 (dealing in depictions of minor engaged in sexually
20 explicit conduct), 9.68A.060 (sending, bringing into state depictions
21 of minor engaged in sexually explicit conduct), 9.68A.090
22 (communication with minor for immoral purposes), 9.68A.100 (patronizing
23 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in
24 the second degree), as well as any gross misdemeanor that is, under
25 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or
26 criminal conspiracy to commit an offense that is classified as a sex
27 offense under RCW 9.94A.030.

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

32 (c) "Employed" or "carries on a vocation" means employment that is
33 full-time or part-time for a period of time exceeding fourteen days, or
34 for an aggregate period of time exceeding thirty days during any
35 calendar year. A person is employed or carries on a vocation whether
36 the person's employment is financially compensated, volunteered, or for
37 the purpose of government or educational benefit.

38 (d) "Student" means a person who is enrolled, on a full-time or
39 part-time basis, in any public or private educational institution. An

1 educational institution includes any secondary school, trade or
2 professional institution, or institution of higher education.

3 (~~(9)~~) (10) A person who knowingly fails to register with the
4 county sheriff or notify the county sheriff, or who changes his or her
5 name without notifying the county sheriff and the state patrol, as
6 required by this section is guilty of a class C felony if the crime for
7 which the individual was convicted was a felony or a federal or out-of-
8 state conviction for an offense that under the laws of this state would
9 be a felony. If the crime was other than a felony or a federal or out-
10 of-state conviction for an offense that under the laws of this state
11 would be other than a felony, violation of this section is a gross
12 misdemeanor.

13 NEW SECTION. **Sec. 2.** This act takes effect August 1, 1999.

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