
HOUSE BILL 1004

State of Washington

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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

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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. Where a
14 person required to register under this section is in custody of the
15 state department of corrections, the state department of social and
16 health services, a local division of youth services, or a local jail or
17 juvenile detention facility as a result of a sex offense or kidnapping
18 offense, the person shall also register at the time of release from
19 custody with an official designated by the agency that has jurisdiction

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

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

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

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

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

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

31 (c) Report in person to the county sheriff's office daily and
32 provide the sheriff's office with information as to where he or she has
33 been staying and where he or she plans to stay if he or she has been
34 classified as a risk level III sex offender.

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

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

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

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

37 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
38 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
39 but are under the jurisdiction of the indeterminate sentence review

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

18 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
19 or after July 23, 1995, and kidnapping offenders who, on or after July
20 27, 1997, as a result of that offense are in the custody of the United
21 States bureau of prisons or other federal or military correctional
22 agency for sex offenses committed before, on, or after February 28,
23 1990, or kidnapping offenses committed on, before, or after July 27,
24 1997, must register within twenty-four hours from the time of release
25 with the county sheriff for the county of the person's residence, or if
26 the person is not a resident of Washington, the county of the person's
27 school, or place of employment or vocation. Sex offenders who, on July
28 23, 1995, are not in custody but are under the jurisdiction of the
29 United States bureau of prisons, United States courts, United States
30 parole commission, or military parole board for sex offenses committed
31 before, on, or after February 28, 1990, must register within ten days
32 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not
33 in custody but are under the jurisdiction of the United States bureau
34 of prisons, United States courts, United States parole commission, or
35 military parole board for kidnapping offenses committed before, on, or
36 after July 27, 1997, must register within ten days of July 27, 1997.
37 A change in supervision status of a sex offender who was required to
38 register under this subsection (~~(4)~~) (5)(a)(iii) as of July 23, 1995,
39 or a kidnapping offender required to register as of July 27, 1997 shall

1 not relieve the offender of the duty to register or to reregister
2 following a change in residence, or if the person is not a resident of
3 Washington, the county of the person's school, or place of employment
4 or vocation. The obligation to register shall only cease pursuant to
5 RCW 9A.44.140.

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

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

35 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
36 or juvenile who has been found not guilty by reason of insanity under
37 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
38 February 28, 1990, and who, on or after July 23, 1995, is in custody,
39 as a result of that finding, of the state department of social and

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

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

27 (c) An arrest on charges of failure to register, service of an
28 information, or a complaint for a violation of this section, or
29 arraignment on charges for a violation of this section, constitutes
30 actual notice of the duty to register. Any person charged with the
31 crime of failure to register under this section who asserts as a
32 defense the lack of notice of the duty to register shall register
33 immediately following actual notice of the duty through arrest,
34 service, or arraignment. Failure to register as required under this
35 subsection (~~(+4)~~) (5)(c) constitutes grounds for filing another charge
36 of failing to register. Registering following arrest, service, or
37 arraignment on charges shall not relieve the offender from criminal
38 liability for failure to register prior to the filing of the original
39 charge.

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

4 (~~(5)~~) (6)(a) If any person required to register pursuant to this
5 section changes his or her residence address within the same county,
6 the person must send written notice of the change of address to the
7 county sheriff within seventy-two hours of moving. If any person
8 required to register pursuant to this section moves to a new county,
9 the person must send written notice of the change of address at least
10 fourteen days before moving to the county sheriff in the new county of
11 residence and must register with that county sheriff within twenty-four
12 hours of moving. The person must also send written notice within ten
13 days of the change of address in the new county to the county sheriff
14 with whom the person last registered. The county sheriff with whom the
15 person last registered shall promptly forward the information
16 concerning the change of address to the county sheriff for the county
17 of the person's new residence. If any person required to register
18 pursuant to this section moves out of Washington state, the person must
19 also send written notice within ten days of moving to the new state or
20 a foreign country to the county sheriff with whom the person last
21 registered in Washington state. Upon receipt of notice of change of
22 address to a new state, the county sheriff shall promptly forward the
23 information regarding the change of address to the agency designated by
24 the new state as the state's offender registration agency.

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

33 (~~(6)~~) (7) A sex offender subject to registration requirements
34 under this section who applies to change his or her name under RCW
35 4.24.130 or any other law shall submit a copy of the application to the
36 county sheriff of the county of the person's residence and to the state
37 patrol not fewer than five days before the entry of an order granting
38 the name change. No sex offender under the requirement to register
39 under this section at the time of application shall be granted an order

1 changing his or her name if the court finds that doing so will
2 interfere with legitimate law enforcement interests, except that no
3 order shall be denied when the name change is requested for religious
4 or legitimate cultural reasons or in recognition of marriage or
5 dissolution of marriage. A sex offender under the requirement to
6 register under this section who receives an order changing his or her
7 name shall submit a copy of the order to the county sheriff of the
8 county of the person's residence and to the state patrol within five
9 days of the entry of the order.

10 ((+7)) (8) The county sheriff shall obtain a photograph of the
11 individual and shall obtain a copy of the individual's fingerprints.

12 ((+8)) (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
13 70.48.470, and 72.09.330:

14 (a) "Sex offense" means any offense defined as a sex offense by RCW
15 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation of a
16 minor), 9.68A.050 (dealing in depictions of minor engaged in sexually
17 explicit conduct), 9.68A.060 (sending, bringing into state depictions
18 of minor engaged in sexually explicit conduct), 9.68A.090
19 (communication with minor for immoral purposes), 9.68A.100 (patronizing
20 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in
21 the second degree), as well as any gross misdemeanor that is, under
22 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or
23 criminal conspiracy to commit an offense that is classified as a sex
24 offense under RCW 9.94A.030.

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

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

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

1 (~~(9)~~) (10) A person who knowingly fails to register with the
2 county sheriff or notify the county sheriff, or who changes his or her
3 name without notifying the county sheriff and the state patrol, as
4 required by this section is guilty of a class C felony if the crime for
5 which the individual was convicted was a felony or a federal or out-of-
6 state conviction for an offense that under the laws of this state would
7 be a felony. If the crime was other than a felony or a federal or out-
8 of-state conviction for an offense that under the laws of this state
9 would be other than a felony, violation of this section is a gross
10 misdemeanor.

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

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