

2 **HB 2086** - S COMM AMD

3 By Committee on Human Services & Corrections

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature intends to amend the
8 lifetime sex offender registration requirement so that it is narrowly
9 tailored to meet the requirements of the Jacob Wetterling act.

10 **Sec. 2.** RCW 9A.44.140 and 2000 c 91 s 3 are each amended to read
11 as follows:

12 (1) The duty to register under RCW 9A.44.130 shall end:

13 (a) For a person convicted of a class A felony or an offense listed
14 in subsection (5) of this section, or a person convicted of any sex
15 offense or kidnapping offense who has one or more prior convictions for
16 a sex offense or kidnapping offense: Such person may only be relieved
17 of the duty to register under subsection (3) or (4) of this section.

18 (b) For a person convicted of a class B felony, and the person does
19 not have one or more prior convictions for a sex offense or kidnapping
20 offense and the person's current offense is not listed in subsection
21 (5) of this section: Fifteen years after the last date of release from
22 confinement, if any, (including full-time residential treatment)
23 pursuant to the conviction, or entry of the judgment and sentence, if
24 the person has spent fifteen consecutive years in the community without
25 being convicted of any new offenses.

26 (c) For a person convicted of a class C felony, a violation of RCW
27 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to
28 commit a class C felony, and the person does not have one or more prior
29 convictions for a sex offense or kidnapping offense and the person's
30 current offense is not listed in subsection (5) of this section: Ten
31 years after the last date of release from confinement, if any,
32 (including full-time residential treatment) pursuant to the conviction,
33 or entry of the judgment and sentence, if the person has spent ten
34 consecutive years in the community without being convicted of any new
35 offenses.

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

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

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

26 (ii) Any person subject to (b)(i) of this subsection or subsection
27 (5) of this section may petition the court to be exempted from any
28 community notification requirements that the person may be subject to
29 fifteen years after the later of the entry of the judgment and sentence
30 or the last date of release from confinement, including full-time
31 residential treatment, pursuant to the conviction, if the person has
32 spent the time in the community without being convicted of any new
33 offense.

34 (4) An offender having a duty to register under RCW 9A.44.130 for
35 a sex offense or kidnapping offense committed when the offender was a
36 juvenile may petition the superior court to be relieved of that duty.
37 The court shall consider the nature of the registrable offense
38 committed, and the criminal and relevant noncriminal behavior of the

1 petitioner both before and after adjudication, and may consider other
2 factors.

3 (a) The court may relieve the petitioner of the duty to register
4 for a sex offense or kidnapping offense that was committed while the
5 petitioner was fifteen years of age or older only if the petitioner
6 shows, with clear and convincing evidence, that future registration of
7 the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
8 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

9 (b) The court may relieve the petitioner of the duty to register
10 for a sex offense or kidnapping offense that was committed while the
11 petitioner was under the age of fifteen if the petitioner (i) has not
12 been adjudicated of any additional sex offenses or kidnapping offenses
13 during the twenty-four months following the adjudication for the
14 offense giving rise to the duty to register, and (ii) proves by a
15 preponderance of the evidence that future registration of the
16 petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
17 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

18 This subsection shall not apply to juveniles prosecuted as adults.

19 (5)(a) A person who has been convicted of an aggravated offense, or
20 has been convicted of one or more prior sexually violent offenses or
21 criminal offenses against a victim who is a minor, as defined in (b) of
22 this subsection may only be relieved of the duty to register under
23 subsection (3) or (4) of this section. This provision shall apply to
24 convictions for crimes committed on or after the effective date of this
25 act.

26 (b) Unless the context clearly requires otherwise, the following
27 definitions apply only to the federal lifetime registration
28 requirements under this subsection:

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

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

33 (B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape
34 of a child in the first degree), or RCW 9A.44.083 (child molestation in
35 the first degree);

36 (C) Any of the following offenses when committed by forcible
37 compulsion or by the offender administering, by threat or force or
38 without the knowledge or permission of that person, a drug, intoxicant,
39 or other similar substance that substantially impairs the ability of

1 that person to appraise or control conduct: RCW 9A.44.050 (rape in the
2 second degree), RCW 9A.44.100 (indecent liberties), RCW 9A.44.160
3 (custodial sexual misconduct in the first degree), RCW 9A.64.020
4 (incest), or RCW 9.68A.040 (sexual exploitation of a minor);

5 (D) Any of the following offenses when committed by forcible
6 compulsion or by the offender administering, by threat or force or
7 without the knowledge or permission of that person, a drug, intoxicant,
8 or other similar substance that substantially impairs the ability of
9 that person to appraise or control conduct, if the victim is twelve
10 years of age or over but under sixteen years of age and the offender is
11 eighteen years of age or over and is more than forty-eight months older
12 than the victim: RCW 9A.44.076 (rape of a child in the second degree),
13 RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086
14 (child molestation in the second degree), or RCW 9A.44.089 (child
15 molestation in the third degree);

16 (E) A felony with a finding of sexual motivation under RCW
17 9.94A.127 where the victim is under twelve years of age or that is
18 committed by forcible compulsion or by the offender administering, by
19 threat or force or without the knowledge or permission of that person,
20 a drug, intoxicant, or other similar substance that substantially
21 impairs the ability of that person to appraise or control conduct;

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

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

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

30 (A) An aggravated offense;

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

35 (C) A felony with a finding of sexual motivation under RCW
36 9.94A.127 where the victim is incapable of appraising the nature of the
37 conduct or physically incapable of declining participation in, or
38 communicating unwillingness to engage in, the conduct;

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

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

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

10 (A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape
11 of a child in the second degree), RCW 9A.44.079 (rape of a child in the
12 third degree), RCW 9A.44.086 (child molestation in the second degree),
13 RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093
14 (sexual misconduct with a minor in the first degree), RCW 9A.44.096
15 (sexual misconduct with a minor in the second degree), RCW 9A.44.160
16 (custodial sexual misconduct in the first degree), RCW 9A.64.020
17 (incest), RCW 9.68A.040 (sexual exploitation of a minor), RCW 9.68A.090
18 (communication with a minor for immoral purposes), or RCW 9.68A.100
19 (patronizing a juvenile prostitute);

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

24 (C) A felony with a finding of sexual motivation under RCW
25 9.94A.127 where the victim is a minor;

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

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

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

34 ((+6+)) (7) Nothing in RCW 9.94A.220 relating to discharge of an
35 offender shall be construed as operating to relieve the offender of his
36 or her duty to register pursuant to RCW 9A.44.130.

37 (8) For purposes of determining whether a person has been convicted
38 of more than one sex offense, failure to register as a sex offender or
39 kidnapping offender is not a sex or kidnapping offense."

1 **HB 2086** - S COMM AMD
2 By Committee on Human Services & Corrections

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4 On page 1, line 2 of the title, after "offenders;" strike the
5 remainder of the title and insert "amending RCW 9A.44.140; and creating
6 a new section."

EFFECT: Restores current life without possibility and relief from community notification standards. Amends new life without possibility to life with possibility of judicial relief and specifies that failure to register is not an offense to be used when determining whether a person has multiple sex offenses. Makes technical corrections and clarifies that the definition of criminal offense against a victim who is a minor, like the other new definitions, applies to adult convictions.

--- END ---

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-2461.3/01 3rd draft

ATTY/TYPIST: KT:rmh

BRIEF DESCRIPTION:

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5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature intends to amend the
8 lifetime sex offender registration requirement so that it is narrowly
9 tailored to meet the requirements of the Jacob Wetterling act.

10 **Sec. 2.** RCW 9A.44.140 and 2000 c 91 s 3 are each amended to read
11 as follows:

12 (1) The duty to register under RCW 9A.44.130 shall end:

13 (a) For a person convicted of a class A felony or an offense listed
14 in subsection (5) of this section, or a person convicted of any sex
15 offense or kidnapping offense who has one or more prior convictions for
16 a sex offense or kidnapping offense: Such person may only be relieved
17 of the duty to register under subsection (3) or (4) of this section.

18 (b) For a person convicted of a class B felony, and the person does
19 not have one or more prior convictions for a sex offense or kidnapping
20 offense and the person's current offense is not listed in subsection
21 (5) of this section: Fifteen years after the last date of release from
22 confinement, if any, (including full-time residential treatment)
23 pursuant to the conviction, or entry of the judgment and sentence, if
24 the person has spent fifteen consecutive years in the community without
25 being convicted of any new offenses.

26 (c) For a person convicted of a class C felony, a violation of RCW
27 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to
28 commit a class C felony, and the person does not have one or more prior
29 convictions for a sex offense or kidnapping offense and the person's
30 current offense is not listed in subsection (5) of this section: Ten
31 years after the last date of release from confinement, if any,
32 (including full-time residential treatment) pursuant to the conviction,
33 or entry of the judgment and sentence, if the person has spent ten
34 consecutive years in the community without being convicted of any new
35 offenses.

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

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

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

26 (ii) Any person subject to (b)(i) of this subsection or subsection
27 (5) of this section may petition the court to be exempted from any
28 community notification requirements that the person may be subject to
29 fifteen years after the later of the entry of the judgment and sentence
30 or the last date of release from confinement, including full-time
31 residential treatment, pursuant to the conviction, if the person has
32 spent the time in the community without being convicted of any new
33 offense.

34 (4) An offender having a duty to register under RCW 9A.44.130 for
35 a sex offense or kidnapping offense committed when the offender was a
36 juvenile may petition the superior court to be relieved of that duty.
37 The court shall consider the nature of the registrable offense
38 committed, and the criminal and relevant noncriminal behavior of the

1 petitioner both before and after adjudication, and may consider other
2 factors.

3 (a) The court may relieve the petitioner of the duty to register
4 for a sex offense or kidnapping offense that was committed while the
5 petitioner was fifteen years of age or older only if the petitioner
6 shows, with clear and convincing evidence, that future registration of
7 the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
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9 (b) The court may relieve the petitioner of the duty to register
10 for a sex offense or kidnapping offense that was committed while the
11 petitioner was under the age of fifteen if the petitioner (i) has not
12 been adjudicated of any additional sex offenses or kidnapping offenses
13 during the twenty-four months following the adjudication for the
14 offense giving rise to the duty to register, and (ii) proves by a
15 preponderance of the evidence that future registration of the
16 petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
17 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

18 This subsection shall not apply to juveniles prosecuted as adults.

19 (5)(a) A person who has been convicted of an aggravated offense, or
20 has been convicted of one or more prior sexually violent offenses or
21 criminal offenses against a victim who is a minor, as defined in (b) of
22 this subsection may only be relieved of the duty to register under
23 subsection (3) or (4) of this section. This provision shall apply to
24 convictions for crimes committed on or after the effective date of this
25 act.

26 (b) Unless the context clearly requires otherwise, the following
27 definitions apply only to the federal lifetime registration
28 requirements under this subsection:

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

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

33 (B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape
34 of a child in the first degree), or RCW 9A.44.083 (child molestation in
35 the first degree);

36 (C) Any of the following offenses when committed by forcible
37 compulsion or by the offender administering, by threat or force or
38 without the knowledge or permission of that person, a drug, intoxicant,
39 or other similar substance that substantially impairs the ability of

1 that person to appraise or control conduct: RCW 9A.44.050 (rape in the
2 second degree), RCW 9A.44.100 (indecent liberties), RCW 9A.44.160
3 (custodial sexual misconduct in the first degree), RCW 9A.64.020
4 (incest), or RCW 9.68A.040 (sexual exploitation of a minor);

5 (D) Any of the following offenses when committed by forcible
6 compulsion or by the offender administering, by threat or force or
7 without the knowledge or permission of that person, a drug, intoxicant,
8 or other similar substance that substantially impairs the ability of
9 that person to appraise or control conduct, if the victim is twelve
10 years of age or over but under sixteen years of age and the offender is
11 eighteen years of age or over and is more than forty-eight months older
12 than the victim: RCW 9A.44.076 (rape of a child in the second degree),
13 RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086
14 (child molestation in the second degree), or RCW 9A.44.089 (child
15 molestation in the third degree);

16 (E) A felony with a finding of sexual motivation under RCW
17 9.94A.127 where the victim is under twelve years of age or that is
18 committed by forcible compulsion or by the offender administering, by
19 threat or force or without the knowledge or permission of that person,
20 a drug, intoxicant, or other similar substance that substantially
21 impairs the ability of that person to appraise or control conduct;

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

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

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

30 (A) An aggravated offense;

31 (B) An offense that is not an aggravated offense but meets the
32 definition of 18 U.S.C. Sec. 2242, which is limited to RCW 9A.44.050(1)
33 (b) through (f) (rape in the second degree) and RCW 9A.44.100(1) (b)
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35 (C) A felony with a finding of sexual motivation under RCW
36 9.94A.127 where the victim is incapable of appraising the nature of the
37 conduct or physically incapable of declining participation in, or
38 communicating unwillingness to engage in, the conduct;

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

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

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

10 (A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape
11 of a child in the second degree), RCW 9A.44.079 (rape of a child in the
12 third degree), RCW 9A.44.086 (child molestation in the second degree),
13 RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093
14 (sexual misconduct with a minor in the first degree), RCW 9A.44.096
15 (sexual misconduct with a minor in the second degree), RCW 9A.44.160
16 (custodial sexual misconduct in the first degree), RCW 9A.64.020
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18 (communication with a minor for immoral purposes), or RCW 9.68A.100
19 (patronizing a juvenile prostitute);

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

24 (C) A felony with a finding of sexual motivation under RCW
25 9.94A.127 where the victim is a minor;

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

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

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

34 ((+6+)) (7) Nothing in RCW 9.94A.220 relating to discharge of an
35 offender shall be construed as operating to relieve the offender of his
36 or her duty to register pursuant to RCW 9A.44.130.

37 (8) For purposes of determining whether a person has been convicted
38 of more than one sex offense, failure to register as a sex offender or
39 kidnapping offender is not a sex or kidnapping offense."

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