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HOUSE BILL 1952

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By Representatives Ballasiotes and O'Brien

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1 AN ACT Relating to registration of transient sex offenders and  
2 kidnapping offenders; and amending RCW 9A.44.130 and 4.24.550.

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

4 **Sec. 1.** RCW 9A.44.130 and 2000 c 91 s 2 are each amended to read  
5 as follows:

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

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

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

17 (3)(a) The person shall provide the following information when  
18 registering: (i) Name; (ii) address; (iii) date and place of birth;  
19 (iv) place of employment; (v) crime for which convicted; (vi) date and  
20 place of conviction; (vii) aliases used; (viii) social security number;  
21 (ix) photograph; and (x) fingerprints.

22 (b) Any person who lacks a fixed residence shall provide the  
23 following information when registering: (i) Name; (ii) date and place  
24 of birth; (iii) place of employment; (iv) crime for which convicted;  
25 (v) date and place of conviction; (vi) aliases used; (vii) social  
26 security number; (viii) photograph; (ix) fingerprints; and (x) where he  
27 or she plans to stay.

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

32 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex  
33 offense on, before, or after February 28, 1990, and who, on or after  
34 July 28, 1991, are in custody, as a result of that offense, of the  
35 state department of corrections, the state department of social and  
36 health services, a local division of youth services, or a local jail or  
37 juvenile detention facility, and (B) kidnapping offenders who on or  
38 after July 27, 1997, are in custody of the state department of  
39 corrections, the state department of social and health services, a

1 local division of youth services, or a local jail or juvenile detention  
2 facility, must register at the time of release from custody with an  
3 official designated by the agency that has jurisdiction over the  
4 offender. The agency shall within three days forward the registration  
5 information to the county sheriff for the county of the offender's  
6 anticipated residence. The offender must also register within twenty-  
7 four hours from the time of release with the county sheriff for the  
8 county of the person's residence, or if the person is not a resident of  
9 Washington, the county of the person's school, or place of employment  
10 or vocation. The agency that has jurisdiction over the offender shall  
11 provide notice to the offender of the duty to register. Failure to  
12 register at the time of release and within twenty-four hours of release  
13 constitutes a violation of this section and is punishable as provided  
14 in subsection (10) of this section.

15 When the agency with jurisdiction intends to release an offender  
16 with a duty to register under this section, and the agency has  
17 knowledge that the offender is eligible for developmental disability  
18 services from the department of social and health services, the agency  
19 shall notify the division of developmental disabilities of the release.  
20 Notice shall occur not more than thirty days before the offender is to  
21 be released. The agency and the division shall assist the offender in  
22 meeting the initial registration requirement under this section.  
23 Failure to provide such assistance shall not constitute a defense for  
24 any violation of this section.

25 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL  
26 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody  
27 but are under the jurisdiction of the indeterminate sentence review  
28 board or under the department of correction's active supervision, as  
29 defined by the department of corrections, the state department of  
30 social and health services, or a local division of youth services, for  
31 sex offenses committed before, on, or after February 28, 1990, must  
32 register within ten days of July 28, 1991. Kidnapping offenders who,  
33 on July 27, 1997, are not in custody but are under the jurisdiction of  
34 the indeterminate sentence review board or under the department of  
35 correction's active supervision, as defined by the department of  
36 corrections, the state department of social and health services, or a  
37 local division of youth services, for kidnapping offenses committed  
38 before, on, or after July 27, 1997, must register within ten days of  
39 July 27, 1997. A change in supervision status of a sex offender who

1 was required to register under this subsection (4)(a)(ii) as of July  
2 28, 1991, or a kidnapping offender required to register as of July 27,  
3 1997, shall not relieve the offender of the duty to register or to  
4 reregister following a change in residence. The obligation to register  
5 shall only cease pursuant to RCW 9A.44.140.

6 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on  
7 or after July 23, 1995, and kidnapping offenders who, on or after July  
8 27, 1997, as a result of that offense are in the custody of the United  
9 States bureau of prisons or other federal or military correctional  
10 agency for sex offenses committed before, on, or after February 28,  
11 1990, or kidnapping offenses committed on, before, or after July 27,  
12 1997, must register within twenty-four hours from the time of release  
13 with the county sheriff for the county of the person's residence, or if  
14 the person is not a resident of Washington, the county of the person's  
15 school, or place of employment or vocation. Sex offenders who, on July  
16 23, 1995, are not in custody but are under the jurisdiction of the  
17 United States bureau of prisons, United States courts, United States  
18 parole commission, or military parole board for sex offenses committed  
19 before, on, or after February 28, 1990, must register within ten days  
20 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not  
21 in custody but are under the jurisdiction of the United States bureau  
22 of prisons, United States courts, United States parole commission, or  
23 military parole board for kidnapping offenses committed before, on, or  
24 after July 27, 1997, must register within ten days of July 27, 1997.  
25 A change in supervision status of a sex offender who was required to  
26 register under this subsection (4)(a)(iii) as of July 23, 1995, or a  
27 kidnapping offender required to register as of July 27, 1997 shall not  
28 relieve the offender of the duty to register or to reregister following  
29 a change in residence, or if the person is not a resident of  
30 Washington, the county of the person's school, or place of employment  
31 or vocation. The obligation to register shall only cease pursuant to  
32 RCW 9A.44.140.

33 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders  
34 who are convicted of a sex offense on or after July 28, 1991, for a sex  
35 offense that was committed on or after February 28, 1990, and  
36 kidnapping offenders who are convicted on or after July 27, 1997, for  
37 a kidnapping offense that was committed on or after July 27, 1997, but  
38 who are not sentenced to serve a term of confinement immediately upon

1 sentencing, shall report to the county sheriff to register immediately  
2 upon completion of being sentenced.

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

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

1 of committing a kidnapping offense but who was released before July 27,  
2 1997, shall be required to register within twenty-four hours of  
3 receiving notice of this registration requirement. The state  
4 department of social and health services shall make reasonable attempts  
5 within available resources to notify sex offenders who were released  
6 before July 23, 1995, and kidnapping offenders who were released before  
7 July 27, 1997. Failure to register within twenty-four hours of  
8 release, or of receiving notice, constitutes a violation of this  
9 section and is punishable as provided in subsection (10) of this  
10 section.

11 (vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks  
12 a fixed residence and leaves the county in which he or she is  
13 registered and enters and remains within a new county for twenty-four  
14 hours is required to register with the county sheriff not more than  
15 twenty-four hours after entering the county and provide the information  
16 required in subsection (3)(b) of this section.

17 (viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER  
18 SUPERVISION. Offenders who lack a fixed residence and who are under  
19 the supervision of the department shall register in the county of their  
20 supervision.

21 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND  
22 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,  
23 who move to another state, or who work, carry on a vocation, or attend  
24 school in another state shall register a new address, fingerprints, and  
25 photograph with the new state within ten days after establishing  
26 residence, or after beginning to work, carry on a vocation, or attend  
27 school in the new state. The person must also send written notice  
28 within ten days of moving to the new state or to a foreign country to  
29 the county sheriff with whom the person last registered in Washington  
30 state. The county sheriff shall promptly forward this information to  
31 the Washington state patrol.

32 (b) Failure to register within the time required under this section  
33 constitutes a per se violation of this section and is punishable as  
34 provided in subsection (10) of this section. The county sheriff shall  
35 not be required to determine whether the person is living within the  
36 county.

37 (c) An arrest on charges of failure to register, service of an  
38 information, or a complaint for a violation of this section, or  
39 arraignment on charges for a violation of this section, constitutes

1 actual notice of the duty to register. Any person charged with the  
2 crime of failure to register under this section who asserts as a  
3 defense the lack of notice of the duty to register shall register  
4 immediately following actual notice of the duty through arrest,  
5 service, or arraignment. Failure to register as required under this  
6 subsection (4)(c) constitutes grounds for filing another charge of  
7 failing to register. Registering following arrest, service, or  
8 arraignment on charges shall not relieve the offender from criminal  
9 liability for failure to register prior to the filing of the original  
10 charge.

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

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

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

1 (6)(a) Any person required to register under this section who lacks  
2 a fixed residence shall provide written notice to the sheriff of the  
3 county where he or she last registered within (~~fourteen days~~) twenty-  
4 four hours after ceasing to have a fixed residence. The notice shall  
5 include the information required by subsection (3)(b) of this section,  
6 except the photograph and fingerprints. The county sheriff may, for  
7 reasonable cause, require the offender to provide a photograph and  
8 fingerprints. The sheriff shall forward this information to the  
9 sheriff of the county in which the person intends to reside, if the  
10 person intends to reside in another county.

11 (b) A person who lacks a fixed residence must report weekly, in  
12 person, to the sheriff of the county where he or she is registered.  
13 (~~If he or she has been classified as a risk level I sex or kidnapping~~  
14 ~~offender, he or she must report monthly. If he or she has been~~  
15 ~~classified as a risk level II or III sex or kidnapping offender, he or~~  
16 ~~she must report weekly.)) The weekly report shall be on a day specified  
17 by the county sheriff's office, and shall occur during normal business  
18 hours. The county sheriff's office may require the person to list the  
19 locations where the person has stayed during the last seven days. The  
20 lack of a fixed residence is a factor that may be considered in  
21 determining ((a sex)) an offender's risk level and shall make the  
22 offender subject to disclosure of information to the public at large  
23 pursuant to RCW 4.24.550.~~

24 (c) If any person required to register pursuant to this section  
25 does not have a fixed residence, it is an affirmative defense to the  
26 charge of failure to register, that he or she provided written notice  
27 to the sheriff of the county where he or she last registered within  
28 (~~fourteen days~~) twenty-four hours after ceasing to have a fixed  
29 residence and has subsequently complied with the requirements of  
30 subsections (4)(a)(vii) or (viii) and (6) of this section. To prevail,  
31 the person must prove the defense by a preponderance of the evidence.

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

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

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

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

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

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

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

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

38 (10) A person who knowingly fails to register with the county  
39 sheriff or notify the county sheriff, or who changes his or her name

1 without notifying the county sheriff and the state patrol, as required  
2 by this section is guilty of a class C felony if the crime for which  
3 the individual was convicted was a felony sex offense as defined in  
4 subsection (9)(a) of this section or a federal or out-of-state  
5 conviction for an offense that under the laws of this state would be a  
6 felony sex offense as defined in subsection (9)(a) of this section. If  
7 the crime was other than a felony or a federal or out-of-state  
8 conviction for an offense that under the laws of this state would be  
9 other than a felony, violation of this section is a gross misdemeanor.

10 (11) A person who knowingly fails to register or who moves within  
11 the state without notifying the county sheriff as required by this  
12 section is guilty of a class C felony if the crime for which the  
13 individual was convicted was a felony kidnapping offense as defined in  
14 subsection (9)(b) of this section or a federal or out-of-state  
15 conviction for an offense that under the laws of this state would be a  
16 felony kidnapping offense as defined in subsection (9)(b) of this  
17 section. If the crime was other than a felony or a federal or out-of-  
18 state conviction for an offense that under the laws of this state would  
19 be other than a felony, violation of this section is a gross  
20 misdemeanor.

21 **Sec. 2.** RCW 4.24.550 and 1998 c 220 s 6 are each amended to read  
22 as follows:

23 (1) Public agencies are authorized to release information to the  
24 public regarding sex offenders and kidnapping offenders when the agency  
25 determines that disclosure of the information is relevant and necessary  
26 to protect the public and counteract the danger created by the  
27 particular offender. This authorization applies to information  
28 regarding: (a) Any person adjudicated or convicted of a sex offense as  
29 defined in RCW 9A.44.130 or a kidnapping offense as defined by RCW  
30 9A.44.130; (b) any person under the jurisdiction of the indeterminate  
31 sentence review board as the result of a sex offense or kidnapping  
32 offense; (c) any person committed as a sexually violent predator under  
33 chapter 71.09 RCW or as a sexual psychopath under chapter 71.06 RCW;  
34 (d) any person found not guilty of a sex offense or kidnapping offense  
35 by reason of insanity under chapter 10.77 RCW; and (e) any person found  
36 incompetent to stand trial for a sex offense or kidnapping offense and  
37 subsequently committed under chapter 71.05 or 71.34 RCW.

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

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

24 (4) Local law enforcement agencies that disseminate information  
25 pursuant to this section shall: (a) Review available risk level  
26 classifications made by the department of corrections, the department  
27 of social and health services, and the indeterminate sentence review  
28 board; (b) assign risk level classifications to all offenders about  
29 whom information will be disseminated; and (c) make a good faith effort  
30 to notify the public and residents at least fourteen days before the  
31 offender is released from confinement or, where an offender moves from  
32 another jurisdiction, as soon as possible after the agency learns of  
33 the offender's move, except that in no case may this notification  
34 provision be construed to require an extension of an offender's release  
35 date. The juvenile court shall provide local law enforcement officials  
36 with all relevant information on offenders allowed to remain in the  
37 community in a timely manner.

38 (5) An appointed or elected public official, public employee, or  
39 public agency as defined in RCW 4.24.470 is immune from civil liability

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

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

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

24 (8) When a local law enforcement agency or official classifies an  
25 offender differently than the offender is classified by the department  
26 of corrections, the department of social and health services, or the  
27 indeterminate sentence review board, the law enforcement agency or  
28 official shall notify the appropriate department or the board and  
29 submit its reasons supporting the change in classification.

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