

---

**SUBSTITUTE SENATE BILL 5351**

---

**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Honeyford, Swecker, and Schoesler)

READ FIRST TIME 02/21/11.

1 AN ACT Relating to prohibiting certain registered sex offenders  
2 from entering school grounds; and amending RCW 9A.44.190 and 9A.44.193.

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

4 **Sec. 1.** RCW 9A.44.190 and 2006 c 126 s 4 are each amended to read  
5 as follows:

6 As used in this section and RCW 9A.44.193 and 9A.44.196:

7 (1) "Covered entity" means any public facility or private facility  
8 whose primary purpose, at any time, is to provide for the education,  
9 care, or recreation of a child or children, including but not limited  
10 to community and recreational centers, playgrounds, schools, swimming  
11 pools, and state or municipal parks.

12 (2) "Child" means a person under the age of eighteen, unless the  
13 context clearly indicates that the term is otherwise defined in  
14 statute.

15 (3) "Public facility" means a facility operated by a unit of local  
16 or state government, or by a nonprofit organization.

17 (4) "School(~~s~~)" means a public ((and)) or private school((s)),  
18 ~~((but does not include home based instruction as defined in RCW~~  
19 ~~28A.225.010)) regulated under Title 28A RCW or chapter 72.40 RCW.~~

1 (5) "Covered offender" means a person required to register under  
2 RCW 9A.44.130 who is eighteen years of age or older, who is not under  
3 the jurisdiction of the juvenile rehabilitation authority or currently  
4 serving a special sex offender disposition alternative(~~(, whose risk~~  
5 ~~level classification has been assessed at a risk level II or a risk~~  
6 ~~level III pursuant to RCW 72.09.345,)) and who, at any time, has been  
7 convicted of one or more of the following offenses:~~

8 (a) Rape of a child in the first, second, and third degree; child  
9 molestation in the first, second, and third degree; indecent liberties  
10 against a child under age fifteen; sexual misconduct with a minor in  
11 the first and second degree; incest in the first and second degree;  
12 luring with sexual motivation; possession of depictions of minors  
13 engaged in sexually explicit conduct; dealing in depictions of minors  
14 engaged in sexually explicit conduct; bringing into the state  
15 depictions of minors engaged in sexually explicit conduct; sexual  
16 exploitation of a minor; communicating with a minor for immoral  
17 purposes; (~~(patronizing a juvenile prostitute))~~ commercial sexual abuse  
18 of a minor; promoting commercial sexual abuse of a minor; promoting  
19 travel for commercial sexual abuse of a minor;

20 (b) Any felony in effect at any time prior to March 20, 2006, that  
21 is comparable to an offense listed in (a) of this subsection,  
22 including, but not limited to, statutory rape in the first and second  
23 (~~(degrees [degree])~~) degree and carnal knowledge;

24 (c) Any felony offense for which:

25 (i) There was a finding that the offense was committed with sexual  
26 motivation; and

27 (ii) The victim of the offense was less than sixteen years of age  
28 at the time of the offense;

29 (d) An attempt, conspiracy, or solicitation to commit any of the  
30 offenses listed in (a) through (c) of this subsection;

31 (e) Any conviction from any other jurisdiction which is comparable  
32 to any of the offenses listed in (a) through (d) of this subsection.

33 **Sec. 2.** RCW 9A.44.193 and 2006 c 126 s 5 are each amended to read  
34 as follows:

35 (1) An owner, manager, or operator of a covered entity may order a  
36 covered offender from the legal premises of a covered entity as  
37 provided under this section. To do this, the owner, manager, or

1 operator of a covered entity must first provide the covered offender,  
2 or cause the covered offender to be provided, personal service of a  
3 written notice that informs the covered offender that:

4 (a) The covered offender must leave the legal premises of the  
5 covered entity and may not return without the written permission of the  
6 covered entity; and

7 (b) If the covered offender refuses to leave the legal premises of  
8 the covered entity, or thereafter returns and enters within the legal  
9 premises of the covered entity without written permission, the offender  
10 may be charged and prosecuted for a felony offense as provided in RCW  
11 9A.44.196.

12 (2) A covered entity may give written permission of entry and use  
13 to a covered offender to enter and remain on the legal premises of the  
14 covered entity at particular times and for lawful purposes, including,  
15 but not limited to, conducting business, voting, or participating in  
16 educational or recreational activities. Any written permission of  
17 entry and use of the legal premises of a covered entity must be clearly  
18 stated in a written document and must be personally served on the  
19 covered offender. If the covered offender violates the conditions of  
20 entry and use contained in a written document personally served on the  
21 offender by the covered entity, the covered offender may be charged and  
22 prosecuted for a felony offense as provided in RCW 9A.44.196.

23 (3) If the covered entity is a school, law enforcement may serve  
24 written notice to leave or give written permission of entry to a  
25 covered offender in the same manner as an owner, manager, or operator  
26 of a covered entity as provided in this section.

27 (4)(a) If a school becomes aware that a covered offender whose risk  
28 level classification has been assessed as a risk level III is on the  
29 legal premises of the school, the school must:

30 (i) Provide the offender with written notice to leave or written  
31 permission of entry as provided in this section; or

32 (ii) Request that law enforcement make a determination as to  
33 whether the offender can safely be on school premises and provide the  
34 offender with written notice to leave or written permission of entry as  
35 provided in this section.

36 (b) Nothing in this section requires a school to proactively  
37 monitor registered sex offenders who may enter school premises.

1        (5) An owner, employee, or agent of a covered entity and law  
2 enforcement shall be immune from civil liability for damages arising  
3 from excluding or failing to exclude a covered offender from a covered  
4 entity or from imposing or failing to impose conditions of entry and  
5 use on a covered offender.

6        (~~(4)~~) (6) A person provided with written notice from a covered  
7 entity under this section may file a petition with the district court  
8 alleging that he or she does not meet the definition of "covered  
9 offender" in RCW 9A.44.190. The district court must conduct a hearing  
10 on the petition within thirty days of the petition being filed. In the  
11 hearing on the petition, the person has the burden of proving that he  
12 or she is not a covered offender. If the court finds, by a  
13 preponderance of the evidence, that the person is not a covered  
14 offender, the court shall order the covered entity to rescind the  
15 written notice and shall order the covered entity to pay the person's  
16 costs and reasonable attorneys' fees.

--- END ---