
SENATE BILL 5154

State of Washington

64th Legislature

2015 Regular Session

By Senator Hargrove

Read first time 01/15/15. Referred to Committee on Law & Justice.

1 AN ACT Relating to registered sex or kidnapping offenders;
2 amending RCW 4.24.550, 9A.44.128, 9A.44.130, 9A.44.132, 9A.44.140,
3 9A.44.141, 9A.44.142, 9A.44.143, 43.43.754, 9.94A.030, 28A.300.147,
4 and 72.09.345; reenacting and amending RCW 9.94A.515 and 42.56.240;
5 adding new sections to chapter 9A.44 RCW; and prescribing penalties.

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

7 **Sec. 1.** RCW 4.24.550 and 2011 c 337 s 1 are each amended to read
8 as follows:

9 (1) In addition to the disclosure under subsection (5) of this
10 section, public agencies are authorized to release information to the
11 public regarding sex offenders and kidnapping offenders when the
12 agency determines that disclosure of the information is relevant and
13 necessary to protect the public and counteract the danger created by
14 the particular offender. This authorization applies to information
15 regarding: (a) Any person adjudicated or convicted of a sex offense
16 as defined in RCW 9A.44.128 or a kidnapping offense as defined by RCW
17 9A.44.128; (b) any person under the jurisdiction of the indeterminate
18 sentence review board as the result of a sex offense or kidnapping
19 offense; (c) any person committed as a sexually violent predator
20 under chapter 71.09 RCW or as a sexual psychopath under chapter 71.06
21 RCW; (d) any person found not guilty of a sex offense or kidnapping

1 offense by reason of insanity under chapter 10.77 RCW; and (e) any
2 person found incompetent to stand trial for a sex offense or
3 kidnapping offense and subsequently committed under chapter 71.05 or
4 71.34 RCW.

5 (2) Except for the information specifically required under
6 subsection (5) of this section, the extent of the ((~~public~~
7 ~~disclosure~~)) community notification of relevant and necessary
8 information shall be rationally related to: (a) The level of risk
9 posed by the offender to the community; (b) the locations where the
10 offender resides, expects to reside, or is regularly found; and (c)
11 the needs of the affected community members for information to
12 enhance their individual and collective safety.

13 (3) Except for the information specifically required under
14 subsection (5) of this section, local law enforcement agencies shall
15 consider the following guidelines in determining the extent of a
16 ((~~public disclosure~~)) community notification made under this section:
17 (a) For offenders classified as risk level I, the agency shall share
18 information with other appropriate law enforcement agencies and, if
19 the offender is a student, the public or private school regulated
20 under Title 28A RCW or chapter 72.40 RCW which the offender is
21 attending, or planning to attend. The agency may disclose, upon
22 request, relevant, necessary, and accurate information to any victim
23 or witness to the offense ((~~and to~~)), any individual community member
24 who lives near the residence where the offender resides, expects to
25 reside, or is regularly found, and any individual who requests
26 information regarding a specifically named offender; (b) for
27 offenders classified as risk level II, the agency may also disclose
28 relevant, necessary, and accurate information to public and private
29 schools, child day care centers, family day care providers, public
30 libraries, businesses and organizations that serve primarily
31 children, women, or vulnerable adults, and neighbors and community
32 groups near the residence where the offender resides, expects to
33 reside, or is regularly found; (c) for offenders classified as risk
34 level III, the agency may also disclose relevant, necessary, and
35 accurate information to the public at large; and (d) because more
36 localized notification is not feasible and homeless and transient
37 offenders may present unique risks to the community, the agency may
38 also disclose relevant, necessary, and accurate information to the
39 public at large for offenders registered as homeless or transient.

1 (4) The county sheriff with whom an offender classified as risk
2 level III is registered shall ~~((cause to be published by legal
3 notice, advertising, or news release a sex offender community
4 notification that conforms to the guidelines established under RCW
5 4.24.5501 in at least one legal newspaper with general circulation in
6 the area of the sex offender's registered address or location. Unless
7 the information is posted on the web site described in subsection (5)
8 of this section, this list shall be maintained by the county sheriff
9 on a publicly accessible web site and shall be updated at least once
10 per month))~~ release a sex offender community notification that
11 conforms to the guidelines established under RCW 4.24.5501.

12 (5)(a) When funded by federal grants or other sources, the
13 Washington association of sheriffs and police chiefs shall create and
14 maintain a statewide registered kidnapping and sex offender web site,
15 which shall be available to the public. The web site shall post all
16 level III and level II registered sex offenders, level I registered
17 sex offenders only during the time they are out of compliance with
18 registration requirements under RCW 9A.44.130 or if lacking a fixed
19 residence as provided in RCW 9A.44.130, and all registered kidnapping
20 offenders in the state of Washington.

21 (i) For level III offenders, the web site shall contain, but is
22 not limited to, the registered sex offender's name, relevant criminal
23 convictions, address by hundred block, physical description, and
24 photograph. The web site shall provide mapping capabilities that
25 display the sex offender's address by hundred block on a map. The web
26 site shall allow citizens to search for registered sex offenders
27 within the state of Washington by county, city, zip code, last name,
28 and address by hundred block.

29 (ii) For level II offenders, and level I sex offenders during the
30 time they are out of compliance with registration requirements under
31 RCW 9A.44.130, the web site shall contain, but is not limited to, the
32 same information and functionality as described in (a)(i) of this
33 subsection, provided that it is permissible under state and federal
34 law. If it is not permissible, the web site shall be limited to the
35 information and functionality that is permissible under state and
36 federal law.

37 (iii) For kidnapping offenders, the web site shall contain, but
38 is not limited to, the same information and functionality as
39 described in (a)(i) of this subsection, provided that it is
40 permissible under state and federal law. If it is not permissible,

1 the web site shall be limited to the information and functionality
2 that is permissible under state and federal law.

3 ~~((Until the implementation of (a) of this subsection, the
4 Washington association of sheriffs and police chiefs shall create a
5 web site available to the public that provides electronic links to
6 county-operated web sites that offer sex offender registration
7 information.))~~ Law enforcement agencies must provide information
8 requested by the Washington association of sheriffs and police chiefs
9 to administer the statewide registered kidnapping and sex offender
10 web site.

11 (c) Information held by or accessible to the Washington
12 association of sheriffs and police chiefs pursuant to this section is
13 exempt from public disclosure under chapter 42.56 RCW.

14 ~~((Local))~~ (a) Law enforcement agencies ((that disseminate
15 information pursuant to this section)) responsible for the
16 registration and dissemination of information regarding offenders
17 required to register under RCW 9A.44.130 shall assign a risk level
18 classification to all offenders after consideration of: ((a)
19 Review)) (i) Any available risk level classifications ((made))
20 provided by the department of corrections, the department of social
21 and health services, and the indeterminate sentence review board;
22 ((b) assign risk level classifications to all offenders about whom
23 information will be disseminated)) (ii) the agency's own application
24 of a sex offender risk assessment tool; and (iii) other information
25 and aggravating or mitigating factors known to the agency and deemed
26 rationally related to the risk posed by the offender to the community
27 at large.

28 (b) A sex offender shall be classified as a risk level I if his
29 or her risk assessment and other information or factors deemed
30 relevant by the law enforcement agency indicate he or she is at a low
31 risk to sexually reoffend within the community at large. A sex
32 offender shall be classified as a risk level II if his or her risk
33 assessment and other information or factors deemed relevant by the
34 law enforcement agency indicate he or she is at a moderate risk to
35 sexually reoffend within the community at large. A sex offender shall
36 be classified as a risk level III if his or her risk assessment and
37 other information or factors deemed relevant by the law enforcement
38 agency indicate he or she is at a high risk to sexually reoffend
39 within the community at large.

1 (c) The agency shall make a good faith effort to notify the
2 public and residents within a reasonable period of time after the
3 offender registers with the agency.

4 (~~The juvenile court shall provide local law enforcement~~
5 ~~officials with all relevant information on offenders allowed to~~
6 ~~remain in the community in a timely manner.)) (d) Agencies may
7 develop a process to allow an offender to petition for review of the
8 offender's assigned risk level classification. The timing, frequency,
9 and process for review are at the sole discretion of the agency.~~

10 (7) An appointed or elected public official, public employee, or
11 public agency as defined in RCW 4.24.470, or units of local
12 government and its employees, as provided in RCW 36.28A.010, are
13 immune from civil liability for damages for any discretionary risk
14 level classification decisions or release of relevant and necessary
15 information, unless it is shown that the official, employee, or
16 agency acted with gross negligence or in bad faith. The immunity in
17 this section applies to risk level classification decisions and the
18 release of relevant and necessary information regarding any
19 individual for whom disclosure is authorized. The decision of a
20 (~~local~~) law enforcement agency or official to classify an offender
21 to a risk level other than the one assigned by the department of
22 corrections, the department of social and health services, or the
23 indeterminate sentence review board, or the release of any relevant
24 and necessary information based on that different classification
25 shall not, by itself, be considered gross negligence or bad faith.
26 The immunity provided under this section applies to the release of
27 relevant and necessary information to other public officials, public
28 employees, or public agencies, and to the general public.

29 (8) Except as may otherwise be provided by law, nothing in this
30 section shall impose any liability upon a public official, public
31 employee, or public agency for failing to release information
32 authorized under this section.

33 (9) (~~Nothing in this section implies that information regarding~~
34 ~~persons designated in subsection (1) of this section is confidential~~
35 ~~except as may otherwise be provided by law.)) Sex offender and
36 kidnapping offender registration information is exempt from public
37 disclosure under chapter 42.56 RCW.~~

38 (10) When a (~~local~~) law enforcement agency or official
39 classifies an offender differently than the offender is classified by
40 the end of sentence review committee (~~or the department of social~~

1 ~~and health services))~~ at the time of the offender's release from
2 confinement, the law enforcement agency or official shall notify the
3 end of sentence review committee (~~or the department of social and~~
4 ~~health services))~~ and the Washington state patrol and submit its
5 reasons supporting the change in classification.

6 (11) As used in this section, "law enforcement agency" means a
7 general authority Washington law enforcement agency as defined in RCW
8 10.93.020.

9 **Sec. 2.** RCW 9A.44.128 and 2014 c 188 s 2 are each amended to
10 read as follows:

11 For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200,
12 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

13 (1) "Business day" means any day other than Saturday, Sunday, or
14 a legal local, state, or federal holiday.

15 (2) "Conviction" means any adult conviction or juvenile
16 adjudication for a sex offense or kidnapping offense.

17 (3) "Disqualifying offense" means a conviction for: Any offense
18 that is a felony; a sex offense as defined in this section; a crime
19 against children or persons as defined in RCW 43.43.830(7) and
20 9.94A.411(2)(a); an offense with a domestic violence designation as
21 provided in RCW 10.99.020; permitting the commercial sexual abuse of
22 a minor as defined in RCW 9.68A.103; or any violation of chapter
23 9A.88 RCW.

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

30 (5) "Fixed residence" means a building that a person lawfully and
31 habitually uses as living quarters a majority of the week. Uses as
32 living quarters means to conduct activities consistent with the
33 common understanding of residing, such as sleeping; eating; keeping
34 personal belongings; receiving mail; and paying utilities, rent, or
35 mortgage. A nonpermanent structure including, but not limited to, a
36 motor home, travel trailer, camper, or boat may qualify as a
37 residence provided it is lawfully and habitually used as living
38 quarters a majority of the week, primarily kept at one location with
39 a physical address, and the location it is kept at is either owned or

1 rented by the person or used by the person with the permission of the
2 owner or renter. A shelter program may qualify as a residence
3 provided it is a shelter program designed to provide temporary living
4 accommodations for the homeless, provides an offender with a
5 personally assigned living space, and the offender is permitted to
6 store belongings in the living space.

7 (6) "In the community" means residing outside of confinement or
8 incarceration for a disqualifying offense.

9 (7) "Institution of higher education" means any public or private
10 institution dedicated to postsecondary education, including any
11 college, university, community college, trade, or professional
12 school.

13 (8) "Kidnapping offense" means:

14 (a) The crimes of kidnapping in the first degree, kidnapping in
15 the second degree, and unlawful imprisonment, as defined in chapter
16 9A.40 RCW, where the victim is a minor and the offender is not the
17 minor's parent;

18 (b) Any offense that is, under chapter 9A.28 RCW, a criminal
19 attempt, criminal solicitation, or criminal conspiracy to commit an
20 offense that is classified as a kidnapping offense under this
21 subsection; ~~((and))~~

22 (c) Any federal or out-of-state conviction for: An offense for
23 which the person would be required to register as a kidnapping
24 offender if residing in the state of conviction; or, if not required
25 to register in the state of conviction, an offense that under the
26 laws of this state would be classified as a kidnapping offense under
27 this subsection; and

28 (d) Any tribal conviction for an offense for which the person
29 would be required to register as a kidnapping offender while residing
30 in the reservation of conviction; or, if not required to register in
31 the reservation of conviction, an offense that under the laws of this
32 state would be classified as a kidnapping offense under this
33 subsection.

34 (9) "Lacks a fixed residence" means the person does not have a
35 living situation that meets the definition of a fixed residence and
36 includes, but is not limited to, a shelter program designed to
37 provide temporary living accommodations for the homeless, an outdoor
38 sleeping location, or locations where the person does not have
39 permission to stay.

40 (10) "Sex offense" means:

- 1 (a) Any offense defined as a sex offense by RCW 9.94A.030;
- 2 (b) Any violation under RCW 9A.44.096 (sexual misconduct with a
3 minor in the second degree);
- 4 (c) Any violation under RCW 9A.40.100(1)(b)(ii) (trafficking);
- 5 (d) Any violation under RCW 9.68A.090 (communication with a minor
6 for immoral purposes);
- 7 (e) A violation under RCW 9A.88.070 (promoting prostitution in
8 the first degree) or RCW 9A.88.080 (promoting prostitution in the
9 second degree) if the person has a prior conviction for one of these
10 offenses;
- 11 (f) Any violation under RCW 9A.40.100(1)(a)(i)(A) (III) or (IV)
12 or (a)(i)(B);
- 13 (g) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
14 criminal attempt, criminal solicitation, or criminal conspiracy to
15 commit an offense that is classified as a sex offense under RCW
16 9.94A.030 or this subsection;
- 17 (h) Any out-of-state conviction for an offense for which the
18 person would be required to register as a sex offender while residing
19 in the state of conviction; or, if not required to register in the
20 state of conviction, an offense that under the laws of this state
21 would be classified as a sex offense under this subsection;
- 22 (i) Any federal conviction classified as a sex offense under 42
23 U.S.C. Sec. 16911 (SORNA);
- 24 (j) Any military conviction for a sex offense. This includes sex
25 offenses under the uniform code of military justice, as specified by
26 the United States secretary of defense;
- 27 (k) Any conviction in a foreign country for a sex offense if it
28 was obtained with sufficient safeguards for fundamental fairness and
29 due process for the accused under guidelines or regulations
30 established pursuant to 42 U.S.C. Sec. 16912;
- 31 (l) Any tribal conviction for an offense for which the person
32 would be required to register as a sex offender while residing in the
33 reservation of conviction; or, if not required to register in the
34 reservation of conviction, an offense that under the laws of this
35 state would be classified as a sex offense under this subsection.
- 36 (11) "School" means a public or private school regulated under
37 Title 28A RCW or chapter 72.40 RCW.
- 38 (12) "Student" means a person who is enrolled, on a full-time or
39 part-time basis, in any school or institution of higher education.

1 **Sec. 3.** RCW 9A.44.130 and 2011 c 337 s 3 are each amended to
2 read as follows:

3 (1)(a) Any adult or juvenile residing whether or not the person
4 has a fixed residence, or who is a student, is employed, or carries
5 on a vocation in this state who has been found to have committed or
6 has been convicted of any sex offense or kidnapping offense, or who
7 has been found not guilty by reason of insanity under chapter 10.77
8 RCW of committing any sex offense or kidnapping offense, shall
9 register with the county sheriff for the county of the person's
10 residence, or if the person is not a resident of Washington, the
11 county of the person's school, or place of employment or vocation, or
12 as otherwise specified in this section. When a person required to
13 register under this section is 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
16 detention facility as a result of a sex offense or kidnapping
17 offense, the person shall also register at the time of release from
18 custody with an official designated by the agency that has
19 jurisdiction over the person.

20 (b) Any adult or juvenile who is required to register under (a)
21 of this subsection must give notice to the county sheriff of the
22 county with whom the person is registered within three business days:

23 (i) Prior to arriving at a school or institution of higher
24 education to attend classes;

25 (ii) Prior to starting work at an institution of higher
26 education; or

27 (iii) After any termination of enrollment or employment at a
28 school or institution of higher education.

29 (2)(a) A person required to register under this section must
30 provide the following information when registering: (i) Name and any
31 aliases used; (ii) complete and accurate residential address or, if
32 the person lacks a fixed residence, where he or she plans to stay;
33 (iii) date and place of birth; (iv) place of employment; (v) crime
34 for which convicted; (vi) date and place of conviction; (vii) social
35 security number; (viii) photograph; and (ix) fingerprints.

36 (b) A person may be required to update any of the information
37 required in this subsection in conjunction with any address
38 verification conducted by the county sheriff or as part of any notice
39 required by this section.

1 (c) A photograph or copy of an individual's fingerprints may be
2 taken at any time to update an individual's file.

3 (3) Any person required to register under this section who
4 intends to travel outside the United States must provide, by
5 certified mail, with return receipt requested, or in person, signed
6 written notice of the plan to travel outside the country to the
7 county sheriff of the county with whom the person is registered at
8 least twenty-one days prior to travel. The notice shall include the
9 following information: (a) Name; (b) passport number and country; (c)
10 destination; (d) itinerary details including departure and return
11 dates; (e) means of travel; and (f) purpose of travel. If the
12 offender does not subsequently travel outside the United States, the
13 offender must notify the county sheriff within three days of the
14 departure date provided in the notification. The county sheriff shall
15 notify the United States marshals service as soon as practicable
16 after receipt of the notification.

17 (4)(a) Offenders shall register with the county sheriff within
18 the following deadlines:

19 (i) OFFENDERS IN CUSTODY. (~~(A)~~) Sex offenders (~~(who committed a~~
20 ~~sex offense on, before, or after February 28, 1990, and who, on or~~
21 ~~after July 28, 1991, are in custody, as a result of that offense, of~~
22 ~~the state department of corrections, the state department of social~~
23 ~~and health services, a local division of youth services, or a local~~
24 ~~jail or juvenile detention facility, and (B))~~ or kidnapping
25 offenders who (~~on or after July 27, 1997,~~) are in custody of the
26 state department of corrections, the state department of social and
27 health services, a local division of youth services, or a local jail
28 or juvenile detention facility, must register at the time of release
29 from custody with an official designated by the agency that has
30 jurisdiction over the offender. The agency shall within three days
31 forward the registration information to the county sheriff for the
32 county of the offender's anticipated residence. The offender must
33 also register within three business days from the time of release
34 with the county sheriff for the county of the person's residence, or
35 if the person is not a resident of Washington, the county of the
36 person's school, or place of employment or vocation. The agency that
37 has jurisdiction over the offender shall provide notice to the
38 offender of the duty to register.

39 When the agency with jurisdiction intends to release an offender
40 with a duty to register under this section, and the agency has

1 knowledge that the offender is eligible for developmental disability
2 services from the department of social and health services, the
3 agency shall notify the division of developmental disabilities of the
4 release. Notice shall occur not more than thirty days before the
5 offender is to be released. The agency and the division shall assist
6 the offender in meeting the initial registration requirement under
7 this section. Failure to provide such assistance shall not constitute
8 a defense for any violation of this section.

9 When a person required to register under this section is in the
10 custody of the state department of corrections or a local corrections
11 or probations agency and has been approved for partial confinement as
12 defined in RCW 9.94A.030, the person must register at the time of
13 transfer to partial confinement with the official designated by the
14 agency that has jurisdiction over the offender. The agency shall
15 within three days forward the registration information to the county
16 sheriff for the county in which the offender is in partial
17 confinement. The offender must also register within three business
18 days from the time of the termination of partial confinement or
19 release from confinement with the county sheriff for the county of
20 the person's residence. The agency that has jurisdiction over the
21 offender shall provide notice to the offender of the duty to
22 register.

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

1 ~~register as of July 27, 1997, shall not relieve the offender of the~~
2 ~~duty to register or to reregister following a change in residence.~~

3 ~~(iii)) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders~~
4 ~~((who, on or after July 23, 1995, and)) or kidnapping offenders~~
5 ~~who((, on or after July 27, 1997, as a result of that offense)) are~~
6 in the custody of the United States bureau of prisons or other
7 federal or military correctional agency ~~((for sex offenses committed~~
8 ~~before, on, or after February 28, 1990, or kidnapping offenses~~
9 ~~committed on, before, or after July 27, 1997,)) must register within~~
10 three business days from the time of release with the county sheriff
11 for the county of the person's residence, or if the person is not a
12 resident of Washington, the county of the person's school, or place
13 of employment or vocation. ~~((Sex offenders who, on July 23, 1995, are~~
14 ~~not in custody but are under the jurisdiction of the United States~~
15 ~~bureau of prisons, United States courts, United States parole~~
16 ~~commission, or military parole board for sex offenses committed~~
17 ~~before, on, or after February 28, 1990, must register within ten days~~
18 ~~of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not~~
19 ~~in custody but are under the jurisdiction of the United States bureau~~
20 ~~of prisons, United States courts, United States parole commission, or~~
21 ~~military parole board for kidnapping offenses committed before, on,~~
22 ~~or after July 27, 1997, must register within ten days of July 27,~~
23 ~~1997. A change in supervision status of a sex offender who was~~
24 ~~required to register under this subsection (3)(a)(iii) as of July 23,~~
25 ~~1995, or a kidnapping offender required to register as of July 27,~~
26 ~~1997 shall not relieve the offender of the duty to register or to~~
27 ~~reregister following a change in residence, or if the person is not a~~
28 ~~resident of Washington, the county of the person's school, or place~~
29 ~~of employment or vocation.~~

30 ~~(iv)) (iii) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex~~
31 ~~offenders who are convicted of a sex offense ((on or after July 28,~~
32 ~~1991, for a sex offense that was committed on or after February 28,~~
33 ~~1990,)) and kidnapping offenders who are convicted ((on or after July~~
34 ~~27, 1997,)) for a kidnapping offense ((that was committed on or after~~
35 ~~July 27, 1997,)) but who are not sentenced to serve a term of~~
36 confinement immediately upon sentencing((~~τ~~)) shall report to the
37 county sheriff to register within three business days of being
38 sentenced.

39 ~~((v)) (iv) OFFENDERS WHO ARE NEW RESIDENTS, TEMPORARY~~
40 ~~RESIDENTS, OR RETURNING WASHINGTON RESIDENTS. Sex offenders and~~

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

23 (vi)) If the offender is under the jurisdiction of an agency of
24 this state when the offender moves to Washington, the agency shall
25 provide notice to the offender of the duty to register.

26 Sex offenders and kidnapping offenders who are visiting
27 Washington state and intend to reside or be present in the state for
28 ten days or more shall register his or her temporary address or where
29 he or she plans to stay with the county sheriff of each county where
30 the offender will be staying within three business days of arrival.
31 Registration for temporary residents shall include the information
32 required by subsection (2)(a) of this section, except the photograph
33 and fingerprints.

34 (v) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
35 or juvenile who has been found not guilty by reason of insanity under
36 chapter 10.77 RCW of ~~((A))~~ committing a sex offense ~~((on, before,~~
37 ~~or after February 28, 1990, and who, on or after July 23, 1995, is in~~
38 ~~custody, as a result of that finding, of the state department of~~
39 ~~social and health services,)) or ~~((B) committing))~~ a kidnapping
40 offense ~~((on, before, or after July 27, 1997,))~~ and who ~~((on or after~~~~

1 ~~July 27, 1997,))~~ is in custody, as a result of that finding, of the
2 state department of social and health services, must register within
3 three business days from the time of release with the county sheriff
4 for the county of the person's residence. The state department of
5 social and health services shall provide notice to the adult or
6 juvenile in its custody of the duty to register. ~~((Any adult or
7 juvenile who has been found not guilty by reason of insanity of
8 committing a sex offense on, before, or after February 28, 1990, but
9 who was released before July 23, 1995, or any adult or juvenile who
10 has been found not guilty by reason of insanity of committing a
11 kidnapping offense but who was released before July 27, 1997, shall
12 be required to register within three business days of receiving
13 notice of this registration requirement.~~

14 ~~(vii))~~ (vi) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who
15 lacks a fixed residence and leaves the county in which he or she is
16 registered and enters and remains within a new county for twenty-four
17 hours is required to register with the county sheriff not more than
18 three business days after entering the county and provide the
19 information required in subsection (2)(a) of this section.

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

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

36 (b) The county sheriff shall not be required to determine whether
37 the person is living within the county.

38 (c) An arrest on charges of failure to register, service of an
39 information, or a complaint for a violation of RCW 9A.44.132, or
40 arraignment on charges for a violation of RCW 9A.44.132, constitutes

1 actual notice of the duty to register. Any person charged with the
2 crime of failure to register under RCW 9A.44.132 who asserts as a
3 defense the lack of notice of the duty to register shall register
4 within three business days following actual notice of the duty
5 through arrest, service, or arraignment. Failure to register as
6 required under this subsection (~~((3))~~) (4)(c) constitutes grounds for
7 filing another charge of failing to register. Registering following
8 arrest, service, or arraignment on charges shall not relieve the
9 offender from criminal liability for failure to register prior to the
10 filing of the original charge.

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

14 ~~(4))~~ (5)(a) If any person required to register pursuant to this
15 section changes his or her residence address within the same county,
16 the person must provide, by certified mail, with return receipt
17 requested or in person, signed written notice of the change of
18 address to the county sheriff within three business days of moving.

19 (b) If any person required to register pursuant to this section
20 moves to a new county, within three business days of moving the
21 person must register with (~~(that)~~) the new county sheriff (~~(within~~
22 ~~three business days of moving. Within three business days, the person~~
23 ~~must also~~) and provide, by certified mail, with return receipt
24 requested or in person, signed written notice of the change of
25 address (~~(in the new county)~~) to the county sheriff with whom the
26 person last registered. The county sheriff with whom the person last
27 registered (~~(shall promptly forward the information concerning the~~
28 ~~change of address to the county sheriff for the county of the~~
29 ~~person's new residence. Upon receipt of notice of change of address~~
30 ~~to a new state, the county sheriff shall promptly forward the~~
31 ~~information regarding the change of address to the agency designated~~
32 ~~by the new state as the state's offender registration agency)) is
33 responsible for address verification pursuant to RCW 9A.44.135 until
34 the person completes registration of his or her new residence
35 address.~~

36 (~~(5))~~) (6)(a) Any person required to register under this section
37 who lacks a fixed residence shall provide signed written notice to
38 the sheriff of the county where he or she last registered within
39 three business days after ceasing to have a fixed residence. The
40 notice shall include the information required by subsection (2)(a) of

1 this section, except the photograph and fingerprints. The county
2 sheriff may, for reasonable cause, require the offender to provide a
3 photograph and fingerprints. The sheriff shall forward this
4 information to the sheriff of the county in which the person intends
5 to reside, if the person intends to reside in another county.

6 (b) A person who lacks a fixed residence must report weekly, in
7 person, to the sheriff of the county where he or she is registered.
8 The weekly report shall be on a day specified by the county sheriff's
9 office, and shall occur during normal business hours. The person must
10 keep an accurate accounting of where he or she stays during the week
11 and provide it to the county sheriff upon request. The lack of a
12 fixed residence is a factor that may be considered in determining an
13 offender's risk level and shall make the offender subject to
14 disclosure of information to the public at large pursuant to RCW
15 4.24.550.

16 (c) If any person required to register pursuant to this section
17 does not have a fixed residence, it is an affirmative defense to the
18 charge of failure to register, that he or she provided written notice
19 to the sheriff of the county where he or she last registered within
20 three business days of ceasing to have a fixed residence and has
21 subsequently complied with the requirements of subsections ~~((3))~~
22 (4)(a)(~~(vii))~~ (vi) or ~~((viii))~~ (vii) and ~~((5))~~ (6) of this
23 section. To prevail, the person must prove the defense by a
24 preponderance of the evidence.

25 ~~((6))~~ (7) A sex offender subject to registration requirements
26 under this section who applies to change his or her name under RCW
27 4.24.130 or any other law shall submit a copy of the application to
28 the county sheriff of the county of the person's residence and to the
29 state patrol not fewer than five days before the entry of an order
30 granting the name change. No sex offender under the requirement to
31 register under this section at the time of application shall be
32 granted an order changing his or her name if the court finds that
33 doing so will interfere with legitimate law enforcement interests,
34 except that no order shall be denied when the name change is
35 requested for religious or legitimate cultural reasons or in
36 recognition of marriage or dissolution of marriage. A sex offender
37 under the requirement to register under this section who receives an
38 order changing his or her name shall submit a copy of the order to
39 the county sheriff of the county of the person's residence and to the
40 state patrol within three business days of the entry of the order.

1 (~~(7)~~) (8) Except as may otherwise be provided by law, nothing
2 in this section shall impose any liability upon a peace officer,
3 including a county sheriff, or law enforcement agency, for failing to
4 release information authorized under this section.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 9A.44
6 RCW to read as follows:

7 (1) RCW 9A.44.128 through 9A.44.145 apply to offenders who
8 committed their crimes and were adjudicated within the following time
9 frames:

10 (a) Sex offenders convicted of a sex offense on or after July 28,
11 1991, for a sex offense committed on or after February 28, 1990;

12 (b) Kidnapping offenders convicted of a kidnapping offense on or
13 after July 27, 1997, for a kidnapping offense committed on or after
14 July 27, 1997;

15 (c) Sex offenders who, on or after July 28, 1991, were in the
16 custody or under the jurisdiction of the department of corrections,
17 the department of social and health services, a local division of
18 youth services, or a local jail or juvenile detention facility as the
19 result of a sex offense, regardless of when the sex offense was
20 committed;

21 (d) Kidnapping offenders who, on or after July 27, 1997, were in
22 the custody or under the jurisdiction of the department of
23 corrections, the department of social and health services, a local
24 division of youth services, or a local jail or juvenile detention
25 facility as the result of a kidnapping offense, regardless of when
26 the kidnapping offense was committed;

27 (e) Any person who is or has been determined to be a sexually
28 violent predator pursuant to chapter 71.09 RCW;

29 (f) Sex offenders who, on or after July 23, 1995, were in the
30 custody or under the jurisdiction of the United States bureau of
31 prisons, United States courts, United States parole commission, or
32 military parole board as the result of a sex offense, regardless of
33 when the sex offense was committed;

34 (g) Kidnapping offenders who, on or after July 27, 1997, were in
35 the custody or under the jurisdiction of the United States bureau of
36 prisons, United States courts, United States parole commission, or
37 military parole board as the result of a kidnapping offense,
38 regardless of when the kidnapping offense was committed;

1 (h) Sex offenders who move to Washington state from another
2 state, tribe, or a foreign country and who were convicted of a sex
3 offense under the laws of this state, another state, a foreign
4 country, tribe, or other federal or military tribunal, regardless of
5 when the sex offense was committed or the conviction occurred;

6 (i) Kidnapping offenders who move to Washington state from
7 another state, tribe, or a foreign country and who were convicted of
8 a kidnapping offense under the laws of this state, another state, a
9 foreign country, tribe, or other federal or military tribunal,
10 regardless of when the kidnapping offense was committed or the
11 conviction occurred;

12 (j) Any adult or juvenile found not guilty by reason of insanity
13 under chapter 10.77 RCW of committing a sex offense or of committing
14 a kidnapping offense, regardless of when the offense was committed.

15 (2) The provisions of this section do not relieve any sex
16 offender of the duty to register under the law as it existed prior to
17 July 28, 1991.

18 **Sec. 5.** RCW 9A.44.132 and 2011 c 337 s 5 are each amended to
19 read as follows:

20 (1) A person commits the crime of failure to register as a sex
21 offender if the person has a duty to register under RCW 9A.44.130 for
22 a felony sex offense and knowingly fails to comply with any of the
23 requirements of RCW 9A.44.130.

24 (a) The failure to register as a sex offender pursuant to this
25 subsection is a class C felony if:

26 (i) It is the person's first conviction for a felony failure to
27 register; or

28 (ii) The person has previously been convicted of a felony failure
29 to register as a sex offender in this state or pursuant to the laws
30 of another state, or pursuant to federal law.

31 (b) If a person has been convicted of a felony failure to
32 register as a sex offender in this state or pursuant to the laws of
33 another state, or pursuant to federal law, on two or more prior
34 occasions, the failure to register under this subsection is a class B
35 felony.

36 (2) A person is guilty of failure to register as a sex offender
37 if the person has a duty to register under RCW 9A.44.130 for a sex
38 offense other than a felony and knowingly fails to comply with any of

1 the requirements of RCW 9A.44.130. The failure to register as a sex
2 offender under this subsection is a gross misdemeanor.

3 (3) A person commits the crime of failure to register as a
4 kidnapping offender if the person has a duty to register under RCW
5 9A.44.130 for a kidnapping offense and knowingly fails to comply with
6 any of the requirements of RCW 9A.44.130.

7 (a) If the person has a duty to register for a felony kidnapping
8 offense, the failure to register as a kidnapping offender is a class
9 C felony.

10 (b) If the person has a duty to register for a kidnapping offense
11 other than a felony, the failure to register as a kidnapping offender
12 is a gross misdemeanor.

13 (4) A person commits the crime of refusal to provide DNA if the
14 person has a duty to register under RCW 9A.44.130 and the person
15 willfully refuses to comply with a legal request for a DNA sample as
16 required under RCW 43.43.754(1)(b). The refusal to provide DNA is a
17 gross misdemeanor.

18 (5) Unless relieved of the duty to register pursuant to RCW
19 9A.44.141 and 9A.44.142, a violation of this section is an ongoing
20 offense for purposes of the statute of limitations under RCW
21 9A.04.080.

22 **Sec. 6.** RCW 9A.44.140 and 2010 c 267 s 4 are each amended to
23 read as follows:

24 The duty to register under RCW 9A.44.130 shall continue for the
25 duration provided in this section.

26 (1) For a person convicted in this state of a class A felony (~~(or~~
27 ~~an offense listed in RCW 9A.44.142(5))~~), or a person convicted (~~(in~~
28 ~~this state)~~) of any sex offense or kidnapping offense who has one or
29 more prior convictions for a sex offense or kidnapping offense, the
30 duty to register shall continue indefinitely.

31 (2) For a person convicted in this state of a class B felony who
32 does not have one or more prior convictions for a sex offense or
33 kidnapping offense (~~(and whose current offense is not listed in RCW~~
34 ~~9A.44.142(5))~~), the duty to register shall end fifteen years after
35 the last date of release from confinement, if any, (including full-
36 time residential treatment) pursuant to the conviction, or entry of
37 the judgment and sentence, if the person has spent fifteen
38 consecutive years in the community without being convicted of a
39 disqualifying offense during that time period.

1 (3) For a person convicted in this state of a class C felony, a
2 violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation,
3 or conspiracy to commit a class C felony, and the person does not
4 have one or more prior convictions for a sex offense or kidnapping
5 offense (~~and the person's current offense is not listed in RCW~~
6 ~~9A.44.142(5)~~), the duty to register shall end ten years after the
7 last date of release from confinement, if any, (including full-time
8 residential treatment) pursuant to the conviction, or entry of the
9 judgment and sentence, if the person has spent ten consecutive years
10 in the community without being convicted of a disqualifying offense
11 during that time period.

12 (4) Except as provided in RCW 9A.44.142, for a person required to
13 register for a federal, tribal, or out-of-state conviction, the duty
14 to register shall continue indefinitely.

15 (5) For a person who is or has been determined to be a sexually
16 violent predator pursuant to chapter 71.09 RCW, the duty to register
17 shall continue for the person's lifetime.

18 (6) Nothing in this section prevents a person from being relieved
19 of the duty to register under RCW 9A.44.142 and 9A.44.143.

20 ~~((6))~~ (7) Nothing in RCW 9.94A.637 relating to discharge of an
21 offender shall be construed as operating to relieve the offender of
22 his or her duty to register pursuant to RCW 9A.44.130.

23 ~~((7))~~ (8) For purposes of determining whether a person has been
24 convicted of more than one sex offense, failure to register as a sex
25 offender or kidnapping offender is not a sex or kidnapping offense.

26 ~~((8))~~ (9) The provisions of this section and RCW 9A.44.141
27 through 9A.44.143 apply equally to a person who has been found not
28 guilty by reason of insanity under chapter 10.77 RCW of a sex offense
29 or kidnapping offense.

30 **Sec. 7.** RCW 9A.44.141 and 2011 c 337 s 6 are each amended to
31 read as follows:

32 (1) Upon the request of a person who is listed in the Washington
33 state patrol central registry of sex offenders and kidnapping
34 offenders, the county sheriff shall investigate whether a person's
35 duty to register has ended by operation of law pursuant to RCW
36 9A.44.140.

37 (a) Using available records, the county sheriff shall verify that
38 the offender has spent the requisite time in the community and has
39 not been convicted of a disqualifying offense.

1 (b) If the county sheriff determines the person's duty to
2 register has ended by operation of law, the county sheriff shall
3 request the Washington state patrol remove the person's name from the
4 central registry.

5 (2) Nothing in this subsection prevents a county sheriff from
6 investigating, upon his or her own initiative, whether a person's
7 duty to register has ended by operation of law pursuant to RCW
8 9A.44.140.

9 (3)(a) A person who is listed in the central registry as the
10 result of a federal, tribal, or out-of-state conviction may request
11 the county sheriff to investigate whether the person should be
12 removed from the registry if:

13 (i) A court or other administrative authority in the person's
14 state of conviction has made an individualized determination that the
15 person (~~should~~) is not (~~be~~) required to register; and

16 (ii) The person provides proof of relief from registration to the
17 county sheriff.

18 (b) If the county sheriff determines the person has been relieved
19 of the duty to register in his or her state of conviction, the county
20 sheriff shall request the Washington state patrol remove the person's
21 name from the central registry.

22 (4) An appointed or elected public official, public employee, or
23 public agency as defined in RCW 4.24.470, or units of local
24 government and its employees, as provided in RCW 36.28A.010, are
25 immune from civil liability for damages for removing or requesting
26 the removal of a person from the central registry of sex offenders
27 and kidnapping offenders or the failure to remove or request removal
28 of a person within the time frames provided in RCW 9A.44.140.

29 **Sec. 8.** RCW 9A.44.142 and 2011 c 337 s 7 are each amended to
30 read as follows:

31 (1) A person who is required to register under RCW 9A.44.130 may
32 petition the superior court to be relieved of the duty to register:

33 (a) If the person has a duty to register for a sex offense or
34 kidnapping offense committed when the offender was a juvenile,
35 regardless of whether the conviction was in this state, as provided
36 in RCW 9A.44.143;

37 (b) If the person is required to register for a conviction in
38 this state and is not prohibited from petitioning for relief from
39 registration under subsection (2) of this section, when the person

1 has spent ten consecutive years in the community without being
2 convicted of a disqualifying offense during that time period; or

3 (c) If the person is required to register for a federal, tribal,
4 or out-of-state conviction, when the person has spent fifteen
5 consecutive years in the community without being convicted of a
6 disqualifying offense during that time period.

7 (2)(a) A person may not petition for relief from registration if
8 the person has been:

9 (i) Determined to be a sexually violent predator (~~as defined in~~
10 ~~RCW 71.09.020~~) pursuant to chapter 71.09 RCW; or

11 (ii) Convicted as an adult of a sex offense or kidnapping offense
12 that is a class A felony and that was committed with forcible
13 compulsion on or after June 8, 2000(~~or~~

14 ~~(iii) Until July 1, 2012, convicted of one aggravated offense or~~
15 ~~more than one sexually violent offense, as defined in subsection (5)~~
16 ~~of this section, and the offense or offenses were committed on or~~
17 ~~after March 12, 2002. After July 1, 2012, this subsection (2)(a)(iii)~~
18 ~~shall have no further force and effect)).~~

19 (b) Any person who may not be relieved of the duty to register
20 may petition the court to be exempted from any community notification
21 requirements that the person may be subject to fifteen years after
22 the later of the entry of the judgment and sentence or the last date
23 of release from confinement, including full-time residential
24 treatment, pursuant to the conviction, if the person has spent the
25 time in the community without being convicted of a disqualifying
26 offense.

27 (3) A petition for relief from registration or exemption from
28 notification under this section shall be made to the court in which
29 the petitioner was convicted of the offense that subjects him or her
30 to the duty to register or, in the case of convictions in other
31 states, a foreign country, or a federal, tribal, or military court,
32 to the court in the county where the person is registered at the time
33 the petition is sought. The prosecuting attorney of the county shall
34 be named and served as the respondent in any such petition.

35 (4)(a) The court may relieve a petitioner of the duty to register
36 only if the petitioner shows by clear and convincing evidence that
37 the petitioner is sufficiently rehabilitated to warrant removal from
38 the central registry of sex offenders and kidnapping offenders.

39 (b) In determining whether the petitioner is sufficiently
40 rehabilitated to warrant removal from the registry, the following

1 factors are provided as guidance to assist the court in making its
2 determination:

3 (i) The nature of the registrable offense committed including the
4 number of victims and the length of the offense history;

5 (ii) Any subsequent criminal history;

6 (iii) The petitioner's compliance with supervision requirements;

7 (iv) The length of time since the charged incident(s) occurred;

8 (v) Any input from community corrections officers, law
9 enforcement, or treatment providers;

10 (vi) Participation in sex offender treatment;

11 (vii) Participation in other treatment and rehabilitative
12 programs;

13 (viii) The offender's stability in employment and housing;

14 (ix) The offender's community and personal support system;

15 (x) Any risk assessments or evaluations prepared by a qualified
16 professional;

17 (xi) Any updated polygraph examination;

18 (xii) Any input of the victim;

19 (xiii) Any other factors the court may consider relevant.

20 ~~(5)((a) A person who has been convicted of an aggravated~~
21 ~~offense, or has been convicted of one or more prior sexually violent~~
22 ~~offenses or criminal offenses against a victim who is a minor, as~~
23 ~~defined in (b) of this subsection:~~

24 ~~(i) Until July 1, 2012, may not be relieved of the duty to~~
25 ~~register;~~

26 ~~(ii) After July 1, 2012, may petition the court to be relieved of~~
27 ~~the duty to register as provided in this section;~~

28 ~~(iii) This provision shall apply to convictions for crimes~~
29 ~~committed on or after July 22, 2001.~~

30 ~~(b) Unless the context clearly requires otherwise, the following~~
31 ~~definitions apply only to the federal lifetime registration~~
32 ~~requirements under this subsection:~~

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

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

37 ~~(B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape~~
38 ~~of a child in the first degree), or RCW 9A.44.083 (child molestation~~
39 ~~in the first degree);~~

1 ~~(C) Any of the following offenses when committed by forcible~~
2 ~~compulsion or by the offender administering, by threat or force or~~
3 ~~without the knowledge or permission of that person, a drug,~~
4 ~~intoxicant, or other similar substance that substantially impairs the~~
5 ~~ability of that person to appraise or control conduct: RCW 9A.44.050~~
6 ~~(rape in the second degree), RCW 9A.44.100 (indecent liberties), RCW~~
7 ~~9A.44.160 (custodial sexual misconduct in the first degree), RCW~~
8 ~~9A.64.020 (incest), or RCW 9.68A.040 (sexual exploitation of a~~
9 ~~minor);~~

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

21 ~~(E) A felony with a finding of sexual motivation under RCW~~
22 ~~9.94A.835 where the victim is under twelve years of age or that is~~
23 ~~committed by forcible compulsion or by the offender administering, by~~
24 ~~threat or force or without the knowledge or permission of that~~
25 ~~person, a drug, intoxicant, or other similar substance that~~
26 ~~substantially impairs the ability of that person to appraise or~~
27 ~~control conduct;~~

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

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

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

36 ~~(A) An aggravated offense;~~

37 ~~(B) An offense that is not an aggravated offense but meets the~~
38 ~~definition of 18 U.S.C. Sec. 2242, which is limited to RCW~~
39 ~~9A.44.050(1) (b) through (f) (rape in the second degree) and RCW~~
40 ~~9A.44.100(1) (b) through (f) (indecent liberties);~~

1 ~~(C) A felony with a finding of sexual motivation under RCW~~
2 ~~9.94A.835 where the victim is incapable of appraising the nature of~~
3 ~~the conduct or physically incapable of declining participation in, or~~
4 ~~communicating unwillingness to engage in, the conduct;~~

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

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

10 ~~(iii) "Criminal offense against a victim who is a minor" means,~~
11 ~~in addition to any aggravated offense or sexually violent offense~~
12 ~~where the victim was under eighteen years of age, an adult conviction~~
13 ~~for the following offenses where the victim is under eighteen years~~
14 ~~of age:~~

15 ~~(A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape~~
16 ~~of a child in the second degree), RCW 9A.44.079 (rape of a child in~~
17 ~~the third degree), RCW 9A.44.086 (child molestation in the second~~
18 ~~degree), RCW 9A.44.089 (child molestation in the third degree), RCW~~
19 ~~9A.44.093 (sexual misconduct with a minor in the first degree), RCW~~
20 ~~9A.44.096 (sexual misconduct with a minor in the second degree), RCW~~
21 ~~9A.44.160 (custodial sexual misconduct in the first degree), RCW~~
22 ~~9A.64.020 (incest), RCW 9.68A.040 (sexual exploitation of a minor),~~
23 ~~RCW 9.68A.090 (communication with a minor for immoral purposes), or~~
24 ~~RCW 9.68A.100 (commercial sexual abuse of a minor);~~

25 ~~(B) RCW 9A.40.020 (kidnapping in the first degree), RCW 9A.40.030~~
26 ~~(kidnapping in the second degree), or RCW 9A.40.040 (unlawful~~
27 ~~imprisonment), where the victim is a minor and the offender is not~~
28 ~~the minor's parent;~~

29 ~~(C) A felony with a finding of sexual motivation under RCW~~
30 ~~9.94A.835 where the victim is a minor;~~

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

33 ~~(E) An offense defined by federal law or the laws of another~~
34 ~~state that is equivalent to the offenses listed in (b)(iii)(A)~~
35 ~~through (D) of this subsection)) If a person is relieved of the duty~~
36 ~~to register pursuant to this section, the relief of registration does~~
37 ~~not constitute a certificate of rehabilitation, or the equivalent of~~
38 ~~a certificate of rehabilitation, for the purposes of restoration of~~
39 ~~firearm possession under RCW 9.41.040.~~

1 **Sec. 9.** RCW 9A.44.143 and 2011 c 338 s 1 are each amended to
2 read as follows:

3 (1) An offender having a duty to register under RCW 9A.44.130 for
4 a sex offense or kidnapping offense committed when the offender was a
5 juvenile, and who has not been determined to be a sexually violent
6 predator pursuant to chapter 71.09 RCW may petition the superior
7 court to be relieved of that duty as provided in this section.

8 (2) For class A sex offenses or kidnapping offenses committed
9 when the petitioner was fifteen years of age or older, the court may
10 relieve the petitioner of the duty to register if:

11 (a) At least sixty months have passed since the petitioner's
12 adjudication and completion of any term of confinement for the
13 offense giving rise to the duty to register and the petitioner has
14 not been adjudicated or convicted of any additional sex offenses or
15 kidnapping offenses within the sixty months before the petition;

16 (b) The petitioner has not been adjudicated or convicted of a
17 violation of RCW 9A.44.132 (failure to register) during the sixty
18 months prior to filing the petition; and

19 (c) The petitioner shows by a preponderance of the evidence that
20 the petitioner is sufficiently rehabilitated to warrant removal from
21 the central registry of sex offenders and kidnapping offenders.

22 (3) For all other sex offenses or kidnapping offenses committed
23 by a juvenile not included in subsection (2) of this section, the
24 court may relieve the petitioner of the duty to register if:

25 (a) At least twenty-four months have passed since the
26 petitioner's adjudication and completion of any term of confinement
27 for the offense giving rise to the duty to register and the
28 petitioner has not been adjudicated or convicted of any additional
29 sex offenses or kidnapping offenses within the twenty-four months
30 before the petition;

31 (b) The petitioner has not been adjudicated or convicted of a
32 violation of RCW 9A.44.132 (failure to register) during the twenty-
33 four months prior to filing the petition; and

34 (c) The petitioner shows by a preponderance of the evidence that
35 the petitioner is sufficiently rehabilitated to warrant removal from
36 the central registry of sex offenders and kidnapping offenders.

37 (4) A petition for relief from registration under this section
38 shall be made to the court in which the petitioner was convicted of
39 the offense that subjects him or her to the duty to register or, in
40 the case of convictions in other states, a foreign country, or a

1 federal or military court, to the court in (~~Thurston~~) the county in
2 which the juvenile is registered at the time a petition is sought.
3 The prosecuting attorney of the county shall be named and served as
4 the respondent in any such petition.

5 (5) In determining whether the petitioner is sufficiently
6 rehabilitated to warrant removal from the central registry of sex
7 offenders and kidnapping offenders, the following factors are
8 provided as guidance to assist the court in making its determination,
9 to the extent the factors are applicable considering the age and
10 circumstances of the petitioner:

11 (a) The nature of the registrable offense committed including the
12 number of victims and the length of the offense history;

13 (b) Any subsequent criminal history;

14 (c) The petitioner's compliance with supervision requirements;

15 (d) The length of time since the charged incident(s) occurred;

16 (e) Any input from community corrections officers, juvenile
17 parole or probation officers, law enforcement, or treatment
18 providers;

19 (f) Participation in sex offender treatment;

20 (g) Participation in other treatment and rehabilitative programs;

21 (h) The offender's stability in employment and housing;

22 (i) The offender's community and personal support system;

23 (j) Any risk assessments or evaluations prepared by a qualified
24 professional;

25 (k) Any updated polygraph examination;

26 (l) Any input of the victim;

27 (m) Any other factors the court may consider relevant.

28 (6) If a person is relieved of the duty to register pursuant to
29 this section, the relief of registration does not constitute a
30 certificate of rehabilitation, or the equivalent of a certificate of
31 rehabilitation, for the purposes of restoration of firearm possession
32 under RCW 9.41.040.

33 (7) A juvenile prosecuted and convicted of a sex offense or
34 kidnapping offense as an adult pursuant to RCW 13.40.110 or 13.04.030
35 may not petition to the superior court under this section and must
36 follow the provisions of RCW 9A.44.142.

37 (8) An adult prosecuted for an offense committed as juvenile once
38 the juvenile court has lost jurisdiction due to the passage of time
39 between the date of the offense and the date of filing of charges may
40 petition the superior court under the provisions of this section.

1 **Sec. 10.** RCW 43.43.754 and 2008 c 97 s 2 are each amended to
2 read as follows:

3 (1) A biological sample must be collected for purposes of DNA
4 identification analysis from:

5 (a) Every adult or juvenile individual convicted of a felony, or
6 any of the following crimes (or equivalent juvenile offenses):

7 Assault in the fourth degree with sexual motivation (RCW
8 9A.36.041, 9.94A.835)

9 Communication with a minor for immoral purposes (RCW 9.68A.090)

10 Custodial sexual misconduct in the second degree (RCW 9A.44.170)

11 Failure to register (RCW 9A.44.130 for persons convicted on or
12 before June 10, 2010, and RCW 9A.44.132 for persons convicted after
13 June 10, 2010)

14 Harassment (RCW 9A.46.020)

15 Patronizing a prostitute (RCW 9A.88.110)

16 Sexual misconduct with a minor in the second degree (RCW
17 9A.44.096)

18 Stalking (RCW 9A.46.110)

19 Violation of a sexual assault protection order granted under
20 chapter 7.90 RCW; and

21 (b) Every adult or juvenile individual who is required to
22 register under RCW 9A.44.130.

23 (2) If the Washington state patrol crime laboratory already has a
24 DNA sample from an individual for a qualifying offense, a subsequent
25 submission is not required to be submitted.

26 (3) Biological samples shall be collected in the following
27 manner:

28 (a) For persons convicted of any offense listed in subsection
29 (1)(a) of this section or adjudicated guilty of an equivalent
30 juvenile offense who do not serve a term of confinement in a
31 department of corrections facility, and do serve a term of
32 confinement in a city or county jail facility, the city or county
33 shall be responsible for obtaining the biological samples.

34 (b) The local police department or sheriff's office shall be
35 responsible for obtaining the biological samples for:

36 (i) Persons convicted of any offense listed in subsection (1)(a)
37 of this section or adjudicated guilty of an equivalent juvenile
38 offense who do not serve a term of confinement in a department of
39 corrections facility, and do not serve a term of confinement in a
40 city or county jail facility; and

1 (ii) Persons who are required to register under RCW ((~~9A.44.030~~))
2 9A.44.130.

3 (c) For persons convicted of any offense listed in subsection
4 (1)(a) of this section or adjudicated guilty of an equivalent
5 juvenile offense, who are serving or who are to serve a term of
6 confinement in a department of corrections facility or a department
7 of social and health services facility, the facility holding the
8 person shall be responsible for obtaining the biological samples. For
9 those persons incarcerated before June 12, 2008, who have not yet had
10 a biological sample collected, priority shall be given to those
11 persons who will be released the soonest.

12 (4) Any biological sample taken pursuant to RCW 43.43.752 through
13 43.43.758 may be retained by the forensic laboratory services bureau,
14 and shall be used solely for the purpose of providing DNA or other
15 tests for identification analysis and prosecution of a criminal
16 offense or for the identification of human remains or missing
17 persons. Nothing in this section prohibits the submission of results
18 derived from the biological samples to the federal bureau of
19 investigation combined DNA index system.

20 (5) The forensic laboratory services bureau of the Washington
21 state patrol is responsible for testing performed on all biological
22 samples that are collected under subsection (1) of this section, to
23 the extent allowed by funding available for this purpose. The
24 director shall give priority to testing on samples collected from
25 those adults or juveniles convicted of a felony or adjudicated guilty
26 of an equivalent juvenile offense that is defined as a sex offense or
27 a violent offense in RCW 9.94A.030. Known duplicate samples may be
28 excluded from testing unless testing is deemed necessary or advisable
29 by the director.

30 (6) This section applies to:

31 (a) All adults and juveniles to whom this section applied prior
32 to June 12, 2008;

33 (b) All adults and juveniles to whom this section did not apply
34 prior to June 12, 2008, who:

35 (i) Are convicted on or after June 12, 2008, of an offense listed
36 in subsection (1)(a) of this section; or

37 (ii) Were convicted prior to June 12, 2008, of an offense listed
38 in subsection (1)(a) of this section and are still incarcerated on or
39 after June 12, 2008; and

1 (c) All adults and juveniles who are required to register under
2 RCW 9A.44.130 on or after June 12, 2008, whether convicted before,
3 on, or after June 12, 2008.

4 (7) This section creates no rights in a third person. No cause of
5 action may be brought based upon the noncollection or nonanalysis or
6 the delayed collection or analysis of a biological sample authorized
7 to be taken under RCW 43.43.752 through 43.43.758.

8 (8) The detention, arrest, or conviction of a person based upon a
9 database match or database information is not invalidated if it is
10 determined that the sample was obtained or placed in the database by
11 mistake, or if the conviction or juvenile adjudication that resulted
12 in the collection of the biological sample was subsequently vacated
13 or otherwise altered in any future proceeding including but not
14 limited to posttrial or postfact-finding motions, appeals, or
15 collateral attacks.

16 (9) A person commits the crime of refusal to provide DNA if the
17 person has a duty to register under RCW 9A.44.130 and the person
18 willfully refuses to comply with a legal request for a DNA sample as
19 required under this section. The refusal to provide DNA is a gross
20 misdemeanor.

21 **Sec. 11.** RCW 9.94A.515 and 2013 c 322 s 26, 2013 c 290 s 8, 2013
22 c 267 s 2, and 2013 c 153 s 2 are each reenacted and amended to read
23 as follows:

24 TABLE 2

25 CRIMES INCLUDED WITHIN
26 EACH SERIOUSNESS LEVEL

- 27 XVI Aggravated Murder 1 (RCW
28 10.95.020)
- 29 XV Homicide by abuse (RCW 9A.32.055)
- 30 Malicious explosion 1 (RCW
31 70.74.280(1))
- 32 Murder 1 (RCW 9A.32.030)
- 33 XIV Murder 2 (RCW 9A.32.050)
- 34 Trafficking 1 (RCW 9A.40.100(1))
- 35 XIII Malicious explosion 2 (RCW
36 70.74.280(2))

1 Malicious placement of an explosive 1
2 (RCW 70.74.270(1))
3 XII Assault 1 (RCW 9A.36.011)
4 Assault of a Child 1 (RCW 9A.36.120)
5 Malicious placement of an imitation
6 device 1 (RCW 70.74.272(1)(a))
7 Promoting Commercial Sexual Abuse
8 of a Minor (RCW 9.68A.101)
9 Rape 1 (RCW 9A.44.040)
10 Rape of a Child 1 (RCW 9A.44.073)
11 Trafficking 2 (RCW 9A.40.100(~~(2)~~))
12 (3))
13 XI Manslaughter 1 (RCW 9A.32.060)
14 Rape 2 (RCW 9A.44.050)
15 Rape of a Child 2 (RCW 9A.44.076)
16 Vehicular Homicide, by being under
17 the influence of intoxicating liquor
18 or any drug (RCW 46.61.520)
19 X Child Molestation 1 (RCW 9A.44.083)
20 Criminal Mistreatment 1 (RCW
21 9A.42.020)
22 Indecent Liberties (with forcible
23 compulsion) (RCW
24 9A.44.100(1)(a))
25 Kidnapping 1 (RCW 9A.40.020)
26 Leading Organized Crime (RCW
27 9A.82.060(1)(a))
28 Malicious explosion 3 (RCW
29 70.74.280(3))
30 Sexually Violent Predator Escape
31 (RCW 9A.76.115)
32 IX Abandonment of Dependent Person 1
33 (RCW 9A.42.060)
34 Assault of a Child 2 (RCW 9A.36.130)

1 Explosive devices prohibited (RCW
2 70.74.180)
3 Hit and Run—Death (RCW
4 46.52.020(4)(a))
5 Homicide by Watercraft, by being
6 under the influence of intoxicating
7 liquor or any drug (RCW
8 79A.60.050)
9 Inciting Criminal Profiteering (RCW
10 9A.82.060(1)(b))
11 Malicious placement of an explosive 2
12 (RCW 70.74.270(2))
13 Robbery 1 (RCW 9A.56.200)
14 Sexual Exploitation (RCW 9.68A.040)
15 VIII Arson 1 (RCW 9A.48.020)
16 Commercial Sexual Abuse of a Minor
17 (RCW 9.68A.100)
18 Homicide by Watercraft, by the
19 operation of any vessel in a
20 reckless manner (RCW
21 79A.60.050)
22 Manslaughter 2 (RCW 9A.32.070)
23 Promoting Prostitution 1 (RCW
24 9A.88.070)
25 Theft of Ammonia (RCW 69.55.010)
26 Vehicular Homicide, by the operation
27 of any vehicle in a reckless
28 manner (RCW 46.61.520)
29 VII Burglary 1 (RCW 9A.52.020)
30 Child Molestation 2 (RCW 9A.44.086)
31 Civil Disorder Training (RCW
32 9A.48.120)
33 Dealing in depictions of minor engaged
34 in sexually explicit conduct 1
35 (RCW 9.68A.050(1))

1 Drive-by Shooting (RCW 9A.36.045)
2 Homicide by Watercraft, by disregard
3 for the safety of others (RCW
4 79A.60.050)
5 Indecent Liberties (without forcible
6 compulsion) (RCW 9A.44.100(1)
7 (b) and (c))
8 Introducing Contraband 1 (RCW
9 9A.76.140)
10 Malicious placement of an explosive 3
11 (RCW 70.74.270(3))
12 Negligently Causing Death By Use of a
13 Signal Preemption Device (RCW
14 46.37.675)
15 Sending, bringing into state depictions
16 of minor engaged in sexually
17 explicit conduct 1 (RCW
18 9.68A.060(1))
19 Unlawful Possession of a Firearm in
20 the first degree (RCW
21 9.41.040(1))
22 Use of a Machine Gun in Commission
23 of a Felony (RCW 9.41.225)
24 Vehicular Homicide, by disregard for
25 the safety of others (RCW
26 46.61.520)
27 VI Bail Jumping with Murder 1 (RCW
28 9A.76.170(3)(a))
29 Bribery (RCW 9A.68.010)
30 Incest 1 (RCW 9A.64.020(1))
31 Intimidating a Judge (RCW 9A.72.160)
32 Intimidating a Juror/Witness (RCW
33 9A.72.110, 9A.72.130)
34 Malicious placement of an imitation
35 device 2 (RCW 70.74.272(1)(b))

1 Possession of Depictions of a Minor
2 Engaged in Sexually Explicit
3 Conduct 1 (RCW 9.68A.070(1))
4 Rape of a Child 3 (RCW 9A.44.079)
5 Theft of a Firearm (RCW 9A.56.300)
6 Unlawful Storage of Ammonia (RCW
7 69.55.020)
8 V Abandonment of Dependent Person 2
9 (RCW 9A.42.070)
10 Advancing money or property for
11 extortionate extension of credit
12 (RCW 9A.82.030)
13 Bail Jumping with class A Felony
14 (RCW 9A.76.170(3)(b))
15 Child Molestation 3 (RCW 9A.44.089)
16 Criminal Mistreatment 2 (RCW
17 9A.42.030)
18 Custodial Sexual Misconduct 1 (RCW
19 9A.44.160)
20 Dealing in Depictions of Minor
21 Engaged in Sexually Explicit
22 Conduct 2 (RCW 9.68A.050(2))
23 Domestic Violence Court Order
24 Violation (RCW 10.99.040,
25 10.99.050, 26.09.300, 26.10.220,
26 26.26.138, 26.50.110, 26.52.070,
27 or 74.34.145)
28 Driving While Under the Influence
29 (RCW 46.61.502(6))
30 Extortion 1 (RCW 9A.56.120)
31 Extortionate Extension of Credit (RCW
32 9A.82.020)
33 Extortionate Means to Collect
34 Extensions of Credit (RCW
35 9A.82.040)
36 Incest 2 (RCW 9A.64.020(2))

1 Kidnapping 2 (RCW 9A.40.030)
2 Perjury 1 (RCW 9A.72.020)
3 Persistent prison misbehavior (RCW
4 9.94.070)
5 Physical Control of a Vehicle While
6 Under the Influence (RCW
7 46.61.504(6))
8 Possession of a Stolen Firearm (RCW
9 9A.56.310)
10 Rape 3 (RCW 9A.44.060)
11 Rendering Criminal Assistance 1
12 (RCW 9A.76.070)
13 Sending, Bringing into State
14 Depictions of Minor Engaged in
15 Sexually Explicit Conduct 2
16 (RCW 9.68A.060(2))
17 Sexual Misconduct with a Minor 1
18 (RCW 9A.44.093)
19 Sexually Violating Human Remains
20 (RCW 9A.44.105)
21 Stalking (RCW 9A.46.110)
22 Taking Motor Vehicle Without
23 Permission 1 (RCW 9A.56.070)
24 IV Arson 2 (RCW 9A.48.030)
25 Assault 2 (RCW 9A.36.021)
26 Assault 3 (of a Peace Officer with a
27 Projectile Stun Gun) (RCW
28 9A.36.031(1)(h))
29 Assault by Watercraft (RCW
30 79A.60.060)
31 Bribing a Witness/Bribe Received by
32 Witness (RCW 9A.72.090,
33 9A.72.100)
34 Cheating 1 (RCW 9.46.1961)

1 Commercial Bribery (RCW
2 9A.68.060)
3 Counterfeiting (RCW 9.16.035(4))
4 Endangerment with a Controlled
5 Substance (RCW 9A.42.100)
6 Escape 1 (RCW 9A.76.110)
7 Hit and Run—Injury (RCW
8 46.52.020(4)(b))
9 Hit and Run with Vessel—Injury
10 Accident (RCW 79A.60.200(3))
11 Identity Theft 1 (RCW 9.35.020(2))
12 Indecent Exposure to Person Under
13 Age Fourteen (subsequent sex
14 offense) (RCW 9A.88.010)
15 Influencing Outcome of Sporting Event
16 (RCW 9A.82.070)
17 Malicious Harassment (RCW
18 9A.36.080)
19 Possession of Depictions of a Minor
20 Engaged in Sexually Explicit
21 Conduct 2 (RCW 9.68A.070(2))
22 Residential Burglary (RCW
23 9A.52.025)
24 Robbery 2 (RCW 9A.56.210)
25 Theft of Livestock 1 (RCW 9A.56.080)
26 Threats to Bomb (RCW 9.61.160)
27 Trafficking in Stolen Property 1 (RCW
28 9A.82.050)
29 Unlawful factoring of a credit card or
30 payment card transaction (RCW
31 9A.56.290(4)(b))
32 Unlawful transaction of health
33 coverage as a health care service
34 contractor (RCW 48.44.016(3))

1 Unlawful transaction of health
2 coverage as a health maintenance
3 organization (RCW 48.46.033(3))
4 Unlawful transaction of insurance
5 business (RCW 48.15.023(3))
6 Unlicensed practice as an insurance
7 professional (RCW 48.17.063(2))
8 Use of Proceeds of Criminal
9 Profiteering (RCW 9A.82.080 (1)
10 and (2))
11 Vehicle Prowling 2 (third or
12 subsequent offense) (RCW
13 9A.52.100(3))
14 Vehicular Assault, by being under the
15 influence of intoxicating liquor or
16 any drug, or by the operation or
17 driving of a vehicle in a reckless
18 manner (RCW 46.61.522)
19 Viewing of Depictions of a Minor
20 Engaged in Sexually Explicit
21 Conduct 1 (RCW 9.68A.075(1))
22 Willful Failure to Return from
23 Furlough (RCW 72.66.060)
24 III Animal Cruelty 1 (Sexual Conduct or
25 Contact) (RCW 16.52.205(3))
26 Assault 3 (Except Assault 3 of a Peace
27 Officer With a Projectile Stun
28 Gun) (RCW 9A.36.031 except
29 subsection (1)(h))
30 Assault of a Child 3 (RCW 9A.36.140)
31 Bail Jumping with class B or C Felony
32 (RCW 9A.76.170(3)(c))
33 Burglary 2 (RCW 9A.52.030)
34 Communication with a Minor for
35 Immoral Purposes (RCW
36 9.68A.090)

1 Criminal Gang Intimidation (RCW
2 9A.46.120)
3 Custodial Assault (RCW 9A.36.100)
4 Cyberstalking (subsequent conviction
5 or threat of death) (RCW
6 9.61.260(3))
7 Escape 2 (RCW 9A.76.120)
8 Extortion 2 (RCW 9A.56.130)
9 Harassment (RCW 9A.46.020)
10 Intimidating a Public Servant (RCW
11 9A.76.180)
12 Introducing Contraband 2 (RCW
13 9A.76.150)
14 Malicious Injury to Railroad Property
15 (RCW 81.60.070)
16 Mortgage Fraud (RCW 19.144.080)
17 Negligently Causing Substantial
18 Bodily Harm By Use of a Signal
19 Preemption Device (RCW
20 46.37.674)
21 Organized Retail Theft 1 (RCW
22 9A.56.350(2))
23 Perjury 2 (RCW 9A.72.030)
24 Possession of Incendiary Device (RCW
25 9.40.120)
26 Possession of Machine Gun or Short-
27 Barreled Shotgun or Rifle (RCW
28 9.41.190)
29 Promoting Prostitution 2 (RCW
30 9A.88.080)
31 Retail Theft with Special
32 Circumstances 1 (RCW
33 9A.56.360(2))
34 Securities Act violation (RCW
35 21.20.400)

1 Tampering with a Witness (RCW
2 9A.72.120)
3 Telephone Harassment (subsequent
4 conviction or threat of death)
5 (RCW 9.61.230(2))
6 Theft of Livestock 2 (RCW 9A.56.083)
7 Theft with the Intent to Resell 1 (RCW
8 9A.56.340(2))
9 Trafficking in Stolen Property 2 (RCW
10 9A.82.055)
11 Unlawful Hunting of Big Game 1
12 (RCW 77.15.410(3)(b))
13 Unlawful Imprisonment (RCW
14 9A.40.040)
15 Unlawful Misbranding of Food Fish or
16 Shellfish 1 (RCW 69.04.938(3))
17 Unlawful possession of firearm in the
18 second degree (RCW 9.41.040(2))
19 Unlawful Taking of Endangered Fish
20 or Wildlife 1 (RCW
21 77.15.120(3)(b))
22 Unlawful Trafficking in Fish, Shellfish,
23 or Wildlife 1 (RCW
24 77.15.260(3)(b))
25 Unlawful Use of a Nondesignated
26 Vessel (RCW 77.15.530(4))
27 Vehicular Assault, by the operation or
28 driving of a vehicle with disregard
29 for the safety of others (RCW
30 46.61.522)
31 Willful Failure to Return from Work
32 Release (RCW 72.65.070)
33 II Commercial Fishing Without a License
34 1 (RCW 77.15.500(3)(b))
35 Computer Trespass 1 (RCW
36 9A.52.110)

1 Counterfeiting (RCW 9.16.035(3))
2 Engaging in Fish Dealing Activity
3 Unlicensed 1 (RCW 77.15.620(3))
4 Escape from Community Custody
5 (RCW 72.09.310)
6 Failure to Register as a Sex Offender
7 (second or subsequent offense)
8 (RCW 9A.44.130 prior to June 10,
9 2010, and RCW 9A.44.132)
10 Health Care False Claims (RCW
11 48.80.030)
12 Identity Theft 2 (RCW 9.35.020(3))
13 Improperly Obtaining Financial
14 Information (RCW 9.35.010)
15 Malicious Mischief 1 (RCW
16 9A.48.070)
17 Organized Retail Theft 2 (RCW
18 9A.56.350(3))
19 Possession of Stolen Property 1 (RCW
20 9A.56.150)
21 Possession of a Stolen Vehicle (RCW
22 9A.56.068)
23 Retail Theft with Special
24 Circumstances 2 (RCW
25 9A.56.360(3))
26 Scrap Processing, Recycling, or
27 Supplying Without a License
28 (second or subsequent offense)
29 (RCW 19.290.100)
30 Theft 1 (RCW 9A.56.030)
31 Theft of a Motor Vehicle (RCW
32 9A.56.065)
33 Theft of Rental, Leased, or Lease-
34 purchased Property (valued at one
35 thousand five hundred dollars or
36 more) (RCW 9A.56.096(5)(a))

1 Theft with the Intent to Resell 2 (RCW
2 9A.56.340(3))
3 Trafficking in Insurance Claims (RCW
4 48.30A.015)
5 Unlawful factoring of a credit card or
6 payment card transaction (RCW
7 9A.56.290(4)(a))
8 Unlawful Participation of Non-Indians
9 in Indian Fishery (RCW
10 77.15.570(2))
11 Unlawful Practice of Law (RCW
12 2.48.180)
13 Unlawful Purchase or Use of a License
14 (RCW 77.15.650(3)(b))
15 Unlawful Trafficking in Fish, Shellfish,
16 or Wildlife 2 (RCW
17 77.15.260(3)(a))
18 Unlicensed Practice of a Profession or
19 Business (RCW 18.130.190(7))
20 Voyeurism (RCW 9A.44.115)
21 I Attempting to Elude a Pursuing Police
22 Vehicle (RCW 46.61.024)
23 False Verification for Welfare (RCW
24 74.08.055)
25 Forgery (RCW 9A.60.020)
26 Fraudulent Creation or Revocation of a
27 Mental Health Advance Directive
28 (RCW 9A.60.060)
29 Malicious Mischief 2 (RCW
30 9A.48.080)
31 Mineral Trespass (RCW 78.44.330)
32 Possession of Stolen Property 2 (RCW
33 9A.56.160)
34 Reckless Burning 1 (RCW 9A.48.040)
35 Spotlighting Big Game 1 (RCW
36 77.15.450(3)(b))

1 Suspension of Department Privileges 1
2 (RCW 77.15.670(3)(b))
3 Taking Motor Vehicle Without
4 Permission 2 (RCW 9A.56.075)
5 Theft 2 (RCW 9A.56.040)
6 Theft of Rental, Leased, or Lease-
7 purchased Property (valued at two
8 hundred fifty dollars or more but
9 less than one thousand five
10 hundred dollars) (RCW
11 9A.56.096(5)(b))
12 Transaction of insurance business
13 beyond the scope of licensure
14 (RCW 48.17.063)
15 Unlawful Fish and Shellfish Catch
16 Accounting (RCW
17 77.15.630(3)(b))
18 Unlawful Issuance of Checks or Drafts
19 (RCW 9A.56.060)
20 Unlawful Possession of Fictitious
21 Identification (RCW 9A.56.320)
22 Unlawful Possession of Instruments of
23 Financial Fraud (RCW 9A.56.320)
24 Unlawful Possession of Payment
25 Instruments (RCW 9A.56.320)
26 Unlawful Possession of a Personal
27 Identification Device (RCW
28 9A.56.320)
29 Unlawful Production of Payment
30 Instruments (RCW 9A.56.320)
31 Unlawful (~~Release of~~) Releasing,
32 planting, possessing, or placing
33 Deleterious Exotic Wildlife (RCW
34 77.15.250(2)(b))
35 Unlawful Trafficking in Food Stamps
36 (RCW 9.91.142)

1 Unlawful Use of Food Stamps (RCW
2 9.91.144)
3 Unlawful Use of Net to Take Fish 1
4 (RCW 77.15.580(3)(b))
5 Unlawful Use of Prohibited Aquatic
6 Animal Species (RCW
7 77.15.253(3))
8 Vehicle Prowl 1 (RCW 9A.52.095)
9 Violating Commercial Fishing Area or
10 Time 1 (RCW 77.15.550(3)(b))

11 **Sec. 12.** RCW 9.94A.030 and 2012 c 143 s 1 are each amended to
12 read as follows:

13 Unless the context clearly requires otherwise, the definitions in
14 this section apply throughout this chapter.

15 (1) "Board" means the indeterminate sentence review board created
16 under chapter 9.95 RCW.

17 (2) "Collect," or any derivative thereof, "collect and remit," or
18 "collect and deliver," when used with reference to the department,
19 means that the department, either directly or through a collection
20 agreement authorized by RCW 9.94A.760, is responsible for monitoring
21 and enforcing the offender's sentence with regard to the legal
22 financial obligation, receiving payment thereof from the offender,
23 and, consistent with current law, delivering daily the entire payment
24 to the superior court clerk without depositing it in a departmental
25 account.

26 (3) "Commission" means the sentencing guidelines commission.

27 (4) "Community corrections officer" means an employee of the
28 department who is responsible for carrying out specific duties in
29 supervision of sentenced offenders and monitoring of sentence
30 conditions.

31 (5) "Community custody" means that portion of an offender's
32 sentence of confinement in lieu of earned release time or imposed as
33 part of a sentence under this chapter and served in the community
34 subject to controls placed on the offender's movement and activities
35 by the department.

36 (6) "Community protection zone" means the area within eight
37 hundred eighty feet of the facilities and grounds of a public or
38 private school.

1 (7) "Community restitution" means compulsory service, without
2 compensation, performed for the benefit of the community by the
3 offender.

4 (8) "Confinement" means total or partial confinement.

5 (9) "Conviction" means an adjudication of guilt pursuant to Title
6 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
7 and acceptance of a plea of guilty.

8 (10) "Crime-related prohibition" means an order of a court
9 prohibiting conduct that directly relates to the circumstances of the
10 crime for which the offender has been convicted, and shall not be
11 construed to mean orders directing an offender affirmatively to
12 participate in rehabilitative programs or to otherwise perform
13 affirmative conduct. However, affirmative acts necessary to monitor
14 compliance with the order of a court may be required by the
15 department.

16 (11) "Criminal history" means the list of a defendant's prior
17 convictions and juvenile adjudications, whether in this state, in
18 federal court, or elsewhere.

19 (a) The history shall include, where known, for each conviction
20 (i) whether the defendant has been placed on probation and the length
21 and terms thereof; and (ii) whether the defendant has been
22 incarcerated and the length of incarceration.

23 (b) A conviction may be removed from a defendant's criminal
24 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
25 9.95.240, or a similar out-of-state statute, or if the conviction has
26 been vacated pursuant to a governor's pardon.

27 (c) The determination of a defendant's criminal history is
28 distinct from the determination of an offender score. A prior
29 conviction that was not included in an offender score calculated
30 pursuant to a former version of the sentencing reform act remains
31 part of the defendant's criminal history.

32 (12) "Criminal street gang" means any ongoing organization,
33 association, or group of three or more persons, whether formal or
34 informal, having a common name or common identifying sign or symbol,
35 having as one of its primary activities the commission of criminal
36 acts, and whose members or associates individually or collectively
37 engage in or have engaged in a pattern of criminal street gang
38 activity. This definition does not apply to employees engaged in
39 concerted activities for their mutual aid and protection, or to the

1 activities of labor and bona fide nonprofit organizations or their
2 members or agents.

3 (13) "Criminal street gang associate or member" means any person
4 who actively participates in any criminal street gang and who
5 intentionally promotes, furthers, or assists in any criminal act by
6 the criminal street gang.

7 (14) "Criminal street gang-related offense" means any felony or
8 misdemeanor offense, whether in this state or elsewhere, that is
9 committed for the benefit of, at the direction of, or in association
10 with any criminal street gang, or is committed with the intent to
11 promote, further, or assist in any criminal conduct by the gang, or
12 is committed for one or more of the following reasons:

- 13 (a) To gain admission, prestige, or promotion within the gang;
- 14 (b) To increase or maintain the gang's size, membership,
15 prestige, dominance, or control in any geographical area;
- 16 (c) To exact revenge or retribution for the gang or any member of
17 the gang;
- 18 (d) To obstruct justice, or intimidate or eliminate any witness
19 against the gang or any member of the gang;
- 20 (e) To directly or indirectly cause any benefit, aggrandizement,
21 gain, profit, or other advantage for the gang, its reputation,
22 influence, or membership; or
- 23 (f) To provide the gang with any advantage in, or any control or
24 dominance over any criminal market sector, including, but not limited
25 to, manufacturing, delivering, or selling any controlled substance
26 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
27 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
28 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
29 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
30 9.68 RCW).

31 (15) "Day fine" means a fine imposed by the sentencing court that
32 equals the difference between the offender's net daily income and the
33 reasonable obligations that the offender has for the support of the
34 offender and any dependents.

35 (16) "Day reporting" means a program of enhanced supervision
36 designed to monitor the offender's daily activities and compliance
37 with sentence conditions, and in which the offender is required to
38 report daily to a specific location designated by the department or
39 the sentencing court.

40 (17) "Department" means the department of corrections.

1 (18) "Determinate sentence" means a sentence that states with
2 exactitude the number of actual years, months, or days of total
3 confinement, of partial confinement, of community custody, the number
4 of actual hours or days of community restitution work, or dollars or
5 terms of a legal financial obligation. The fact that an offender
6 through earned release can reduce the actual period of confinement
7 shall not affect the classification of the sentence as a determinate
8 sentence.

9 (19) "Disposable earnings" means that part of the earnings of an
10 offender remaining after the deduction from those earnings of any
11 amount required by law to be withheld. For the purposes of this
12 definition, "earnings" means compensation paid or payable for
13 personal services, whether denominated as wages, salary, commission,
14 bonuses, or otherwise, and, notwithstanding any other provision of
15 law making the payments exempt from garnishment, attachment, or other
16 process to satisfy a court-ordered legal financial obligation,
17 specifically includes periodic payments pursuant to pension or
18 retirement programs, or insurance policies of any type, but does not
19 include payments made under Title 50 RCW, except as provided in RCW
20 50.40.020 and 50.40.050, or Title 74 RCW.

21 (20) "Domestic violence" has the same meaning as defined in RCW
22 10.99.020 and 26.50.010.

23 (21) "Drug offender sentencing alternative" is a sentencing
24 option available to persons convicted of a felony offense other than
25 a violent offense or a sex offense and who are eligible for the
26 option under RCW 9.94A.660.

27 (22) "Drug offense" means:

28 (a) Any felony violation of chapter 69.50 RCW except possession
29 of a controlled substance (RCW 69.50.4013) or forged prescription for
30 a controlled substance (RCW 69.50.403);

31 (b) Any offense defined as a felony under federal law that
32 relates to the possession, manufacture, distribution, or
33 transportation of a controlled substance; or

34 (c) Any out-of-state conviction for an offense that under the
35 laws of this state would be a felony classified as a drug offense
36 under (a) of this subsection.

37 (23) "Earned release" means earned release from confinement as
38 provided in RCW 9.94A.728.

39 (24) "Escape" means:

1 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
2 the first degree (RCW 9A.76.110), escape in the second degree (RCW
3 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
4 willful failure to return from work release (RCW 72.65.070), or
5 willful failure to be available for supervision by the department
6 while in community custody (RCW 72.09.310); or

7 (b) Any federal or out-of-state conviction for an offense that
8 under the laws of this state would be a felony classified as an
9 escape under (a) of this subsection.

10 (25) "Felony traffic offense" means:

11 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
12 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
13 run injury-accident (RCW 46.52.020(4)), felony driving while under
14 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
15 or felony physical control of a vehicle while under the influence of
16 intoxicating liquor or any drug (RCW 46.61.504(6)); or

17 (b) Any federal or out-of-state conviction for an offense that
18 under the laws of this state would be a felony classified as a felony
19 traffic offense under (a) of this subsection.

20 (26) "Fine" means a specific sum of money ordered by the
21 sentencing court to be paid by the offender to the court over a
22 specific period of time.

23 (27) "First-time offender" means any person who has no prior
24 convictions for a felony and is eligible for the first-time offender
25 waiver under RCW 9.94A.650.

26 (28) "Home detention" means a program of partial confinement
27 available to offenders wherein the offender is confined in a private
28 residence subject to electronic surveillance.

29 (29) "Homelessness" or "homeless" means a condition where an
30 individual lacks a fixed, regular, and adequate nighttime residence
31 and who has a primary nighttime residence that is:

32 (a) A supervised, publicly or privately operated shelter designed
33 to provide temporary living accommodations;

34 (b) A public or private place not designed for, or ordinarily
35 used as, a regular sleeping accommodation for human beings; or

36 (c) A private residence where the individual stays as a transient
37 invitee.

38 (30) "Legal financial obligation" means a sum of money that is
39 ordered by a superior court of the state of Washington for legal
40 financial obligations which may include restitution to the victim,

1 statutorily imposed crime victims' compensation fees as assessed
2 pursuant to RCW 7.68.035, court costs, county or interlocal drug
3 funds, court-appointed attorneys' fees, and costs of defense, fines,
4 and any other financial obligation that is assessed to the offender
5 as a result of a felony conviction. Upon conviction for vehicular
6 assault while under the influence of intoxicating liquor or any drug,
7 RCW 46.61.522(1)(b), or vehicular homicide while under the influence
8 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal
9 financial obligations may also include payment to a public agency of
10 the expense of an emergency response to the incident resulting in the
11 conviction, subject to RCW 38.52.430.

12 (31) "Minor child" means a biological or adopted child of the
13 offender who is under age eighteen at the time of the offender's
14 current offense.

15 (32) "Most serious offense" means any of the following felonies
16 or a felony attempt to commit any of the following felonies:

17 (a) Any felony defined under any law as a class A felony or
18 criminal solicitation of or criminal conspiracy to commit a class A
19 felony;

20 (b) Assault in the second degree;

21 (c) Assault of a child in the second degree;

22 (d) Child molestation in the second degree;

23 (e) Controlled substance homicide;

24 (f) Extortion in the first degree;

25 (g) Incest when committed against a child under age fourteen;

26 (h) Indecent liberties;

27 (i) Kidnapping in the second degree;

28 (j) Leading organized crime;

29 (k) Manslaughter in the first degree;

30 (l) Manslaughter in the second degree;

31 (m) Promoting prostitution in the first degree;

32 (n) Rape in the third degree;

33 (o) Robbery in the second degree;

34 (p) Sexual exploitation;

35 (q) Vehicular assault, when caused by the operation or driving of
36 a vehicle by a person while under the influence of intoxicating
37 liquor or any drug or by the operation or driving of a vehicle in a
38 reckless manner;

39 (r) Vehicular homicide, when proximately caused by the driving of
40 any vehicle by any person while under the influence of intoxicating

1 liquor or any drug as defined by RCW 46.61.502, or by the operation
2 of any vehicle in a reckless manner;

3 (s) Any other class B felony offense with a finding of sexual
4 motivation;

5 (t) Any other felony with a deadly weapon verdict under RCW
6 9.94A.825;

7 (u) Any felony offense in effect at any time prior to December 2,
8 1993, that is comparable to a most serious offense under this
9 subsection, or any federal or out-of-state conviction for an offense
10 that under the laws of this state would be a felony classified as a
11 most serious offense under this subsection;

12 (v)(i) A prior conviction for indecent liberties under RCW
13 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
14 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
15 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
16 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
17 until July 1, 1988;

18 (ii) A prior conviction for indecent liberties under RCW
19 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
20 if: (A) The crime was committed against a child under the age of
21 fourteen; or (B) the relationship between the victim and perpetrator
22 is included in the definition of indecent liberties under RCW
23 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
24 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
25 1993, through July 27, 1997;

26 (w) Any out-of-state conviction for a felony offense with a
27 finding of sexual motivation if the minimum sentence imposed was ten
28 years or more; provided that the out-of-state felony offense must be
29 comparable to a felony offense under this title and Title 9A RCW and
30 the out-of-state definition of sexual motivation must be comparable
31 to the definition of sexual motivation contained in this section.

32 (33) "Nonviolent offense" means an offense which is not a violent
33 offense.

34 (34) "Offender" means a person who has committed a felony
35 established by state law and is eighteen years of age or older or is
36 less than eighteen years of age but whose case is under superior
37 court jurisdiction under RCW 13.04.030 or has been transferred by the
38 appropriate juvenile court to a criminal court pursuant to RCW
39 13.40.110. In addition, for the purpose of community custody
40 requirements under this chapter, "offender" also means a misdemeanor

1 or gross misdemeanor probationer ordered by a superior court to
2 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
3 supervised by the department pursuant to RCW 9.94A.501 and
4 9.94A.5011. Throughout this chapter, the terms "offender" and
5 "defendant" are used interchangeably.

6 (35) "Partial confinement" means confinement for no more than one
7 year in a facility or institution operated or utilized under contract
8 by the state or any other unit of government, or, if home detention
9 or work crew has been ordered by the court or home detention has been
10 ordered by the department as part of the parenting program, in an
11 approved residence, for a substantial portion of each day with the
12 balance of the day spent in the community. Partial confinement
13 includes work release, home detention, work crew, and a combination
14 of work crew and home detention.

15 (36) "Pattern of criminal street gang activity" means:

16 (a) The commission, attempt, conspiracy, or solicitation of, or
17 any prior juvenile adjudication of or adult conviction of, two or
18 more of the following criminal street gang-related offenses:

19 (i) Any "serious violent" felony offense as defined in this
20 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
21 Child 1 (RCW 9A.36.120);

22 (ii) Any "violent" offense as defined by this section, excluding
23 Assault of a Child 2 (RCW 9A.36.130);

24 (iii) Deliver or Possession with Intent to Deliver a Controlled
25 Substance (chapter 69.50 RCW);

26 (iv) Any violation of the firearms and dangerous weapon act
27 (chapter 9.41 RCW);

28 (v) Theft of a Firearm (RCW 9A.56.300);

29 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

30 (vii) Malicious Harassment (RCW 9A.36.080);

31 (viii) Harassment where a subsequent violation or deadly threat
32 is made (RCW 9A.46.020(2)(b));

33 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

34 (x) Any felony conviction by a person eighteen years of age or
35 older with a special finding of involving a juvenile in a felony
36 offense under RCW 9.94A.833;

37 (xi) Residential Burglary (RCW 9A.52.025);

38 (xii) Burglary 2 (RCW 9A.52.030);

39 (xiii) Malicious Mischief 1 (RCW 9A.48.070);

40 (xiv) Malicious Mischief 2 (RCW 9A.48.080);

1 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
2 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
3 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
4 9A.56.070);
5 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
6 9A.56.075);
7 (xix) Extortion 1 (RCW 9A.56.120);
8 (xx) Extortion 2 (RCW 9A.56.130);
9 (xxi) Intimidating a Witness (RCW 9A.72.110);
10 (xxii) Tampering with a Witness (RCW 9A.72.120);
11 (xxiii) Reckless Endangerment (RCW 9A.36.050);
12 (xxiv) Coercion (RCW 9A.36.070);
13 (xxv) Harassment (RCW 9A.46.020); or
14 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
15 (b) That at least one of the offenses listed in (a) of this
16 subsection shall have occurred after July 1, 2008;
17 (c) That the most recent committed offense listed in (a) of this
18 subsection occurred within three years of a prior offense listed in
19 (a) of this subsection; and
20 (d) Of the offenses that were committed in (a) of this
21 subsection, the offenses occurred on separate occasions or were
22 committed by two or more persons.
23 (37) "Persistent offender" is an offender who:
24 (a)(i) Has been convicted in this state of any felony considered
25 a most serious offense; and
26 (ii) Has, before the commission of the offense under (a) of this
27 subsection, been convicted as an offender on at least two separate
28 occasions, whether in this state or elsewhere, of felonies that under
29 the laws of this state would be considered most serious offenses and
30 would be included in the offender score under RCW 9.94A.525; provided
31 that of the two or more previous convictions, at least one conviction
32 must have occurred before the commission of any of the other most
33 serious offenses for which the offender was previously convicted; or
34 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
35 of a child in the first degree, child molestation in the first
36 degree, rape in the second degree, rape of a child in the second
37 degree, or indecent liberties by forcible compulsion; (B) any of the
38 following offenses with a finding of sexual motivation: Murder in the
39 first degree, murder in the second degree, homicide by abuse,
40 kidnapping in the first degree, kidnapping in the second degree,

1 assault in the first degree, assault in the second degree, assault of
2 a child in the first degree, assault of a child in the second degree,
3 or burglary in the first degree; or (C) an attempt to commit any
4 crime listed in this subsection (37)(b)(i); and

5 (ii) Has, before the commission of the offense under (b)(i) of
6 this subsection, been convicted as an offender on at least one
7 occasion, whether in this state or elsewhere, of an offense listed in
8 (b)(i) of this subsection or any federal or out-of-state offense or
9 offense under prior Washington law that is comparable to the offenses
10 listed in (b)(i) of this subsection. A conviction for rape of a child
11 in the first degree constitutes a conviction under (b)(i) of this
12 subsection only when the offender was sixteen years of age or older
13 when the offender committed the offense. A conviction for rape of a
14 child in the second degree constitutes a conviction under (b)(i) of
15 this subsection only when the offender was eighteen years of age or
16 older when the offender committed the offense.

17 (38) "Predatory" means: (a) The perpetrator of the crime was a
18 stranger to the victim, as defined in this section; (b) the
19 perpetrator established or promoted a relationship with the victim
20 prior to the offense and the victimization of the victim was a
21 significant reason the perpetrator established or promoted the
22 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
23 volunteer, or other person in authority in any public or private
24 school and the victim was a student of the school under his or her
25 authority or supervision. For purposes of this subsection, "school"
26 does not include home-based instruction as defined in RCW
27 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
28 authority in any recreational activity and the victim was a
29 participant in the activity under his or her authority or
30 supervision; (iii) a pastor, elder, volunteer, or other person in
31 authority in any church or religious organization, and the victim was
32 a member or participant of the organization under his or her
33 authority; or (iv) a teacher, counselor, volunteer, or other person
34 in authority providing home-based instruction and the victim was a
35 student receiving home-based instruction while under his or her
36 authority or supervision. For purposes of this subsection: (A) "Home-
37 based instruction" has the same meaning as defined in RCW
38 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
39 in authority" does not include the parent or legal guardian of the
40 victim.

1 (39) "Private school" means a school regulated under chapter
2 28A.195 or 28A.205 RCW.

3 (40) "Public school" has the same meaning as in RCW 28A.150.010.

4 (41) "Repetitive domestic violence offense" means any:

5 (a)(i) Domestic violence assault that is not a felony offense
6 under RCW 9A.36.041;

7 (ii) Domestic violence violation of a no-contact order under
8 chapter 10.99 RCW that is not a felony offense;

9 (iii) Domestic violence violation of a protection order under
10 chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony
11 offense;

12 (iv) Domestic violence harassment offense under RCW 9A.46.020
13 that is not a felony offense; or

14 (v) Domestic violence stalking offense under RCW 9A.46.110 that
15 is not a felony offense; or

16 (b) Any federal, out-of-state, tribal court, military, county, or
17 municipal conviction for an offense that under the laws of this state
18 would be classified as a repetitive domestic violence offense under
19 (a) of this subsection.

20 (42) "Restitution" means a specific sum of money ordered by the
21 sentencing court to be paid by the offender to the court over a
22 specified period of time as payment of damages. The sum may include
23 both public and private costs.

24 (43) "Risk assessment" means the application of the risk
25 instrument recommended to the department by the Washington state
26 institute for public policy as having the highest degree of
27 predictive accuracy for assessing an offender's risk of reoffense.

28 (44) "Serious traffic offense" means:

29 (a) Nonfelony driving while under the influence of intoxicating
30 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
31 while under the influence of intoxicating liquor or any drug (RCW
32 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
33 attended vehicle (RCW 46.52.020(5)); or

34 (b) Any federal, out-of-state, county, or municipal conviction
35 for an offense that under the laws of this state would be classified
36 as a serious traffic offense under (a) of this subsection.

37 (45) "Serious violent offense" is a subcategory of violent
38 offense and means:

39 (a)(i) Murder in the first degree;

40 (ii) Homicide by abuse;

1 (iii) Murder in the second degree;
2 (iv) Manslaughter in the first degree;
3 (v) Assault in the first degree;
4 (vi) Kidnapping in the first degree;
5 (vii) Rape in the first degree;
6 (viii) Assault of a child in the first degree; or
7 (ix) An attempt, criminal solicitation, or criminal conspiracy to
8 commit one of these felonies; or

9 (b) Any federal or out-of-state conviction for an offense that
10 under the laws of this state would be a felony classified as a
11 serious violent offense under (a) of this subsection.

12 (46) "Sex offense" means:

13 (a)(i) A felony that is a violation of chapter 9A.44 RCW other
14 than RCW 9A.44.132;

15 (ii) A violation of RCW 9A.64.020;

16 (iii) A felony that is a violation of chapter 9.68A RCW other
17 than RCW 9.68A.080;

18 (iv) A felony that is, under chapter 9A.28 RCW, a criminal
19 attempt, criminal solicitation, or criminal conspiracy to commit such
20 crimes; or

21 (v) A felony violation of RCW 9A.44.132(1) (failure to register
22 as a sex offender) if the person has been convicted of violating RCW
23 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
24 prior to June 10, 2010, on at least one prior occasion;

25 (b) Any conviction for a felony offense in effect at any time
26 prior to July 1, 1976, that is comparable to a felony classified as a
27 sex offense in (a) of this subsection;

28 (c) A felony with a finding of sexual motivation under RCW
29 9.94A.835 or 13.40.135; or

30 (d) Any federal or out-of-state conviction for an offense that
31 under the laws of this state would be a felony classified as a sex
32 offense under (a) of this subsection.

33 (47) "Sexual motivation" means that one of the purposes for which
34 the defendant committed the crime was for the purpose of his or her
35 sexual gratification.

36 (48) "Standard sentence range" means the sentencing court's
37 discretionary range in imposing a nonappealable sentence.

38 (49) "Statutory maximum sentence" means the maximum length of
39 time for which an offender may be confined as punishment for a crime
40 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute

1 defining the crime, or other statute defining the maximum penalty for
2 a crime.

3 (50) "Stranger" means that the victim did not know the offender
4 twenty-four hours before the offense.

5 (51) "Total confinement" means confinement inside the physical
6 boundaries of a facility or institution operated or utilized under
7 contract by the state or any other unit of government for twenty-four
8 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

9 (52) "Transition training" means written and verbal instructions
10 and assistance provided by the department to the offender during the
11 two weeks prior to the offender's successful completion of the work
12 ethic camp program. The transition training shall include
13 instructions in the offender's requirements and obligations during
14 the offender's period of community custody.

15 (53) "Victim" means any person who has sustained emotional,
16 psychological, physical, or financial injury to person or property as
17 a direct result of the crime charged.

18 (54) "Violent offense" means:

19 (a) Any of the following felonies:

20 (i) Any felony defined under any law as a class A felony or an
21 attempt to commit a class A felony;

22 (ii) Criminal solicitation of or criminal conspiracy to commit a
23 class A felony;

24 (iii) Manslaughter in the first degree;

25 (iv) Manslaughter in the second degree;

26 (v) Indecent liberties if committed by forcible compulsion;

27 (vi) Kidnapping in the second degree;

28 (vii) Arson in the second degree;

29 (viii) Assault in the second degree;

30 (ix) Assault of a child in the second degree;

31 (x) Extortion in the first degree;

32 (xi) Robbery in the second degree;

33 (xii) Drive-by shooting;

34 (xiii) Vehicular assault, when caused by the operation or driving
35 of a vehicle by a person while under the influence of intoxicating
36 liquor or any drug or by the operation or driving of a vehicle in a
37 reckless manner; and

38 (xiv) Vehicular homicide, when proximately caused by the driving
39 of any vehicle by any person while under the influence of

1 intoxicating liquor or any drug as defined by RCW 46.61.502, or by
2 the operation of any vehicle in a reckless manner;

3 (b) Any conviction for a felony offense in effect at any time
4 prior to July 1, 1976, that is comparable to a felony classified as a
5 violent offense in (a) of this subsection; and

6 (c) Any federal or out-of-state conviction for an offense that
7 under the laws of this state would be a felony classified as a
8 violent offense under (a) or (b) of this subsection.

9 (55) "Work crew" means a program of partial confinement
10 consisting of civic improvement tasks for the benefit of the
11 community that complies with RCW 9.94A.725.

12 (56) "Work ethic camp" means an alternative incarceration program
13 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
14 the cost of corrections by requiring offenders to complete a
15 comprehensive array of real-world job and vocational experiences,
16 character-building work ethics training, life management skills
17 development, substance abuse rehabilitation, counseling, literacy
18 training, and basic adult education.

19 (57) "Work release" means a program of partial confinement
20 available to offenders who are employed or engaged as a student in a
21 regular course of study at school.

22 **Sec. 13.** RCW 28A.300.147 and 2011 c 338 s 6 are each amended to
23 read as follows:

24 The superintendent of public instruction shall publish on its web
25 site, with a link to the safety center web page((τ)):

26 (1) A revised and updated sample policy for schools to follow
27 regarding students required to register as sex or kidnapping
28 offenders; and

29 (2) Educational materials developed pursuant to RCW 28A.300.145.

30 **Sec. 14.** RCW 42.56.240 and 2013 c 315 s 2, 2013 c 190 s 7, and
31 2013 c 183 s 1 are each reenacted and amended to read as follows:

32 The following investigative, law enforcement, and crime victim
33 information is exempt from public inspection and copying under this
34 chapter:

35 (1) Specific intelligence information and specific investigative
36 records compiled by investigative, law enforcement, and penology
37 agencies, and state agencies vested with the responsibility to
38 discipline members of any profession, the nondisclosure of which is

1 essential to effective law enforcement or for the protection of any
2 person's right to privacy;

3 (2) Information revealing the identity of persons who are
4 witnesses to or victims of crime or who file complaints with
5 investigative, law enforcement, or penology agencies, other than the
6 commission, if disclosure would endanger any person's life, physical
7 safety, or property. If at the time a complaint is filed the
8 complainant, victim, or witness indicates a desire for disclosure or
9 nondisclosure, such desire shall govern. However, all complaints
10 filed with the commission about any elected official or candidate for
11 public office must be made in writing and signed by the complainant
12 under oath;

13 (3) Any records of investigative reports prepared by any state,
14 county, municipal, or other law enforcement agency pertaining to sex
15 offenses contained in chapter 9A.44 RCW or sexually violent offenses
16 as defined in RCW 71.09.020, which have been transferred to the
17 Washington association of sheriffs and police chiefs for permanent
18 electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

19 (4) License applications under RCW 9.41.070; copies of license
20 applications or information on the applications may be released to
21 law enforcement or corrections agencies;

22 (5) Information revealing the identity of child victims of sexual
23 assault who are under age eighteen. Identifying information means the
24 child victim's name, address, location, photograph, and in cases in
25 which the child victim is a relative or stepchild of the alleged
26 perpetrator, identification of the relationship between the child and
27 the alleged perpetrator;

28 (6) The statewide gang database referenced in RCW 43.43.762;

29 (7) Data from the electronic sales tracking system established in
30 RCW 69.43.165;

31 (8) Information submitted to the statewide unified sex offender
32 notification and registration program under RCW 36.28A.040(6) by a
33 person for the purpose of receiving notification regarding a
34 registered sex offender, including the person's name, residential
35 address, and e-mail address;

36 (9) Information compiled and submitted for the purposes of sex
37 offender and kidnapping offender registration pursuant to RCW
38 4.24.550 and 9A.44.130, or the statewide registered kidnapping and
39 sex offender web site pursuant to RCW 4.24.550, regardless of whether
40 the information is held by a law enforcement agency, the statewide

1 unified sex offender notification and registration program under RCW
2 36.28A.040, the central registry of sex offenders and kidnapping
3 offenders under RCW 43.43.540, or another public agency;

4 (10) Personally identifying information collected by law
5 enforcement agencies pursuant to local security alarm system programs
6 and vacation crime watch programs. Nothing in this subsection shall
7 be interpreted so as to prohibit the legal owner of a residence or
8 business from accessing information regarding his or her residence or
9 business; (~~and~~

10 ~~(10))~~ (11) The felony firearm offense conviction database of
11 felony firearm offenders established in RCW 43.43.822; (~~and~~

12 ~~(11))~~ (12) The identity of a state employee or officer who has
13 in good faith filed a complaint with an ethics board, as provided in
14 RCW 42.52.410, or who has in good faith reported improper
15 governmental action, as defined in RCW 42.40.020, to the auditor or
16 other public official, as defined in RCW 42.40.020; and

17 ~~((12))~~ (13) The following security threat group information
18 collected and maintained by the department of corrections pursuant to
19 RCW 72.09.745: (a) Information that could lead to the identification
20 of a person's security threat group status, affiliation, or
21 activities; (b) information that reveals specific security threats
22 associated with the operation and activities of security threat
23 groups; and (c) information that identifies the number of security
24 threat group members, affiliates, or associates.

25 **Sec. 15.** RCW 72.09.345 and 2011 c 338 s 5 are each amended to
26 read as follows:

27 (1) In addition to any other information required to be released
28 under this chapter, the department is authorized, pursuant to RCW
29 4.24.550, to release relevant information to a law enforcement agency
30 that is necessary to protect the public concerning offenders
31 convicted of sex offenses.

32 (2) In order for (~~public~~) law enforcement agencies to have the
33 information necessary to notify the public as authorized in RCW
34 4.24.550, the secretary shall establish and administer an end-of-
35 sentence review committee for the purposes of assigning risk levels,
36 reviewing available release plans, and making appropriate referrals
37 for sex offenders.

38 (3) The committee shall assess, on a case-by-case basis, the
39 public risk posed by:

1 (a) Offenders preparing for release from confinement for a sex
2 offense or sexually violent offense committed on or after July 1,
3 1984;

4 (b) Sex offenders accepted from another state under a reciprocal
5 agreement under the interstate corrections compact authorized in
6 chapter 72.74 RCW;

7 (c) Juveniles preparing for release from confinement for a sex
8 offense and releasing from the department of social and health
9 services juvenile rehabilitation administration;

10 (d) Juveniles, following disposition, under the jurisdiction of a
11 county juvenile court for a registerable sex offense; and

12 (e) Juveniles found to have committed a sex offense and accepted
13 from another state under a reciprocal agreement under the interstate
14 compact for juveniles authorized in chapter 13.24 RCW.

15 (4) Notwithstanding any other provision of law, the committee
16 shall have access to all relevant records and information in the
17 possession of public agencies relating to the offenders under review,
18 including police reports; prosecutors' statements of probable cause;
19 presentence investigations and reports; complete judgments and
20 sentences; current classification referrals; criminal history
21 summaries; violation and disciplinary reports; all psychological
22 evaluations and psychiatric hospital reports; sex offender treatment
23 program reports; and juvenile records. Records and information
24 obtained under this subsection shall not be disclosed outside the
25 committee unless otherwise authorized by law.

26 (5) The committee shall review each sex offender under its
27 authority before the offender's release from confinement or start of
28 the offender's term of community custody in order to: (a) Classify
29 the offender into a risk level for the purposes of public
30 notification under RCW 4.24.550; (b) where available, review the
31 offender's proposed release plan in accordance with the requirements
32 of RCW 72.09.340; and (c) make appropriate referrals.

33 (6) The committee shall classify as risk level I those sex
34 offenders whose risk assessments indicate ((a)) they are at a low
35 risk ((of reoffense)) to sexually reoffend within the community at
36 large. The committee shall classify as risk level II those offenders
37 whose risk assessments indicate ((a)) they are at a moderate risk
38 ((of reoffense)) to sexually reoffend within the community at large.
39 The committee shall classify as risk level III those offenders whose

1 risk assessments indicate ((a)) they are at a high risk ((of
2 ~~reoffense~~)) to sexually reoffend within the community at large.

3 (7) The committee shall issue to appropriate law enforcement
4 agencies, for their use in making public notifications under RCW
5 4.24.550, narrative notices regarding the pending release of sex
6 offenders from the department's facilities. The narrative notices
7 shall, at a minimum, describe the identity and criminal history
8 behavior of the offender and shall include the department's risk
9 level classification for the offender. For sex offenders classified
10 as either risk level II or III, the narrative notices shall also
11 include the reasons underlying the classification.

12 NEW SECTION. **Sec. 16.** A new section is added to chapter 9A.44
13 RCW to read as follows:

14 The office of the attorney general shall develop and maintain a
15 database of comparable sex and kidnapping offenses among the states,
16 federal government, and other jurisdictions as needed to facilitate
17 implementation of RCW 9A.44.128.

--- END ---