

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5326

54th Legislature
1995 Regular Session

Passed by the Senate April 19, 1995
YEAS 37 NAYS 0

President of the Senate

Passed by the House April 11, 1995
YEAS 95 NAYS 0

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5326** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5326

AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Fairley, Roach, Hargrove, West, Oke and Winsley)

Read first time 02/16/95.

1 AN ACT Relating to registration of sex offenders; amending RCW
2 9A.44.130 and 9A.44.140; and adding a new section to chapter 9A.44 RCW.

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

4 **Sec. 1.** RCW 9A.44.130 and 1994 c 84 s 2 are each amended to read
5 as follows:

6 (1) Any adult or juvenile residing in this state who has been found
7 to have committed or has been convicted of any sex offense, or who has
8 been found not guilty by reason of insanity under chapter 10.77 RCW of
9 committing any sex offense, shall register with the county sheriff for
10 the county of the person's residence.

11 (2) The person shall provide the county sheriff with the following
12 information when registering: (a) Name; (b) address; (c) date and
13 place of birth; (d) place of employment; (e) crime for which convicted;
14 (f) date and place of conviction; (g) aliases used; and (h) social
15 security number.

16 (3)(a) Sex offenders shall register within the following deadlines.
17 For purposes of this section the term "conviction" refers to adult
18 convictions and juvenile adjudications for sex offenses:

1 (i) SEX OFFENDERS IN CUSTODY. Sex offenders who committed a sex
2 offense on, before, or after February 28, 1990, and who, on or after
3 July 28, 1991, are in custody, as a result of that offense, of the
4 state department of corrections, the state department of social and
5 health services, a local division of youth services, or a local jail or
6 juvenile detention facility, must register within twenty-four hours
7 from the time of release with the county sheriff for the county of the
8 person's residence. The agency that has jurisdiction over the offender
9 shall provide notice to the sex offender of the duty to register.
10 Failure to register within twenty-four hours of release constitutes a
11 violation of this section and is punishable as provided in subsection
12 (7) of this section.

13 (ii) SEX OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
14 JURISDICTION. Sex offenders, who, on July 28, 1991, are not in custody
15 but are under the jurisdiction of the indeterminate sentence review
16 board or under the department of correction's active supervision, as
17 defined by the department of corrections, the state department of
18 social and health services, or a local division of youth services, for
19 sex offenses committed before, on, or after February 28, 1990, must
20 register within ten days of July 28, 1991. A change in supervision
21 status of a sex offender who was required to register under this
22 subsection (3)(a)(ii) as of July 28, 1991, shall not relieve the
23 offender of the duty to register or to reregister following a change in
24 residence. The obligation to register shall only cease pursuant to RCW
25 9A.44.140.

26 (iii) SEX OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who,
27 on or after July 23, 1995, as a result of that offense are in the
28 custody of the United States bureau of prisons or other federal or
29 military correctional agency for sex offenses committed before, on, or
30 after February 28, 1990, must register within twenty-four hours from
31 the time of release with the county sheriff for the county of the
32 person's residence. Sex offenders who, on July 23, 1995, are not in
33 custody but are under the jurisdiction of the United States bureau of
34 prisons, United States courts, United States parole commission, or
35 military parole board for sex offenses committed before, on, or after
36 February 28, 1990, must register within ten days of July 23, 1995. A
37 change in supervision status of a sex offender who was required to
38 register under this subsection (3)(a)(iii) as of July 23, 1995, shall
39 not relieve the offender of the duty to register or to reregister

1 following a change in residence. The obligation to register shall only
2 cease pursuant to RCW 9A.44.140.

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

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

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

1 this registration requirement. The state department of social and
2 health services shall make reasonable attempts within available
3 resources to notify offenders who were released prior to July 23, 1995.
4 Failure to register within twenty-four hours of release, or of
5 receiving notice, constitutes a violation of this section and is
6 punishable as provided in subsection (7) of this section.

7 (b) Failure to register within the time required under this section
8 constitutes a per se violation of this section and is punishable as
9 provided in subsection (7) of this section. The county sheriff shall
10 not be required to determine whether the person is living within the
11 county.

12 (c) An arrest on charges of failure to register, service of an
13 information, or a complaint for a violation of this section, or
14 arraignment on charges for a violation of this section, constitutes
15 actual notice of the duty to register. Any person charged with the
16 crime of failure to register under this section who asserts as a
17 defense the lack of notice of the duty to register shall register
18 immediately following actual notice of the duty through arrest,
19 service, or arraignment. Failure to register as required under this
20 subsection (c) constitutes grounds for filing another charge of failing
21 to register. Registering following arrest, service, or arraignment on
22 charges shall not relieve the offender from criminal liability for
23 failure to register prior to the filing of the original charge.

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

27 (4) If any person required to register pursuant to this section
28 changes his or her residence address within the same county, the person
29 must send written notice of the change of address to the county sheriff
30 within ten days of (~~establishing the new residence~~) moving. If any
31 person required to register pursuant to this section moves to a new
32 county, the person must register with the county sheriff in the new
33 county within ten days of (~~establishing the new residence~~) moving.
34 The person must also send written notice within ten days of the change
35 of address in the new county to the county sheriff with whom the person
36 last registered. If any person required to register pursuant to this
37 section moves out of Washington state, the person must also send
38 written notice within ten days of moving to the new state or a foreign

1 country to the county sheriff with whom the person last registered in
2 Washington state.

3 (5) The county sheriff shall obtain a photograph of the individual
4 and shall obtain a copy of the individual's fingerprints.

5 (6) "Sex offense" for the purpose of RCW 9A.44.130, 10.01.200,
6 43.43.540, 70.48.470, and 72.09.330 means any offense defined as a sex
7 offense by RCW 9.94A.030.

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

16 **Sec. 2.** RCW 9A.44.140 and 1991 c 274 s 3 are each amended to read
17 as follows:

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

19 (a) For a person convicted of a class A felony: Such person may
20 only be relieved of the duty to register under subsection (~~((2))~~) (3)
21 or (~~((3))~~) (4) of this section.

22 (b) For a person convicted of a class B felony: Fifteen years
23 after the last date of release from confinement, if any, (including
24 full-time residential treatment) pursuant to the conviction, or entry
25 of the judgment and sentence, if the person has spent fifteen
26 consecutive years in the community without being convicted of any new
27 offenses.

28 (c) For a person convicted of a class C felony: Ten years after
29 the last date of release from confinement, if any, (including full-time
30 residential treatment) pursuant to the conviction, or entry of the
31 judgment and sentence, if the person has spent ten consecutive years in
32 the community without being convicted of any new offenses.

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

36 (~~((2))~~) (3) Any person having a duty to register under RCW
37 9A.44.130 may petition the superior court to be relieved of that duty.
38 The petition shall be made to the court in which the petitioner was

1 convicted of the offense that subjects him or her to the duty to
2 register, or, in the case of convictions in other states, a foreign
3 country, or a federal or military court, to the court in Thurston
4 county. The prosecuting attorney of the county shall be named and
5 served as the respondent in any such petition. The court shall
6 consider the nature of the registrable offense committed, and the
7 criminal and relevant noncriminal behavior of the petitioner both
8 before and after conviction, and may consider other factors. Except as
9 provided in subsection ~~((+3))~~ (4) of this section, the court may
10 relieve the petitioner of the duty to register only if the petitioner
11 shows, with clear and convincing evidence, that future registration of
12 the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
13 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

14 ~~((+3))~~ (4) An offender having a duty to register under RCW
15 9A.44.130 for a sex offense committed when the offender was a juvenile
16 may petition the superior court to be relieved of that duty. The court
17 shall consider the nature of the registrable offense committed, and the
18 criminal and relevant noncriminal behavior of the petitioner both
19 before and after adjudication, and may consider other factors. The
20 court may relieve the petitioner of the duty to register for a sex
21 offense that was committed while the petitioner was fifteen years of
22 age or older only if the petitioner shows, with clear and convincing
23 evidence, that future registration of the petitioner will not serve the
24 purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470,
25 and 72.09.330. The court may relieve the petitioner of the duty to
26 register for a sex offense that was committed while the petitioner was
27 under the age of fifteen if the petitioner (a) has not been adjudicated
28 of any additional sex offenses during the twenty-four months following
29 the adjudication for the sex offense giving rise to the duty to
30 register, and (b) the petitioner proves by a preponderance of the
31 evidence that future registration of the petitioner will not serve the
32 purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470,
33 and 72.09.330.

34 ~~((+4))~~ (5) Unless relieved of the duty to register pursuant to
35 this section, a violation of RCW 9A.44.130 is an ongoing offense for
36 purposes of the statute of limitations under RCW 9A.04.080.

37 ~~((+5))~~ (6) Nothing in RCW 9.94A.220 relating to discharge of an
38 offender shall be construed as operating to relieve the offender of his
39 or her duty to register pursuant to RCW 9A.44.130.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 9A.44 RCW
2 to read as follows:

3 When a sex offender registers with the county sheriff pursuant to
4 RCW 9A.44.130, the county sheriff shall make reasonable attempts to
5 verify that the sex offender is residing at the registered address.
6 Reasonable attempts at verifying an address shall include at a minimum
7 sending certified mail, with return receipt requested, to the sex
8 offender at the registered address, and if the return receipt is not
9 signed by the sex offender, talking in person with the residents living
10 at the address. The sheriff shall make reasonable attempts to locate
11 any sex offender who cannot be located at the registered address.

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