

2 **ESSB 5759** - H COMM AMD
3 By Committee on Appropriations

ADOPTED
4-10-97

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

7 "**Sec. 1.** RCW 4.24.550 and 1996 c 215 s 1 are each amended to read
8 as follows:

9 (1) Public agencies are authorized to release ~~((relevant and~~
10 ~~necessary))~~ information to the public regarding sex offenders ~~((to the~~
11 ~~public when the release of the information is necessary for public~~
12 ~~protection))~~ when the agency determines that disclosure of the
13 information is relevant and necessary to protect the public and
14 counteract the danger created by the particular offender. This
15 authorization applies to information regarding: (a) Any person
16 adjudicated or convicted of a sex offense as defined in RCW 9.94A.030;
17 (b) any person under the jurisdiction of the indeterminate sentence
18 review board as the result of a sex offense; (c) any person committed
19 as a sexually violent predator under chapter 71.09 RCW or as a sexual
20 psychopath under chapter 71.06 RCW; (d) any person found not guilty of
21 a sex offense by reason of insanity under chapter 10.77 RCW; and (e)
22 any person found incompetent to stand trial for a sex offense and
23 subsequently committed under chapter 71.05 or 71.34 RCW.

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

30 (3) Local law enforcement agencies shall consider the following
31 guidelines in determining the extent of a public disclosure made under
32 this section: (a) For offenders classified as risk level I, the agency
33 shall share information with other appropriate law enforcement agencies
34 and may disclose, upon request, relevant, necessary, and accurate
35 information to any victim or witness to the offense and to any
36 individual community member who lives near the residence where the

1 offender resides, expects to reside, or is regularly found; (b) for
2 offenders classified as risk level II, the agency may also disclose
3 relevant, necessary, and accurate information to public and private
4 schools, child day care centers, family day care providers, businesses
5 and organizations that serve primarily children, women, or vulnerable
6 adults, and neighbors and community groups near the residence where the
7 offender resides, expects to reside, or is regularly found; and (c) for
8 offenders classified as risk level III, the agency may also disclose
9 relevant, necessary, and accurate information to the public at large.

10 ~~(4) Local law enforcement agencies ((and officials who decide to~~
11 ~~release)) that disseminate information pursuant to this section shall:~~
12 (a) Review available risk level classifications made by the department
13 of corrections, the department of social and health services, and the
14 indeterminate sentence review board; (b) assign risk level
15 classifications to all sex offenders about whom information will be
16 disseminated; and (c) make a good faith effort to notify the public and
17 residents at least fourteen days before the sex offender is released
18 from confinement or, where an offender moves from another jurisdiction,
19 as soon as possible after the agency learns of the offender's move,
20 except that in no case may this notification provision be construed to
21 require an extension of an offender's release date. ((If a change
22 ~~occurs in the release plan, this notification provision will not~~
23 ~~require an extension of the release date. The department of~~
24 ~~corrections and the department of social and health services shall~~
25 ~~provide local law enforcement officials with all relevant information~~
26 ~~on sex offenders about to be released or placed into the community in~~
27 ~~a timely manner. When a sex offender under county jurisdiction will be~~
28 ~~released from jail and will reside in a county other than the county of~~
29 ~~incarceration, the chief law enforcement officer of the jail, or his or~~
30 ~~her designee, shall notify the sheriff in the county where the offender~~
31 ~~will reside of the offender's release as provided in RCW 70.48.470.~~

32 ~~(3))~~ (5) An appointed or elected public official, public employee,
33 or public agency as defined in RCW 4.24.470 is immune from civil
34 liability for damages for any discretionary ((decision to release))
35 risk level classification decisions ((and the)) or release of relevant
36 and necessary information, unless it is shown that the official,
37 employee, or agency acted with gross negligence or in bad faith. The
38 ((authorization and)) immunity in this section applies to risk level
39 classification decisions and the release of relevant and necessary

1 information regarding(~~(a) A person convicted of, or juvenile found~~
2 ~~to have committed, a sex offense as defined by RCW 9.94A.030; (b) a~~
3 ~~person found not guilty of a sex offense by reason of insanity under~~
4 ~~chapter 10.77 RCW; (c) a person found incompetent to stand trial for a~~
5 ~~sex offense and subsequently committed under chapter 71.05 or 71.34~~
6 ~~RCW; (d) a person committed as a sexual psychopath under chapter 71.06~~
7 ~~RCW; or (e) a person committed as a sexually violent predator under~~
8 ~~chapter 71.09 RCW)) any individual for whom disclosure is authorized.~~

9 The decision of a local law enforcement agency or official to classify
10 a sex offender to a risk level other than the one assigned by the
11 department of corrections, the department of social and health
12 services, or the indeterminate sentence review board, or the release of
13 any relevant and necessary information based on that different
14 classification shall not, by itself, be considered gross negligence or
15 bad faith. The immunity provided under this section applies to the
16 release of relevant and necessary information to other public
17 officials, public employees ((or officials)), or public agencies, and
18 to the general public.

19 ~~((4))~~ (6) Except as may otherwise be provided by ((statute)) law,
20 nothing in this section shall impose any liability upon a public
21 official, public employee, or public agency for failing to release
22 information ~~((as provided in subsections (2) and (3) of))~~ authorized
23 under this section.

24 ~~((5))~~ (7) Nothing in this section implies that information
25 regarding persons designated in subsection~~((s (2) and (3)))~~ (1) of this
26 section is confidential except as may otherwise be provided by
27 ~~((statute)) law.~~

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

35 **Sec. 2.** RCW 13.40.217 and 1990 c 3 s 102 are each amended to read
36 as follows:

37 (1) In addition to any other information required to be released
38 under this chapter, the department is authorized, pursuant to RCW

1 4.24.550, to release relevant information that is necessary to protect
2 the public concerning juveniles adjudicated of sex offenses.

3 (2) In order for public agencies to have the information necessary
4 for notifying the public about sex offenders as authorized in RCW
5 4.24.550, the secretary shall issue to appropriate law enforcement
6 agencies narrative notices regarding the pending release of sex
7 offenders from the department's juvenile rehabilitation facilities.
8 The narrative notices shall, at a minimum, describe the identity and
9 criminal history behavior of the offender and shall include the
10 department's risk level classification for the offender. For sex
11 offenders classified as either risk level II or III, the narrative
12 notices shall also include the reasons underlying the classification.

13 (3) For the purposes of this section, the department shall classify
14 as risk level I those offenders whose risk assessments indicate a low
15 risk of reoffense within the community at large. The department shall
16 classify as risk level II those offenders whose risk assessments
17 indicate a moderate risk of reoffense within the community at large.
18 The department shall classify as risk level III those offenders whose
19 risk assessments indicate a high risk of reoffense within the community
20 at large.

21 **Sec. 3.** RCW 70.48.470 and 1996 c 215 s 2 are each amended to read
22 as follows:

23 (1) A person having charge of a jail shall notify in writing any
24 confined person who is in the custody of the jail for a conviction of
25 a (~~sexual~~[sex]) sex offense as defined in RCW 9.94A.030 of the
26 registration requirements of RCW 9A.44.130 at the time of the inmate's
27 release from confinement, and shall obtain written acknowledgment of
28 such notification. The person shall also obtain from the inmate the
29 county of the inmate's residence upon release from jail and, where
30 applicable, the city.

31 (~~(2) ((If an inmate convicted of a sexual offense will reside in a~~
32 ~~county other than the county of incarceration upon release, the chief~~
33 ~~law enforcement officer, or his or her designee, shall notify the~~
34 ~~sheriff of the county where the inmate will reside of the inmate's~~
35 ~~impending release. Notice shall be provided at least fourteen days~~
36 ~~prior to the inmate's release, or if the release date is not known at~~
37 ~~least fourteen days prior to release, notice shall be provided not~~
38 ~~later than the day after the inmate's release))~~ When a sex offender

1 under local government jurisdiction will reside in a county other than
2 the county of conviction upon discharge or release, the chief law
3 enforcement officer of the jail or his or her designee shall give
4 notice of the inmate's discharge or release to the sheriff of the
5 county and, where applicable, to the police chief of the city where the
6 offender will reside.

7 NEW SECTION. **Sec. 4.** A new section is added to chapter 72.09 RCW
8 to read as follows:

9 (1) In addition to any other information required to be released
10 under this chapter, the department is authorized, pursuant to RCW
11 4.24.550, to release relevant information that is necessary to protect
12 the public concerning offenders convicted of sex offenses.

13 (2) In order for public agencies to have the information necessary
14 to notify the public as authorized in RCW 4.24.550, the secretary shall
15 establish and administer an end-of-sentence review committee for the
16 purposes of assigning risk levels, reviewing available release plans,
17 and making appropriate referrals for sex offenders. The committee
18 shall assess, on a case-by-case basis, the public risk posed by sex
19 offenders who are: (a) Preparing for their release from confinement
20 for sex offenses committed on or after July 1, 1984; and (b) accepted
21 from another state under a reciprocal agreement under the interstate
22 compact authorized in chapter 72.74 RCW.

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

34 (4) The committee shall review each sex offender under its
35 authority before the offender's release from confinement or start of
36 the offender's term of community placement or community custody in
37 order to: (a) Classify the offender into a risk level for the purposes
38 of public notification under RCW 4.24.550; (b) where available, review

1 the offender's proposed release plan in accordance with the
2 requirements of RCW 72.09.340; and (c) make appropriate referrals.

3 (5) The committee shall classify as risk level I those sex
4 offenders whose risk assessments indicate a low risk of reoffense
5 within the community at large. The committee shall classify as risk
6 level II those offenders whose risk assessments indicate a moderate
7 risk of reoffense within the community at large. The committee shall
8 classify as risk level III those offenders whose risk assessments
9 indicate a high risk of reoffense within the community at large.

10 (6) The committee shall issue to appropriate law enforcement
11 agencies, for their use in making public notifications under RCW
12 4.24.550, narrative notices regarding the pending release of sex
13 offenders from the department's facilities. The narrative notices
14 shall, at a minimum, describe the identity and criminal history
15 behavior of the offender and shall include the department's risk level
16 classification for the offender. For sex offenders classified as
17 either risk level II or III, the narrative notices shall also include
18 the reasons underlying the classification.

19 **Sec. 5.** RCW 9.95.145 and 1990 c 3 s 127 are each amended to read
20 as follows:

21 (1) In addition to any other information required to be released
22 under this chapter, the indeterminate sentence review board may,
23 pursuant to RCW 4.24.550, release information concerning inmates under
24 the jurisdiction of the indeterminate sentence review board who are
25 convicted of sex offenses as defined in RCW 9.94A.030.

26 (2) In order for public agencies to have the information necessary
27 for notifying the public about sex offenders as authorized in RCW
28 4.24.550, the board shall issue to appropriate law enforcement agencies
29 narrative notices regarding the pending release from confinement of sex
30 offenders under the board's jurisdiction. The narrative notices shall,
31 at a minimum, describe the identity and criminal history behavior of
32 the offender. For sex offenders being discharged from custody on
33 serving the maximum punishment provided by law or fixed by the court,
34 the narrative notices shall also include the board's risk level
35 classification for the offender and the reasons underlying the
36 classification.

37 (3) For the purposes of this section, the board shall classify as
38 risk level I those offenders whose risk assessments indicate a low risk

1 of reoffense within the community at large. The board shall classify
2 as risk level II those offenders whose risk assessments indicate a
3 moderate risk of reoffense within the community at large. The board
4 shall classify as risk level III those offenders whose risk assessments
5 indicate a high risk of reoffense within the community at large.

6 NEW SECTION. Sec. 6. (1) By December 1, 1997, the Washington
7 association of sheriffs and police chiefs shall develop a model policy
8 for law enforcement agencies to follow when they disclose information
9 about sex offenders to the public under RCW 4.24.550. The model policy
10 shall be designed to further the objectives of providing adequate
11 notice to the community concerning sex offenders who are or will be
12 residing in the community and of assisting community members in
13 developing constructive plans to prepare themselves and their children
14 for residing near released sex offenders.

15 (2) In developing the policy, the association shall consult with
16 representatives of the following agencies and professions: (a) The
17 department of corrections; (b) the department of social and health
18 services; (c) the indeterminate sentence review board; (d) the
19 Washington state council of police officers; (e) local correctional
20 agencies; (f) the Washington association of prosecuting attorneys; (g)
21 the Washington public defender association; (h) the Washington
22 association for the treatment of sexual abusers; and (i) victim
23 advocates.

24 (3) The model policy shall, at a minimum, include recommendations
25 to address the following issues: (a) Procedures for local agencies or
26 officials to accomplish the notifications required under RCW
27 4.24.550(8); (b) contents and form of community notification documents,
28 including procedures for ensuring the accuracy of factual information
29 contained in the notification documents, and ways of protecting the
30 privacy of victims of the offenders' crimes; (c) methods of
31 distributing community notification documents; (d) methods of providing
32 follow-up notifications to community residents at specified intervals
33 and of disclosing information about offenders to law enforcement
34 agencies in other jurisdictions if necessary to protect the public; (e)
35 methods of educating community residents at public meetings on how they
36 can use the information in the notification document in a reasonable
37 manner to enhance their individual and collective safety; (f)
38 procedures for educating community members regarding the right of sex

1 offenders not to be the subject of harassment or criminal acts as a
2 result of the notification process; and (g) other matters the
3 Washington association of sheriffs and police chiefs deems necessary to
4 ensure the effective and fair administration of RCW 4.24.550.

5 NEW SECTION. **Sec. 7.** (1) The department of corrections, the
6 department of social and health services, and the indeterminate
7 sentence review board shall jointly develop, by September 1, 1997, a
8 consistent approach to risk assessment for the purposes of implementing
9 this act, including consistent standards for classifying sex offenders
10 into risk levels I, II, and III.

11 (2) The department of social and health services, the department of
12 corrections, and the indeterminate sentence review board shall each
13 prepare and deliver to the legislature, by December 1, 1998, a report
14 indicating the number of sex offenders released after the effective
15 date of this section and classified in each level of risk category.
16 The reports shall also include information on the number,
17 jurisdictions, and circumstances where the risk level classification
18 made by a local law enforcement agency or official for specific sex
19 offenders differed from the risk level classification made by the
20 department or the indeterminate sentence review board for the same
21 offender.

22 NEW SECTION. **Sec. 8.** If specific funding for the purposes of this
23 act, referencing this act by bill or chapter number, is not provided by
24 June 30, 1997, in the omnibus appropriations act, this act is null and
25 void.

26 NEW SECTION. **Sec. 9.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected."

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