
SECOND SUBSTITUTE SENATE BILL 6433

State of Washington

55th Legislature

1998 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Long, Franklin, Zarelli, Winsley and Stevens; by request of Attorney General)

Read first time 02/10/98.

1 AN ACT Relating to registration of individuals who have committed
2 sex or kidnapping offenses; amending RCW 9A.44.135, 9A.44.140, and
3 43.43.540; and reenacting and amending RCW 9A.44.130 and 4.24.550.

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

5 **Sec. 1.** RCW 9A.44.130 and 1997 c 340 s 3 and 1997 c 113 s 3 are
6 each reenacted and amended to read as follows:

7 (1) Any adult or juvenile residing in this state who has been found
8 to have committed or has been convicted of any sex offense or
9 kidnapping offense, or who has been found not guilty by reason of
10 insanity under chapter 10.77 RCW of committing any sex offense or
11 kidnapping offense, shall register with the county sheriff for the
12 county of the person's residence. Where a person required to register
13 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 detention
16 facility as a result of a sex offense or kidnapping offense, the person
17 shall also register at the time of release from custody with an
18 official designated by the agency that has jurisdiction over the
19 person.

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

6 (3)(a) Offenders shall register within the following deadlines.
7 For purposes of this section the term "conviction" refers to adult
8 convictions and juvenile adjudications for sex offenses or kidnapping
9 offenses:

10 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
11 offense on, before, or after February 28, 1990, and who, on or after
12 July 28, 1991, are in custody, as a result of that offense, of the
13 state department of corrections, the state department of social and
14 health services, a local division of youth services, or a local jail or
15 juvenile detention facility, and (B) kidnapping offenders who on or
16 after July 27, 1997, are in custody of the state department of
17 corrections, the state department of social and health services, a
18 local division of youth services, or a local jail or juvenile detention
19 facility, must register at the time of release from custody with an
20 official designated by the agency that has jurisdiction over the
21 offender. The agency shall within three days forward the registration
22 information to the county sheriff for the county of the offender's
23 anticipated residence. The offender must also register within twenty-
24 four hours from the time of release with the county sheriff for the
25 county of the person's residence. The agency that has jurisdiction
26 over the offender shall provide notice to the offender of the duty to
27 register. Failure to register at the time of release and within
28 twenty-four hours of release constitutes a violation of this section
29 and is punishable as provided in subsection (7) of this section.

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

1 correction's active supervision, as defined by the department of
2 corrections, the state department of social and health services, or a
3 local division of youth services, for kidnapping offenses committed
4 before, on, or after July 27, 1997, must register within ten days of
5 July 27, 1997. A change in supervision status of a sex offender who
6 was required to register under this subsection (3)(a)(ii) as of July
7 28, 1991, or a kidnapping offender required to register as of July 27,
8 1997, shall not relieve the offender of the duty to register or to
9 reregister following a change in residence. The obligation to register
10 shall only cease pursuant to RCW 9A.44.140.

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

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

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

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

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

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

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

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

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

31 (4)(a) If any person required to register pursuant to this section
32 changes his or her residence address within the same county, the person
33 must send written notice of the change of address to the county sheriff
34 at least fourteen days before moving. If any person required to
35 register pursuant to this section moves to a new county, the person
36 must send written notice of the change of address at least fourteen
37 days before moving to the county sheriff in the new county of residence
38 and must register with that county sheriff within twenty-four hours of
39 moving. The person must also send written notice within ten days of

1 the change of address in the new county to the county sheriff with whom
2 the person last registered. The county sheriff with whom the person
3 last registered shall promptly forward the information concerning the
4 change of address to the county sheriff for the county of the person's
5 new residence. If any person required to register pursuant to this
6 section moves out of Washington state, the person must also send
7 written notice within ten days of moving to the new state or a foreign
8 country to the county sheriff with whom the person last registered in
9 Washington state. Within ten days of receipt of notice of change of
10 address to a new state, the county sheriff shall forward the
11 information regarding the change of address to the agency designated by
12 the new state as the state's offender registration agency.

13 (b) It is an affirmative defense to a charge that the person failed
14 to send a notice at least fourteen days in advance of moving as
15 required under (a) of this subsection that the person did not know the
16 location of his or her new residence at least fourteen days before
17 moving. The defendant must establish the defense by a preponderance of
18 the evidence and, to prevail on the defense, must also prove by a
19 preponderance that the defendant sent the required notice within
20 twenty-four hours of determining the new address.

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

23 (6) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
24 70.48.470, and 72.09.330:

25 (a) "Sex offense" means any offense defined as a sex offense by RCW
26 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation of a
27 minor), 9.68A.050 (dealing in depictions of minor engaged in sexually
28 explicit conduct), 9.68A.060 (sending, bringing into state depictions
29 of minor engaged in sexually explicit conduct), 9.68A.070 (possession
30 of depictions of minor engaged in sexually explicit conduct), 9.68A.090
31 (communication with minor for immoral purposes), 9.68A.100 (patronizing
32 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in
33 the second degree), as well as any gross misdemeanor that is, under
34 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or
35 criminal conspiracy to commit an offense that is classified as a sex
36 offense under RCW 9.94A.030.

37 (b) "Kidnapping offense" means the crimes of kidnapping in the
38 first degree, kidnapping in the second degree, and unlawful

1 imprisonment as defined in chapter 9A.40 RCW, where the victim is a
2 minor and the offender is not the minor's parent.

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

11 **Sec. 2.** RCW 9A.44.135 and 1995 c 248 s 3 are each amended to read
12 as follows:

13 (1) When ((a-sex)) an offender registers with the county sheriff
14 pursuant to RCW 9A.44.130, the county sheriff shall make reasonable
15 attempts to verify that the ((sex)) offender is residing at the
16 registered address. Reasonable attempts at verifying an address shall
17 include at a minimum ((sending certified mail, with return receipt
18 requested, to the sex offender at the registered address, and if the
19 return receipt is not signed by the sex offender, talking in person
20 with the residents living at the address))):

21 (a) Each year the county sheriff shall send by certified mail, with
22 return receipt requested, a nonforwardable verification form to the
23 offender at the offender's last registered address.

24 (b) The offender must sign the verification form, state on the form
25 whether he or she still resides at the last registered address, and
26 return the form to the county sheriff within ten days after receipt of
27 the form. When returning the form, the offender shall appear at the
28 office of the county sheriff to provide a copy of his or her
29 fingerprints and a current photograph.

30 (2) The sheriff shall make reasonable attempts to locate any sex
31 offender who fails to return the verification form or who cannot be
32 located at the registered address. If the offender fails to return the
33 verification form or the offender is not at the last registered
34 address, the county sheriff shall promptly forward this information to
35 the Washington state patrol for inclusion in the central registry of
36 sex offenders.

1 **Sec. 3.** RCW 9A.44.140 and 1997 c 113 s 4 are each amended to read
2 as follows:

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

4 (a) For a person convicted of a class A felony, or a person
5 convicted of any sex offense or kidnapping offense who has one or more
6 prior conviction for a sex offense or kidnapping offense: Such person
7 may only be relieved of the duty to register under subsection (3) or
8 (4) of this section.

9 (b) For a person convicted of a class B felony, and the person does
10 not have one or more prior conviction for a sex offense or kidnapping
11 offense: Fifteen years after the last date of release from
12 confinement, if any, (including full-time residential treatment)
13 pursuant to the conviction, or entry of the judgment and sentence, if
14 the person has spent fifteen consecutive years in the community without
15 being convicted of any new offenses.

16 (c) For a person convicted of a class C felony, a violation of RCW
17 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to
18 commit a class C felony, and the person does not have one or more prior
19 conviction for a sex offense or kidnapping offense: Ten years after
20 the last date of release from confinement, if any, (including full-time
21 residential treatment) pursuant to the conviction, or entry of the
22 judgment and sentence, if the person has spent ten consecutive years in
23 the community without being convicted of any new offenses.

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

27 (3) Any person having a duty to register under RCW 9A.44.130 may
28 petition the superior court to be relieved of that duty, if the person
29 has spent ten consecutive years in the community without being
30 convicted of any new offenses. The petition shall be made to the court
31 in which the petitioner was convicted of the offense that subjects him
32 or her to the duty to register, or, in the case of convictions in other
33 states, a foreign country, or a federal or military court, to the court
34 in Thurston county. The prosecuting attorney of the county shall be
35 named and served as the respondent in any such petition. The court
36 shall consider the nature of the registrable offense committed, and the
37 criminal and relevant noncriminal behavior of the petitioner both
38 before and after conviction, and may consider other factors. Except as
39 provided in subsection (4) of this section, the court may relieve the

1 petitioner of the duty to register only if the petitioner shows, with
2 clear and convincing evidence, that future registration of the
3 petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
4 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

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

26 This subsection shall not apply to juveniles prosecuted as adults.

27 (5) Unless relieved of the duty to register pursuant to this
28 section, a violation of RCW 9A.44.130 is an ongoing offense for
29 purposes of the statute of limitations under RCW 9A.04.080.

30 (6) Nothing in RCW 9.94A.220 relating to discharge of an offender
31 shall be construed as operating to relieve the offender of his or her
32 duty to register pursuant to RCW 9A.44.130.

33 **Sec. 4.** RCW 43.43.540 and 1997 c 113 s 6 are each amended to read
34 as follows:

35 The county sheriff shall forward the information, photographs, and
36 fingerprints obtained pursuant to RCW 9A.44.130, including any notice
37 of change of address, to the Washington state patrol within ((five))
38 three working days. The state patrol shall maintain a central registry

1 of sex offenders and kidnapping offenders required to register under
2 RCW 9A.44.130 and shall adopt rules consistent with chapters 10.97,
3 10.98, and 43.43 RCW as are necessary to carry out the purposes of RCW
4 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and
5 72.09.330. The Washington state patrol shall reimburse the counties
6 for the costs of processing the offender registration, including taking
7 the fingerprints and the photographs.

8 **Sec. 5.** RCW 4.24.550 and 1997 c 364 s 1 and 1997 c 113 s 2 are
9 each reenacted and amended to read as follows:

10 (1) Public agencies are authorized to release information to the
11 public regarding sex offenders and kidnapping offenders when the agency
12 determines that disclosure of the information is relevant and necessary
13 to protect the public and counteract the danger created by the
14 particular offender. This authorization applies to information
15 regarding: (a) Any person adjudicated or convicted of a sex offense as
16 defined in RCW (~~9.94A.030~~) 9A.44.130 or a kidnapping offense as
17 defined by RCW 9A.44.130; (b) any person under the jurisdiction of the
18 indeterminate sentence review board as the result of a sex offense or
19 kidnapping offense; (c) any person committed as a sexually violent
20 predator under chapter 71.09 RCW or as a sexual psychopath under
21 chapter 71.06 RCW; (d) any person found not guilty of a sex offense or
22 kidnapping offense by reason of insanity under chapter 10.77 RCW; and
23 (e) any person found incompetent to stand trial for a sex offense or
24 kidnapping offense and subsequently committed under chapter 71.05 or
25 71.34 RCW.

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

32 (3) Local law enforcement agencies shall consider the following
33 guidelines in determining the extent of a public disclosure made under
34 this section: (a) For offenders classified as risk level I, the agency
35 shall share information with other appropriate law enforcement agencies
36 and may disclose, upon request, relevant, necessary, and accurate
37 information to any victim or witness to the offense and to any
38 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 that disseminate information
11 pursuant to this section shall: (a) Review available risk level
12 classifications made by the department of corrections, the department
13 of social and health services, and the indeterminate sentence review
14 board; (b) assign risk level classifications to all (~~sex~~) offenders
15 about whom information will be disseminated; and (c) make a good faith
16 effort to notify the public and residents at least fourteen days before
17 the offender is released from confinement or, where an offender moves
18 from another jurisdiction, as soon as possible after the agency learns
19 of the offender's move, except that in no case may this notification
20 provision be construed to require an extension of an offender's release
21 date. The juvenile court shall provide local law enforcement officials
22 with all relevant information on offenders allowed to remain in the
23 community in a timely manner.

24 (5) An appointed or elected public official, public employee, or
25 public agency as defined in RCW 4.24.470 is immune from civil liability
26 for damages for any discretionary risk level classification decisions
27 or release of relevant and necessary information, unless it is shown
28 that the official, employee, or agency acted with gross negligence or
29 in bad faith. The immunity in this section applies to risk level
30 classification decisions and the release of relevant and necessary
31 information regarding any individual for whom disclosure is authorized.
32 The decision of a local law enforcement agency or official to classify
33 (~~a sex~~) an offender to a risk level other than the one assigned by
34 the department of corrections, the department of social and health
35 services, or the indeterminate sentence review board, or the release of
36 any relevant and necessary information based on that different
37 classification shall not, by itself, be considered gross negligence or
38 bad faith. The immunity provided under this section applies to the
39 release of relevant and necessary information to other public

1 officials, public employees, or public agencies, and to the general
2 public.

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

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

10 (8) When a local law enforcement agency or official classifies ((a
11 ~~sex~~) an offender differently than the offender is classified by the
12 department of corrections, the department of social and health
13 services, or the indeterminate sentence review board, the law
14 enforcement agency or official shall notify the appropriate department
15 or the board and submit its reasons supporting the change in
16 classification.

17 NEW SECTION. **Sec. 6.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

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