

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5621

55th Legislature
1997 Regular Session

Passed by the Senate March 17, 1997
YEAS 49 NAYS 0

President of the Senate

Passed by the House April 10, 1997
YEAS 96 NAYS 0

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5621** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5621

Passed Legislature - 1997 Regular Session

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Winsley, Patterson, Benton and Oke)

Read first time 02/27/97.

1 AN ACT Relating to registration of criminals who have victimized
2 children; amending RCW 4.24.550, 9A.44.130, 9A.44.140, 10.01.200,
3 43.43.540, 70.48.470, and 72.09.330; creating a new section; and
4 prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that offenders who
7 commit kidnapping offenses against minor children pose a substantial
8 threat to the well-being of our communities. Child victims are
9 especially vulnerable and unable to protect themselves. The
10 legislature further finds that requiring sex offenders to register has
11 assisted law enforcement agencies in protecting their communities.
12 Similar registration requirements for offenders who have kidnapped or
13 unlawfully imprisoned a child would also assist law enforcement
14 agencies in protecting the children in their communities from further
15 victimization.

16 **Sec. 2.** RCW 4.24.550 and 1996 c 215 s 1 are each amended to read
17 as follows:

1 (1) Public agencies are authorized to release relevant and
2 necessary information regarding sex offenders and kidnapping offenders
3 to the public when the release of the information is necessary for
4 public protection.

5 (2) Local law enforcement agencies and officials who decide to
6 release information pursuant to this section shall make a good faith
7 effort to notify the public and residents at least fourteen days before
8 the ((sex)) offender is released. If a change occurs in the release
9 plan, this notification provision will not require an extension of the
10 release date. The department of corrections and the department of
11 social and health services shall provide local law enforcement
12 officials with all relevant information on sex offenders and kidnapping
13 offenders about to be released or placed into the community in a timely
14 manner. When a sex offender or kidnapping offender under county
15 jurisdiction will be released from jail and will reside in a county
16 other than the county of incarceration, the chief law enforcement
17 officer of the jail, or his or her designee, shall notify the sheriff
18 in the county where the offender will reside of the offender's release
19 as provided in RCW 70.48.470.

20 (3) An elected public official, public employee, or public agency
21 as defined in RCW 4.24.470 is immune from civil liability for damages
22 for any discretionary decision to release relevant and necessary
23 information, unless it is shown that the official, employee, or agency
24 acted with gross negligence or in bad faith. The authorization and
25 immunity in this section applies to information regarding: (a) A
26 person convicted of, or juvenile found to have committed, a sex offense
27 as defined by RCW ((9.94A.030)) 9A.44.130 or a kidnapping offense as
28 defined by RCW 9A.44.130; (b) a person found not guilty of a sex
29 offense or kidnapping offense by reason of insanity under chapter 10.77
30 RCW; (c) a person found incompetent to stand trial for a sex offense or
31 kidnapping offense and subsequently committed under chapter 71.05 or
32 71.34 RCW; (d) a person committed as a sexual psychopath under chapter
33 71.06 RCW; or (e) a person committed as a sexually violent predator
34 under chapter 71.09 RCW. The immunity provided under this section
35 applies to the release of relevant information to other employees or
36 officials or to the general public.

37 (4) Except as otherwise provided by statute, nothing in this
38 section shall impose any liability upon a public official, public

1 employee, or public agency for failing to release information as
2 provided in subsections (2) and (3) of this section.

3 (5) Nothing in this section implies that information regarding
4 persons designated in subsections (2) and (3) of this section is
5 confidential except as otherwise provided by statute.

6 **Sec. 3.** RCW 9A.44.130 and 1996 c 275 s 11 are each amended to read
7 as follows:

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

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

19 (3)(a) (~~Sex~~) Offenders shall register within the following
20 deadlines. For purposes of this section the term "conviction" refers
21 to adult convictions and juvenile adjudications for sex offenses or
22 kidnapping offenses:

23 (i) (~~SEX~~) OFFENDERS IN CUSTODY. (A) Sex offenders who committed
24 a sex offense on, before, or after February 28, 1990, and who, on or
25 after July 28, 1991, are in custody, as a result of that offense, of
26 the state department of corrections, the state department of social and
27 health services, a local division of youth services, or a local jail or
28 juvenile detention facility, and (B) kidnapping offenders who on or
29 after the effective date of this act are in custody of the state
30 department of corrections, the state department of social and health
31 services, a local division of youth services, or a local jail or
32 juvenile detention facility, must register within twenty-four hours
33 from the time of release with the county sheriff for the county of the
34 person's residence. The agency that has jurisdiction over the offender
35 shall provide notice to the (~~sex~~) offender of the duty to register.
36 Failure to register within twenty-four hours of release constitutes a
37 violation of this section and is punishable as provided in subsection
38 (7) of this section.

1 (ii) ((SEX)) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
2 JURISDICTION. Sex offenders((7)) who, on July 28, 1991, are not in
3 custody but are under the jurisdiction of the indeterminate sentence
4 review board or under the department of correction's active
5 supervision, as defined by the department of corrections, the state
6 department of social and health services, or a local division of youth
7 services, for sex offenses committed before, on, or after February 28,
8 1990, must register within ten days of July 28, 1991. Kidnapping
9 offenders who, on the effective date of this act, are not in custody
10 but are under the jurisdiction of the indeterminate sentence review
11 board or under the department of correction's active supervision, as
12 defined by the department of corrections, the state department of
13 social and health services, or a local division of youth services, for
14 kidnapping offenses committed before, on, or after the effective date
15 of this act must register within ten days of the effective date of this
16 act. A change in supervision status of a sex offender who was required
17 to register under this subsection (3)(a)(ii) as of July 28, 1991, or a
18 kidnapping offender required to register as of the effective date of
19 this act shall not relieve the offender of the duty to register or to
20 reregister following a change in residence. The obligation to register
21 shall only cease pursuant to RCW 9A.44.140.

22 (iii) ((SEX)) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders
23 who, on or after July 23, 1995, and kidnapping offenders who, on or
24 after the effective date of this act, as a result of that offense are
25 in the custody of the United States bureau of prisons or other federal
26 or military correctional agency for sex offenses committed before, on,
27 or after February 28, 1990, or kidnapping offenses committed on,
28 before, or after the effective date of this act, must register within
29 twenty-four hours from the time of release with the county sheriff for
30 the county of the person's residence. Sex offenders who, on July 23,
31 1995, are not in custody but are under the jurisdiction of the United
32 States bureau of prisons, United States courts, United States parole
33 commission, or military parole board for sex offenses committed before,
34 on, or after February 28, 1990, must register within ten days of July
35 23, 1995. Kidnapping offenders who, on the effective date of this act,
36 are not in custody but are under the jurisdiction of the United States
37 bureau of prisons, United States courts, United States parole
38 commission, or military parole board for kidnapping offenses committed
39 before, on, or after the effective date of this act must register

1 within ten days of the effective date of this act. A change in
2 supervision status of a sex offender who was required to register under
3 this subsection (3)(a)(iii) as of July 23, 1995, or a kidnapping
4 offender required to register as of the effective date of this act
5 shall not relieve the offender of the duty to register or to reregister
6 following a change in residence. The obligation to register shall only
7 cease pursuant to RCW 9A.44.140.

8 (iv) ((SEX)) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex
9 offenders who are convicted of a sex offense on or after July 28, 1991,
10 for a sex offense that was committed on or after February 28, 1990, and
11 kidnapping offenders who are convicted on or after the effective date
12 of this act for a kidnapping offense that was committed on or after the
13 effective date of this act, but who are not sentenced to serve a term
14 of confinement immediately upon sentencing, shall report to the county
15 sheriff to register immediately upon completion of being sentenced.

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

38 (vi) ((SEX)) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any
39 adult or juvenile who has been found not guilty by reason of insanity

1 under chapter 10.77 RCW of (A) committing a sex offense on, before, or
2 after February 28, 1990, and who, on or after July 23, 1995, is in
3 custody, as a result of that finding, of the state department of social
4 and health services, or (B) committing a kidnapping offense on, before,
5 or after the effective date of this act and who on or after the
6 effective date of this act is in custody, as a result of that finding,
7 of the state department of social and health services, must register
8 within twenty-four hours from the time of release with the county
9 sheriff for the county of the person's residence. The state department
10 of social and health services shall provide notice to the adult or
11 juvenile in its custody of the duty to register. Any adult or juvenile
12 who has been found not guilty by reason of insanity of committing a sex
13 offense on, before, or after February 28, 1990, but who was released
14 (~~prior to~~) before July 23, 1995, or any adult or juvenile who has
15 been found not guilty by reason of insanity of committing a kidnapping
16 offense but who was released before the effective date of this act,
17 shall be required to register within twenty-four hours of receiving
18 notice of this registration requirement. The state department of
19 social and health services shall make reasonable attempts within
20 available resources to notify sex offenders who were released (~~prior~~
21 ~~to~~) before July 23, 1995, and kidnapping offenders who were released
22 before the effective date of this act. Failure to register within
23 twenty-four hours of release, or of receiving notice, constitutes a
24 violation of this section and is punishable as provided in subsection
25 (7) of this section.

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

31 (c) An arrest on charges of failure to register, service of an
32 information, or a complaint for a violation of this section, or
33 arraignment on charges for a violation of this section, constitutes
34 actual notice of the duty to register. Any person charged with the
35 crime of failure to register under this section who asserts as a
36 defense the lack of notice of the duty to register shall register
37 immediately following actual notice of the duty through arrest,
38 service, or arraignment. Failure to register as required under this
39 subsection (c) constitutes grounds for filing another charge of failing

1 to register. Registering following arrest, service, or arraignment on
2 charges shall not relieve the offender from criminal liability for
3 failure to register prior to the filing of the original charge.

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

7 (4)(a) If any person required to register pursuant to this section
8 changes his or her residence address within the same county, the person
9 must send written notice of the change of address to the county sheriff
10 at least fourteen days before moving. If any person required to
11 register pursuant to this section moves to a new county, the person
12 must send written notice of the change of address at least fourteen
13 days before moving to the county sheriff in the new county of residence
14 and must register with that county sheriff within twenty-four hours of
15 moving. The person must also send written notice within ten days of
16 the change of address in the new county to the county sheriff with whom
17 the person last registered. If any person required to register
18 pursuant to this section moves out of Washington state, the person must
19 also send written notice within ten days of moving to the new state or
20 a foreign country to the county sheriff with whom the person last
21 registered in Washington state.

22 (b) It is an affirmative defense to a charge that the person failed
23 to send a notice at least fourteen days in advance of moving as
24 required under (a) of this subsection that the person did not know the
25 location of his or her new residence at least fourteen days before
26 moving. The defendant must establish the defense by a preponderance of
27 the evidence and, to prevail on the defense, must also prove by a
28 preponderance that the defendant sent the required notice within
29 twenty-four hours of determining the new address.

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

32 (6) (~~"Sex offense"~~) For the purpose of RCW 9A.44.130, 10.01.200,
33 43.43.540, 70.48.470, and 72.09.330:

34 (a) "Sex offense" means any offense defined as a sex offense by RCW
35 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation of a
36 minor), 9.68A.050 (dealing in depictions of minor engaged in sexually
37 explicit conduct), 9.68A.060 (sending, bringing into state depictions
38 of minor engaged in sexually explicit conduct), 9.68A.090
39 (communication with minor for immoral purposes), 9.68A.100 (patronizing

1 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in
2 the second degree), as well as any gross misdemeanor that is, under
3 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or
4 criminal conspiracy to commit an offense that is classified as a sex
5 offense under RCW 9.94A.030.

6 (b) "Kidnapping offense" means the crimes of kidnapping in the
7 first degree, kidnapping in the second degree, and unlawful
8 imprisonment as defined in chapter 9A.40 RCW, where the victim is a
9 minor and the offender is not the minor's parent.

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

18 **Sec. 4.** RCW 9A.44.140 and 1996 c 275 s 12 are each amended to read
19 as follows:

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

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

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

30 (c) For a person convicted of a class C felony, a violation of RCW
31 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to
32 commit a class C felony: Ten years after the last date of release from
33 confinement, if any, (including full-time residential treatment)
34 pursuant to the conviction, or entry of the judgment and sentence, if
35 the person has spent ten consecutive years in the community without
36 being convicted of any new offenses.

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

4 (3) Any person having a duty to register under RCW 9A.44.130 may
5 petition the superior court to be relieved of that duty. The petition
6 shall be made to the court in which the petitioner was convicted of the
7 offense that subjects him or her to the duty to register, or, in the
8 case of convictions in other states, a foreign country, or a federal or
9 military court, to the court in Thurston county. The prosecuting
10 attorney of the county shall be named and served as the respondent in
11 any such petition. The court shall consider the nature of the
12 registrable offense committed, and the criminal and relevant
13 noncriminal behavior of the petitioner both before and after
14 conviction, and may consider other factors. Except as provided in
15 subsection (4) of this section, the court may relieve the petitioner of
16 the duty to register only if the petitioner shows, with clear and
17 convincing evidence, that future registration of the petitioner will
18 not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540,
19 46.20.187, 70.48.470, and 72.09.330.

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

1 petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
2 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

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

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

9 **Sec. 5.** RCW 10.01.200 and 1990 c 3 s 404 are each amended to read
10 as follows:

11 The court shall provide written notification to any defendant
12 charged with a sex offense or kidnapping offense of the registration
13 requirements of RCW 9A.44.130. Such notice shall be included on any
14 guilty plea forms and judgment and sentence forms provided to the
15 defendant.

16 **Sec. 6.** RCW 43.43.540 and 1990 c 3 s 403 are each amended to read
17 as follows:

18 The county sheriff shall forward the information and fingerprints
19 obtained pursuant to RCW 9A.44.130 to the Washington state patrol
20 within five working days. The state patrol shall maintain a central
21 registry of sex offenders and kidnapping offenders required to register
22 under RCW 9A.44.130 and shall adopt rules consistent with chapters
23 10.97, 10.98, and 43.43 RCW as are necessary to carry out the purposes
24 of RCW 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 46.20.187,
25 70.48.470, and 72.09.330. The Washington state patrol shall reimburse
26 the counties for the costs of processing the ((sex)) offender
27 registration, including taking the fingerprints and the photographs.

28 **Sec. 7.** RCW 70.48.470 and 1996 c 215 s 2 are each amended to read
29 as follows:

30 (1) A person having charge of a jail shall notify in writing any
31 confined person who is in the custody of the jail for a conviction of
32 a ((sexual-[sex])) sex offense or kidnapping offense as defined in RCW
33 ((9.94A.030)) 9A.44.130 of the registration requirements of RCW
34 9A.44.130 at the time of the inmate's release from confinement, and
35 shall obtain written acknowledgment of such notification. The person

1 shall also obtain from the inmate the county of the inmate's residence
2 upon release from jail.

3 (2) If an inmate convicted of a (~~sexual~~) sex offense or
4 kidnapping offense will reside in a county other than the county of
5 incarceration upon release, the chief law enforcement officer, or his
6 or her designee, shall notify the sheriff of the county where the
7 inmate will reside of the inmate's impending release. Notice shall be
8 provided at least fourteen days prior to the inmate's release, or if
9 the release date is not known at least fourteen days prior to release,
10 notice shall be provided not later than the day after the inmate's
11 release.

12 **Sec. 8.** RCW 72.09.330 and 1990 c 3 s 405 are each amended to read
13 as follows:

14 (1) The department shall provide written notification to an inmate
15 convicted of a sex offense or kidnapping offense of the registration
16 requirements of RCW 9A.44.130 at the time of the inmate's release from
17 confinement and shall receive and retain a signed acknowledgement of
18 receipt.

19 (2) The department shall provide written notification to an
20 individual convicted of a sex offense or kidnapping offense from
21 another state of the registration requirements of RCW 9A.44.130 at the
22 time the department accepts supervision and has legal authority of the
23 individual under the terms and conditions of the interstate compact
24 agreement under RCW 9.95.270.

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