
HOUSE BILL 2086

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By Representatives O'Brien, Ballasiotes, Lovick, Kenney and Conway; by request of Department of Community, Trade, and Economic Development

Read first time 02/14/2001. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to compliance with federal standards for lifetime
2 registration for certain sex offenders; amending RCW 9A.44.140; and
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature intends to amend the
6 lifetime sex offender registration requirement so that it is narrowly
7 tailored to meet the requirements of the Jacob Wetterling act, as
8 amended.

9 **Sec. 2.** RCW 9A.44.140 and 2000 c 91 s 3 are each amended to read
10 as follows:

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

12 (a) For a person convicted of a class A felony, or a person
13 convicted of any sex offense or kidnapping offense who has one or more
14 prior convictions for a sex offense or kidnapping offense: Such person
15 may only be relieved of the duty to register under subsection (3) or
16 (4) of this section.

17 (b) For a person convicted of a class B felony, and the person does
18 not have one or more prior convictions for a sex offense or kidnapping

1 offense: Fifteen years after the last date of release from
2 confinement, if any, (including full-time residential treatment)
3 pursuant to the conviction, or entry of the judgment and sentence, if
4 the person has spent fifteen consecutive years in the community without
5 being convicted of any new offenses.

6 (c) For a person convicted of a class C felony, a violation of RCW
7 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to
8 commit a class C felony, and the person does not have one or more prior
9 convictions for a sex offense or kidnapping offense: Ten years after
10 the last date of release from confinement, if any, (including full-time
11 residential treatment) pursuant to the conviction, or entry of the
12 judgment and sentence, if the person has spent ten consecutive years in
13 the community without being convicted of any new offenses.

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

17 (3)~~((a))~~ Except as provided in subsection (5) of this section,
18 any person having a duty to register under RCW 9A.44.130 may petition
19 the superior court to be relieved of that duty, if the person has spent
20 ten consecutive years in the community without being convicted of any
21 new offenses. The petition shall be made to the court in which the
22 petitioner was convicted of the offense that subjects him or her to the
23 duty to register, or, in the case of convictions in other states, a
24 foreign country, or a federal or military court, to the court in
25 Thurston county. The prosecuting attorney of the county shall be named
26 and served as the respondent in any such petition. The court shall
27 consider the nature of the registrable offense committed, and the
28 criminal and relevant noncriminal behavior of the petitioner both
29 before and after conviction, and may consider other factors. Except as
30 provided in subsection (4) of this section, the court may relieve the
31 petitioner of the duty to register only if the petitioner shows, with
32 clear and convincing evidence, that future registration of the
33 petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
34 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

35 ~~((b)(i) The court may not relieve a person of the duty to register~~
36 ~~if the person has been determined to be a sexually violent predator as~~
37 ~~defined in RCW 71.09.020, or has been convicted of a sex offense or~~
38 ~~kidnapping offense that is a class A felony and that was committed with~~
39 ~~forcible compulsion on or after June 8, 2000.~~

1 ~~(ii) Any person subject to (b)(i) of this subsection may petition~~
2 ~~the court to be exempted from any community notification requirements~~
3 ~~that the person may be subject to fifteen years after the later of the~~
4 ~~entry of the judgment and sentence or the last date of release from~~
5 ~~confinement, including full-time residential treatment, pursuant to the~~
6 ~~conviction, if the person has spent the time in the community without~~
7 ~~being convicted of any new offense.)~~)

8 (4) An offender having a duty to register under RCW 9A.44.130 for
9 a sex offense or kidnapping offense committed when the offender was a
10 juvenile may petition the superior court to be relieved of that duty.
11 The court shall consider the nature of the registrable offense
12 committed, and the criminal and relevant noncriminal behavior of the
13 petitioner both before and after adjudication, and may consider other
14 factors.

15 (a) The court may relieve the petitioner of the duty to register
16 for a sex offense or kidnapping offense that was committed while the
17 petitioner was fifteen years of age or older only if the petitioner
18 shows, with clear and convincing evidence, that future registration of
19 the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
20 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

21 (b) The court may relieve the petitioner of the duty to register
22 for a sex offense or kidnapping offense that was committed while the
23 petitioner was under the age of fifteen if the petitioner (i) has not
24 been adjudicated of any additional sex offenses or kidnapping offenses
25 during the twenty-four months following the adjudication for the
26 offense giving rise to the duty to register, and (ii) proves by a
27 preponderance of the evidence that future registration of the
28 petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
29 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

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

31 (5)(a) The court may not relieve a person of the duty to register
32 if the person has been determined to be a sexually violent predator as
33 defined in RCW 71.09.020, or has been determined to be a sexually
34 violent predator under provision of federal law or the law of another
35 state, or has been convicted of an aggravated offense, or has been
36 convicted of one or more prior sexually violent offenses or criminal
37 offenses against a victim who is a minor, as defined in (c) of this
38 subsection. This provision shall apply prospectively.

1 **(b) Any person subject to (a) of this subsection may petition the**
2 **court to be exempted from any community notification requirements that**
3 **the person may be subject to fifteen years after the later of the entry**
4 **of the judgment and sentence or the last date of release from**
5 **confinement, including full-time residential treatment, pursuant to the**
6 **conviction, if the person has spent the time in the community without**
7 **being convicted of any new offense.**

8 **(c) Unless the context clearly requires otherwise, the following**
9 **definitions apply only to the federal lifetime registration**
10 **requirements under this subsection:**

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

13 **(A) Any sex offense involving sexual intercourse or sexual contact**
14 **where the victim is under twelve years of age;**

15 **(B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape**
16 **of a child in the first degree), or RCW 9A.44.083 (child molestation in**
17 **the first degree);**

18 **(C) Any of the following offenses when committed by forcible**
19 **compulsion or by the offender administering, by threat or force or**
20 **without the knowledge or permission of that person, a drug, intoxicant,**
21 **or other similar substance that substantially impairs the ability of**
22 **that person to appraise or control conduct: RCW 9A.44.050 (rape in the**
23 **second degree), RCW 9A.44.100 (indecent liberties), RCW 9A.44.160**
24 **(custodial sexual misconduct in the first degree), RCW 9A.64.020**
25 **(incest), or RCW 9.68A.040 (sexual exploitation of a minor);**

26 **(D) Any of the following offenses when committed by forcible**
27 **compulsion or by the offender administering, by threat or force or**
28 **without the knowledge or permission of that person, a drug, intoxicant,**
29 **or other similar substance that substantially impairs the ability of**
30 **that person to appraise or control conduct, if the victim is twelve**
31 **years of age or over but under sixteen years of age and the offender is**
32 **eighteen years of age or over and is more than forty-eight months older**
33 **than the victim: RCW 9A.44.076 (rape of a child in the second degree),**
34 **RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086**
35 **(child molestation in the second degree), or RCW 9A.44.089 (child**
36 **molestation in the third degree);**

37 **(E) A felony with a finding of sexual motivation under RCW**
38 **9.94A.127 where the victim is under twelve years of age or that is**
39 **committed by forcible compulsion or by the offender administering, by**

1 threat or force or without the knowledge or permission of that person,
2 a drug, intoxicant, or other similar substance that substantially
3 impairs the ability of that person to appraise or control conduct;

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

6 (G) An offense defined by federal law or the laws of another state
7 that is equivalent to the offenses listed in (c)(i)(A) through (F) of
8 this subsection.

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

12 (A) An aggravated offense;

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

17 (C) A felony with a finding of sexual motivation under RCW
18 9.94A.127 where the victim is incapable of appraising the nature of the
19 conduct or physically incapable of declining participation in, or
20 communicating unwillingness to engage in, the conduct;

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

23 (E) An offense defined by federal law or the laws of another state
24 that is equivalent to the offenses listed in (c)(ii)(A) through (D) of
25 this subsection.

26 (iii) "Criminal offense against a victim who is a minor" means, in
27 addition to any aggravated offense or sexually violent offense where
28 the victim was under eighteen years of age, the following offenses
29 where the victim is under eighteen years of age:

30 (A) RCW 9A.44.060 (rape in the third degree), RCW 9A.64.020
31 (incest), or RCW 9A.44.160 (custodial sexual misconduct in the first
32 degree);

33 (B) RCW 9A.40.020 (kidnapping in the first degree), RCW 9A.40.030
34 (kidnapping in the second degree), or RCW 9A.40.040 (unlawful
35 imprisonment), where the victim is a minor and the offender is not the
36 minor's parent;

37 (C) The following offenses where the offender was eighteen years of
38 age or over: RCW 9A.44.076 (rape of a child in the second degree), RCW
39 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086 (child

1 molestation in the second degree), RCW 9A.44.089 (child molestation in
2 the third degree), RCW 9A.44.093 (sexual misconduct with a minor in the
3 first degree), RCW 9A.44.096 (sexual misconduct with a minor in the
4 second degree), RCW 9A.64.020 (incest), RCW 9.68A.040 (sexual
5 exploitation of a minor), RCW 9.68A.090 (communication with a minor for
6 immoral purposes), or RCW 9.68A.100 (patronizing a juvenile
7 prostitute);

8 (D) A felony with a finding of sexual motivation under RCW
9 9.94A.127 where the victim is a minor;

10 (E) An offense that is, under chapter 9A.28 RCW, an attempt or
11 solicitation to commit such an offense; or

12 (F) An offense defined by federal law or the laws of another state
13 that is equivalent to the offenses listed in (c)(iii)(A) through (E) of
14 this subsection.

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

18 ((+6+)) (7) Nothing in RCW 9.94A.220 relating to discharge of an
19 offender shall be construed as operating to relieve the offender of his
20 or her duty to register pursuant to RCW 9A.44.130.

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