

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2086

57th Legislature
2001 Regular Legislative Session

Passed by the House April 13, 2001
Yeas 89 Nays 0

Speaker of the House of Representatives

Speaker of the House of Representatives

Passed by the Senate April 10, 2001
Yeas 48 Nays 1

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2086** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

Chief Clerk

FILED

Secretary of State
State of Washington

HOUSE BILL 2086

ADOPTED AS AMENDED BY THE SENATE

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

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.

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

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

11 (a) For a person convicted of a class A felony or an offense listed
12 in subsection (5) of this section, or a person convicted of any sex
13 offense or kidnapping offense who has one or more prior convictions for
14 a sex offense or kidnapping offense: Such person may only be relieved
15 of the duty to register under subsection (3) or (4) of this section.

16 (b) For a person convicted of a class B felony, and the person does
17 not have one or more prior convictions for a sex offense or kidnapping
18 offense and the person's current offense is not listed in subsection

1 (5) of this section: 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 and the person's
10 current offense is not listed in subsection (5) of this section: Ten
11 years after the last date of release from confinement, if any,
12 (including full-time residential treatment) pursuant to the conviction,
13 or entry of the judgment and sentence, if the person has spent ten
14 consecutive years in the community without being convicted of any new
15 offenses.

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

19 (3)(a) Any person having a duty to register under RCW 9A.44.130 may
20 petition the superior court to be relieved of that duty, if the person
21 has spent ten consecutive years in the community without being
22 convicted of any new offenses. The petition shall be made to the court
23 in which the petitioner was convicted of the offense that subjects him
24 or her to the duty to register, or, in the case of convictions in other
25 states, a foreign country, or a federal or military court, to the court
26 in Thurston county. The prosecuting attorney of the county shall be
27 named and served as the respondent in any such petition. The court
28 shall consider the nature of the registrable offense committed, and the
29 criminal and relevant noncriminal behavior of the petitioner both
30 before and after conviction, and may consider other factors. Except as
31 provided in subsection (4) of this section, the court may relieve the
32 petitioner of the duty to register only if the petitioner shows, with
33 clear and convincing evidence, that future registration of the
34 petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
35 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

36 (b)(i) The court may not relieve a person of the duty to register
37 if the person has been determined to be a sexually violent predator as
38 defined in RCW 71.09.020, or has been convicted of a sex offense or

1 kidnapping offense that is a class A felony and that was committed with
2 forcible compulsion on or after June 8, 2000.

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

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

18 (a) The court may relieve the petitioner of the duty to register
19 for a sex offense or kidnapping offense that was committed while the
20 petitioner was fifteen years of age or older only if the petitioner
21 shows, with clear and convincing evidence, that future registration of
22 the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
23 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

24 (b) The court may relieve the petitioner of the duty to register
25 for a sex offense or kidnapping offense that was committed while the
26 petitioner was under the age of fifteen if the petitioner (i) has not
27 been adjudicated of any additional sex offenses or kidnapping offenses
28 during the twenty-four months following the adjudication for the
29 offense giving rise to the duty to register, and (ii) proves by a
30 preponderance of the evidence that future registration of the
31 petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
32 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

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

34 (5)(a) A person who has been convicted of an aggravated offense, or
35 has been convicted of one or more prior sexually violent offenses or
36 criminal offenses against a victim who is a minor, as defined in (b) of
37 this subsection may only be relieved of the duty to register under
38 subsection (3) or (4) of this section. This provision shall apply to

1 convictions for crimes committed on or after the effective date of this
2 act.

3 (b) Unless the context clearly requires otherwise, the following
4 definitions apply only to the federal lifetime registration
5 requirements under this subsection:

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

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

10 (B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape
11 of a child in the first degree), or RCW 9A.44.083 (child molestation in
12 the first degree);

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

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

32 (E) A felony with a finding of sexual motivation under RCW
33 9.94A.127 where the victim is under twelve years of age or that is
34 committed by forcible compulsion or by the offender administering, by
35 threat or force or without the knowledge or permission of that person,
36 a drug, intoxicant, or other similar substance that substantially
37 impairs the ability of that person to appraise or control conduct;

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

1 (G) An offense defined by federal law or the laws of another state
2 that is equivalent to the offenses listed in (b)(i)(A) through (F) of
3 this subsection.

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

7 (A) An aggravated offense;

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

12 (C) A felony with a finding of sexual motivation under RCW
13 9.94A.127 where the victim is incapable of appraising the nature of the
14 conduct or physically incapable of declining participation in, or
15 communicating unwillingness to engage in, the conduct;

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

18 (E) An offense defined by federal law or the laws of another state
19 that is equivalent to the offenses listed in (b)(ii)(A) through (D) of
20 this subsection.

21 (iii) "Criminal offense against a victim who is a minor" means, in
22 addition to any aggravated offense or sexually violent offense where
23 the victim was under eighteen years of age, an adult conviction for the
24 following offenses where the victim is under eighteen years of age:

25 (A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape
26 of a child in the second degree), RCW 9A.44.079 (rape of a child in the
27 third degree), RCW 9A.44.086 (child molestation in the second degree),
28 RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093
29 (sexual misconduct with a minor in the first degree), RCW 9A.44.096
30 (sexual misconduct with a minor in the second degree), RCW 9A.44.160
31 (custodial sexual misconduct in the first degree), RCW 9A.64.020
32 (incest), RCW 9.68A.040 (sexual exploitation of a minor), RCW 9.68A.090
33 (communication with a minor for immoral purposes), or RCW 9.68A.100
34 (patronizing a juvenile prostitute);

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

1 (C) A felony with a finding of sexual motivation under RCW
2 9.94A.127 where the victim is a minor;

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

5 (E) An offense defined by federal law or the laws of another state
6 that is equivalent to the offenses listed in (b)(iii)(A) through (D) of
7 this subsection.

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

11 ~~((6))~~ (7) Nothing in RCW 9.94A.220 relating to discharge of an
12 offender shall be construed as operating to relieve the offender of his
13 or her duty to register pursuant to RCW 9A.44.130.

14 (8) For purposes of determining whether a person has been convicted
15 of more than one sex offense, failure to register as a sex offender or
16 kidnapping offender is not a sex or kidnapping offense.

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