

SSB 6144 - H COMM AMD

By Committee on Criminal Justice & Corrections

ADOPTED 03/01/2006

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

7 **Sec. 2.** RCW 9A.44.130 and 2005 c 380 s 1 are each amended to read  
8 as follows:

9 (1)(a) Any adult or juvenile residing whether or not the person has  
10 a fixed residence, or who is a student, is employed, or carries on a  
11 vocation in this state who has been found to have committed or has been  
12 convicted of any sex offense or kidnapping offense, or who has been  
13 found not guilty by reason of insanity under chapter 10.77 RCW of  
14 committing any sex offense or kidnapping offense, shall register with  
15 the county sheriff for the county of the person's residence, or if the  
16 person is not a resident of Washington, the county of the person's  
17 school, or place of employment or vocation, or as otherwise specified  
18 in this section. Where a person required to register under this  
19 section is in custody of the state department of corrections, the state  
20 department of social and health services, a local division of youth  
21 services, or a local jail or juvenile detention facility as a result of  
22 a sex offense or kidnapping offense, the person shall also register at  
23 the time of release from custody with an official designated by the  
24 agency that has jurisdiction over the person.

25 (b) Any adult or juvenile who is required to register under (a) of  
26 this subsection:

27 (i) Who is attending, or planning to attend, a public or private  
28 school regulated under Title 28A RCW or chapter 72.40 RCW shall, within  
29 ten days of enrolling or prior to arriving at the school to attend

1 classes, whichever is earlier, notify the sheriff for the county of the  
2 person's residence of the person's intent to attend the school, and the  
3 sheriff shall promptly notify the principal of the school;

4 (ii) Who is admitted to a public or private institution of higher  
5 education shall, within ten days of enrolling or by the first business  
6 day after arriving at the institution, whichever is earlier, notify the  
7 sheriff for the county of the person's residence of the person's intent  
8 to attend the institution;

9 (iii) Who gains employment at a public or private institution of  
10 higher education shall, within ten days of accepting employment or by  
11 the first business day after commencing work at the institution,  
12 whichever is earlier, notify the sheriff for the county of the person's  
13 residence of the person's employment by the institution; or

14 (iv) Whose enrollment or employment at a public or private  
15 institution of higher education is terminated shall, within ten days of  
16 such termination, notify the sheriff for the county of the person's  
17 residence of the person's termination of enrollment or employment at  
18 the institution.

19 (c) Persons required to register under this section who are  
20 enrolled in a public or private institution of higher education on June  
21 11, 1998, or a public or private school regulated under Title 28A RCW  
22 or chapter 72.40 RCW on September 1, 2006, must notify the county  
23 sheriff immediately.

24 (d) The sheriff shall notify the school's principal or  
25 institution's department of public safety and shall provide that  
26 department with the same information provided to a county sheriff under  
27 subsection (3) of this section.

28 (e)(i) A principal receiving notice under this subsection must  
29 disclose the information received from the sheriff under (b) of this  
30 subsection as follows:

31 (A) If the student who is required to register as a sex offender is  
32 classified as a risk level II or III, the principal shall provide the  
33 information received to every teacher of any student required to  
34 register under (a) of this subsection and to any other personnel who,  
35 in the judgment of the principal, supervises the student or for  
36 security purposes should be aware of the student's record;

37 (B) If the student who is required to register as a sex offender is  
38 classified as a risk level I, the principal shall provide the

1 information received only to personnel who, in the judgment of the  
2 principal, for security purposes should be aware of the student's  
3 record.

4 (ii) Any information received by a principal or school personnel  
5 under this subsection is confidential and may not be further  
6 disseminated except as provided in RCW 28A.225.330, other statutes or  
7 case law, and the family and educational and privacy rights act of  
8 1994, 20 U.S.C. Sec. 1232g et seq.

9 (2) This section may not be construed to confer any powers pursuant  
10 to RCW (~~(4.24.500)~~) 4.24.550 upon the public safety department of any  
11 public or private school or institution of higher education.

12 (3)(a) The person shall provide the following information when  
13 registering: (i) Name; (ii) address; (iii) date and place of birth;  
14 (iv) place of employment; (v) crime for which convicted; (vi) date and  
15 place of conviction; (vii) aliases used; (viii) social security number;  
16 (ix) photograph; and (x) fingerprints.

17 (b) Any person who lacks a fixed residence shall provide the  
18 following information when registering: (i) Name; (ii) date and place  
19 of birth; (iii) place of employment; (iv) crime for which convicted;  
20 (v) date and place of conviction; (vi) aliases used; (vii) social  
21 security number; (viii) photograph; (ix) fingerprints; and (x) where he  
22 or she plans to stay.

23 (4)(a) Offenders shall register with the county sheriff within the  
24 following deadlines. For purposes of this section the term  
25 "conviction" refers to adult convictions and juvenile adjudications for  
26 sex offenses or kidnapping offenses:

27 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex  
28 offense on, before, or after February 28, 1990, and who, on or after  
29 July 28, 1991, are in custody, as a result of that offense, of the  
30 state department of corrections, the state department of social and  
31 health services, a local division of youth services, or a local jail or  
32 juvenile detention facility, and (B) kidnapping offenders who on or  
33 after July 27, 1997, are in custody of the state department of  
34 corrections, the state department of social and health services, a  
35 local division of youth services, or a local jail or juvenile detention  
36 facility, must register at the time of release from custody with an  
37 official designated by the agency that has jurisdiction over the  
38 offender. The agency shall within three days forward the registration

1 information to the county sheriff for the county of the offender's  
2 anticipated residence. The offender must also register within twenty-  
3 four hours from the time of release with the county sheriff for the  
4 county of the person's residence, or if the person is not a resident of  
5 Washington, the county of the person's school, or place of employment  
6 or vocation. The agency that has jurisdiction over the offender shall  
7 provide notice to the offender of the duty to register. Failure to  
8 register at the time of release and within twenty-four hours of release  
9 constitutes a violation of this section and is punishable as provided  
10 in subsection (10) of this section.

11 When the agency with jurisdiction intends to release an offender  
12 with a duty to register under this section, and the agency has  
13 knowledge that the offender is eligible for developmental disability  
14 services from the department of social and health services, the agency  
15 shall notify the division of developmental disabilities of the release.  
16 Notice shall occur not more than thirty days before the offender is to  
17 be released. The agency and the division shall assist the offender in  
18 meeting the initial registration requirement under this section.  
19 Failure to provide such assistance shall not constitute a defense for  
20 any violation of this section.

21 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL  
22 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody  
23 but are under the jurisdiction of the indeterminate sentence review  
24 board or under the department of corrections' active supervision, as  
25 defined by the department of corrections, the state department of  
26 social and health services, or a local division of youth services, for  
27 sex offenses committed before, on, or after February 28, 1990, must  
28 register within ten days of July 28, 1991. Kidnapping offenders who,  
29 on July 27, 1997, are not in custody but are under the jurisdiction of  
30 the indeterminate sentence review board or under the department of  
31 corrections' active supervision, as defined by the department of  
32 corrections, the state department of social and health services, or a  
33 local division of youth services, for kidnapping offenses committed  
34 before, on, or after July 27, 1997, must register within ten days of  
35 July 27, 1997. A change in supervision status of a sex offender who  
36 was required to register under this subsection (4)(a)(ii) as of July  
37 28, 1991, or a kidnapping offender required to register as of July 27,

1 1997, shall not relieve the offender of the duty to register or to  
2 reregister following a change in residence. The obligation to register  
3 shall only cease pursuant to RCW 9A.44.140.

4 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on  
5 or after July 23, 1995, and kidnapping offenders who, on or after July  
6 27, 1997, as a result of that offense are in the custody of the United  
7 States bureau of prisons or other federal or military correctional  
8 agency for sex offenses committed before, on, or after February 28,  
9 1990, or kidnapping offenses committed on, before, or after July 27,  
10 1997, must register within twenty-four hours from the time of release  
11 with the county sheriff for the county of the person's residence, or if  
12 the person is not a resident of Washington, the county of the person's  
13 school, or place of employment or vocation. Sex offenders who, on July  
14 23, 1995, are not in custody but are under the jurisdiction of the  
15 United States bureau of prisons, United States courts, United States  
16 parole commission, or military parole board for sex offenses committed  
17 before, on, or after February 28, 1990, must register within ten days  
18 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not  
19 in custody but are under the jurisdiction of the United States bureau  
20 of prisons, United States courts, United States parole commission, or  
21 military parole board for kidnapping offenses committed before, on, or  
22 after July 27, 1997, must register within ten days of July 27, 1997.  
23 A change in supervision status of a sex offender who was required to  
24 register under this subsection (4)(a)(iii) as of July 23, 1995, or a  
25 kidnapping offender required to register as of July 27, 1997 shall not  
26 relieve the offender of the duty to register or to reregister following  
27 a change in residence, or if the person is not a resident of  
28 Washington, the county of the person's school, or place of employment  
29 or vocation. The obligation to register shall only cease pursuant to  
30 RCW 9A.44.140.

31 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders  
32 who are convicted of a sex offense on or after July 28, 1991, for a sex  
33 offense that was committed on or after February 28, 1990, and  
34 kidnapping offenders who are convicted on or after July 27, 1997, for  
35 a kidnapping offense that was committed on or after July 27, 1997, but  
36 who are not sentenced to serve a term of confinement immediately upon  
37 sentencing, shall report to the county sheriff to register immediately  
38 upon completion of being sentenced.

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

24 When an offender registers under this subsection (4)(a)(v), the  
25 county sheriff shall provide written notice to the offender that he or  
26 she is subject to Washington law for any new felony he or she commits  
27 within the state. The county sheriff shall require that the offender  
28 sign the notice and shall retain the signed copy of the notice as  
29 verification that the offender has received it. The county sheriff  
30 shall give a copy of the signed notice to the offender for his or her  
31 retention. The fact that an offender has or has not received the  
32 notice required under this subsection does not prohibit, or in any way  
33 limit, the ability of Washington or any other jurisdiction to prosecute  
34 the offender for any crimes committed in this state. The notice must  
35 be in at least ten point type and must be in substantially the  
36 following form:

37 **NOTICE**

38 AS A NEW OR RETURNING RESIDENT OF WASHINGTON STATE, YOU ARE

1        SUBJECT TO WASHINGTON LAW FOR ANY NEW FELONY YOU COMMIT WITHIN  
2        THE STATE. ANY PRIOR CONVICTIONS YOU HAVE FROM OTHER  
3        JURISDICTIONS MAY AFFECT THE MANNER IN WHICH YOU ARE SENTENCED  
4        IN WASHINGTON. FOR EXAMPLE, YOUR SENTENCE FOR A NEW FELONY  
5        COMMITTED IN WASHINGTON COULD BE LIFE WITHOUT THE POSSIBILITY  
6        OF PAROLE IF YOUR CRIMINAL HISTORY INCLUDES A CONVICTION FROM  
7        WASHINGTON OR ANY OTHER JURISDICTION THAT WOULD BE CONSIDERED  
8        A "STRIKE" UNDER WASHINGTON'S PERSISTENT OFFENDER LAW. A LIST  
9        OF STRIKE OFFENSES MAY BE FOUND IN THE DEFINITION OF  
10       "PERSISTENT OFFENDER" IN RCW 9.94A.030.

11       SIGNATURE:

12       (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult  
13       or juvenile who has been found not guilty by reason of insanity under  
14       chapter 10.77 RCW of (A) committing a sex offense on, before, or after  
15       February 28, 1990, and who, on or after July 23, 1995, is in custody,  
16       as a result of that finding, of the state department of social and  
17       health services, or (B) committing a kidnapping offense on, before, or  
18       after July 27, 1997, and who on or after July 27, 1997, is in custody,  
19       as a result of that finding, of the state department of social and  
20       health services, must register within twenty-four hours from the time  
21       of release with the county sheriff for the county of the person's  
22       residence. The state department of social and health services shall  
23       provide notice to the adult or juvenile in its custody of the duty to  
24       register. Any adult or juvenile who has been found not guilty by  
25       reason of insanity of committing a sex offense on, before, or after  
26       February 28, 1990, but who was released before July 23, 1995, or any  
27       adult or juvenile who has been found not guilty by reason of insanity  
28       of committing a kidnapping offense but who was released before July 27,  
29       1997, shall be required to register within twenty-four hours of  
30       receiving notice of this registration requirement. The state  
31       department of social and health services shall make reasonable attempts  
32       within available resources to notify sex offenders who were released  
33       before July 23, 1995, and kidnapping offenders who were released before  
34       July 27, 1997. Failure to register within twenty-four hours of  
35       release, or of receiving notice, constitutes a violation of this  
36       section and is punishable as provided in subsection (10) of this  
37       section.

1 (vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks  
2 a fixed residence and leaves the county in which he or she is  
3 registered and enters and remains within a new county for twenty-four  
4 hours is required to register with the county sheriff not more than  
5 twenty-four hours after entering the county and provide the information  
6 required in subsection (3)(b) of this section.

7 (viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER  
8 SUPERVISION. Offenders who lack a fixed residence and who are under  
9 the supervision of the department shall register in the county of their  
10 supervision.

11 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND  
12 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,  
13 who move to another state, or who work, carry on a vocation, or attend  
14 school in another state shall register a new address, fingerprints, and  
15 photograph with the new state within ten days after establishing  
16 residence, or after beginning to work, carry on a vocation, or attend  
17 school in the new state. The person must also send written notice  
18 within ten days of moving to the new state or to a foreign country to  
19 the county sheriff with whom the person last registered in Washington  
20 state. The county sheriff shall promptly forward this information to  
21 the Washington state patrol.

22 (b) Failure to register within the time required under this section  
23 constitutes a per se violation of this section and is punishable as  
24 provided in subsection (10) of this section. The county sheriff shall  
25 not be required to determine whether the person is living within the  
26 county.

27 (c) An arrest on charges of failure to register, service of an  
28 information, or a complaint for a violation of this section, or  
29 arraignment on charges for a violation of this section, constitutes  
30 actual notice of the duty to register. Any person charged with the  
31 crime of failure to register under this section who asserts as a  
32 defense the lack of notice of the duty to register shall register  
33 immediately following actual notice of the duty through arrest,  
34 service, or arraignment. Failure to register as required under this  
35 subsection (4)(c) constitutes grounds for filing another charge of  
36 failing to register. Registering following arrest, service, or  
37 arraignment on charges shall not relieve the offender from criminal



1 liability for failure to register prior to the filing of the original  
2 charge.

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

6 (5)(a) If any person required to register pursuant to this section  
7 changes his or her residence address within the same county, the person  
8 must send written notice of the change of address to the county sheriff  
9 within seventy-two hours of moving. If any person required to register  
10 pursuant to this section moves to a new county, the person must send  
11 written notice of the change of address at least fourteen days before  
12 moving to the county sheriff in the new county of residence and must  
13 register with that county sheriff within twenty-four hours of moving.  
14 The person must also send written notice within ten days of the change  
15 of address in the new county to the county sheriff with whom the person  
16 last registered. The county sheriff with whom the person last  
17 registered shall promptly forward the information concerning the change  
18 of address to the county sheriff for the county of the person's new  
19 residence. Upon receipt of notice of change of address to a new state,  
20 the county sheriff shall promptly forward the information regarding the  
21 change of address to the agency designated by the new state as the  
22 state's offender registration agency.

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

31 (6)(a) Any person required to register under this section who lacks  
32 a fixed residence shall provide written notice to the sheriff of the  
33 county where he or she last registered within forty-eight hours  
34 excluding weekends and holidays after ceasing to have a fixed  
35 residence. The notice shall include the information required by  
36 subsection (3)(b) of this section, except the photograph and  
37 fingerprints. The county sheriff may, for reasonable cause, require  
38 the offender to provide a photograph and fingerprints. The sheriff

1 shall forward this information to the sheriff of the county in which  
2 the person intends to reside, if the person intends to reside in  
3 another county.

4 (b) A person who lacks a fixed residence must report weekly, in  
5 person, to the sheriff of the county where he or she is registered.  
6 The weekly report shall be on a day specified by the county sheriff's  
7 office, and shall occur during normal business hours. The county  
8 sheriff's office may require the person to list the locations where the  
9 person has stayed during the last seven days. The lack of a fixed  
10 residence is a factor that may be considered in determining an  
11 offender's risk level and shall make the offender subject to disclosure  
12 of information to the public at large pursuant to RCW 4.24.550.

13 (c) If any person required to register pursuant to this section  
14 does not have a fixed residence, it is an affirmative defense to the  
15 charge of failure to register, that he or she provided written notice  
16 to the sheriff of the county where he or she last registered within  
17 forty-eight hours excluding weekends and holidays after ceasing to have  
18 a fixed residence and has subsequently complied with the requirements  
19 of subsections (4)(a)(vii) or (viii) and (6) of this section. To  
20 prevail, the person must prove the defense by a preponderance of the  
21 evidence.

22 (7) A sex offender subject to registration requirements under this  
23 section who applies to change his or her name under RCW 4.24.130 or any  
24 other law shall submit a copy of the application to the county sheriff  
25 of the county of the person's residence and to the state patrol not  
26 fewer than five days before the entry of an order granting the name  
27 change. No sex offender under the requirement to register under this  
28 section at the time of application shall be granted an order changing  
29 his or her name if the court finds that doing so will interfere with  
30 legitimate law enforcement interests, except that no order shall be  
31 denied when the name change is requested for religious or legitimate  
32 cultural reasons or in recognition of marriage or dissolution of  
33 marriage. A sex offender under the requirement to register under this  
34 section who receives an order changing his or her name shall submit a  
35 copy of the order to the county sheriff of the county of the person's  
36 residence and to the state patrol within five days of the entry of the  
37 order.

1 (8) The county sheriff shall obtain a photograph of the individual  
2 and shall obtain a copy of the individual's fingerprints.

3 (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,  
4 70.48.470, and 72.09.330:

5 (a) "Sex offense" means:

6 (i) Any offense defined as a sex offense by RCW 9.94A.030;

7 (ii) Any violation under RCW 9A.44.096 (sexual misconduct with a  
8 minor in the second degree);

9 (iii) Any violation under RCW 9.68A.090 (communication with a minor  
10 for immoral purposes);

11 (iv) Any federal or out-of-state conviction for an offense that  
12 under the laws of this state would be classified as a sex offense under  
13 this subsection; and

14 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a  
15 criminal attempt, criminal solicitation, or criminal conspiracy to  
16 commit an offense that is classified as a sex offense under RCW  
17 9.94A.030 or this subsection.

18 (b) "Kidnapping offense" means: (i) The crimes of kidnapping in  
19 the first degree, kidnapping in the second degree, and unlawful  
20 imprisonment, as defined in chapter 9A.40 RCW, where the victim is a  
21 minor and the offender is not the minor's parent; (ii) any offense that  
22 is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation,  
23 or criminal conspiracy to commit an offense that is classified as a  
24 kidnapping offense under this subsection (9)(b); and (iii) any federal  
25 or out-of-state conviction for an offense that under the laws of this  
26 state would be classified as a kidnapping offense under this subsection  
27 (9)(b).

28 (c) "Employed" or "carries on a vocation" means employment that is  
29 full-time or part-time for a period of time exceeding fourteen days, or  
30 for an aggregate period of time exceeding thirty days during any  
31 calendar year. A person is employed or carries on a vocation whether  
32 the person's employment is financially compensated, volunteered, or for  
33 the purpose of government or educational benefit.

34 (d) "Student" means a person who is enrolled, on a full-time or  
35 part-time basis, in any public or private educational institution. An  
36 educational institution includes any secondary school, trade or  
37 professional institution, or institution of higher education.

1 (10)(a) A person who knowingly fails to register with the county  
2 sheriff or notify the county sheriff, or who changes his or her name  
3 without notifying the county sheriff and the state patrol, as required  
4 by this section is guilty of a class C felony if the crime for which  
5 the individual was convicted was a felony sex offense as defined in  
6 subsection (9)(a) of this section or a federal or out-of-state  
7 conviction for an offense that under the laws of this state would be a  
8 felony sex offense as defined in subsection (9)(a) of this section.

9 (b) If the crime for which the individual was convicted was other  
10 than a felony or a federal or out-of-state conviction for an offense  
11 that under the laws of this state would be other than a felony,  
12 violation of this section is a gross misdemeanor.

13 (11)(a) A person who knowingly fails to register or who moves  
14 within the state without notifying the county sheriff as required by  
15 this section is guilty of a class C felony if the crime for which the  
16 individual was convicted was a felony kidnapping offense as defined in  
17 subsection (9)(b) of this section or a federal or out-of-state  
18 conviction for an offense that under the laws of this state would be a  
19 felony kidnapping offense as defined in subsection (9)(b) of this  
20 section.

21 (b) If the crime for which the individual was convicted was other  
22 than a felony or a federal or out-of-state conviction for an offense  
23 that under the laws of this state would be other than a felony,  
24 violation of this section is a gross misdemeanor.

25 (12) Except as may otherwise be provided by law, nothing in this  
26 section shall impose any liability upon a peace officer, including a  
27 county sheriff, or law enforcement agency, for failing to release  
28 information authorized under this section.

29 NEW SECTION. **Sec. 3.** This act takes effect September 1, 2006."

--- END ---