

HB 2409 - S AMD
By Senator

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

3 "Sec. 1. RCW 9A.44.130 and 2003 c 215 s 1 and 2003 c 53 s 68 are
4 each reenacted and amended to read as follows:

5 (1) Any adult or juvenile residing whether or not the person has a
6 fixed residence, or who is a student, is employed, or carries on a
7 vocation in this state who has been found to have committed or has been
8 convicted of any sex offense or kidnapping offense, or who has been
9 found not guilty by reason of insanity under chapter 10.77 RCW of
10 committing any sex offense or kidnapping offense, shall register with
11 the county sheriff for the county of the person's residence, or if the
12 person is not a resident of Washington, the county of the person's
13 school, or place of employment or vocation, or as otherwise specified
14 in this section. Where a person required to register under this
15 section is in custody of the state department of corrections, the state
16 department of social and health services, a local division of youth
17 services, or a local jail or juvenile detention facility as a result of
18 a sex offense or kidnapping offense, the person shall also register at
19 the time of release from custody with an official designated by the
20 agency that has jurisdiction over the person. In addition, any such
21 adult or juvenile: (a) Who is admitted to a public or private
22 institution of higher education shall, within ten days of enrolling or
23 by the first business day after arriving at the institution, whichever
24 is earlier, notify the sheriff for the county of the person's residence
25 of the person's intent to attend the institution; (b) who gains
26 employment at a public or private institution of higher education
27 shall, within ten days of accepting employment or by the first business
28 day after commencing work at the institution, whichever is earlier,
29 notify the sheriff for the county of the person's residence of the
30 person's employment by the institution; or (c) whose enrollment or

1 employment at a public or private institution of higher education is
2 terminated shall, within ten days of such termination, notify the
3 sheriff for the county of the person's residence of the person's
4 termination of enrollment or employment at the institution. Persons
5 required to register under this section who are enrolled in a public or
6 private institution of higher education on June 11, 1998, must notify
7 the county sheriff immediately. The sheriff shall notify the
8 institution's department of public safety and shall provide that
9 department with the same information provided to a county sheriff under
10 subsection (3) of this section.

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

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

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

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

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

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

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

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

1 28, 1991, or a kidnapping offender required to register as of July 27,
2 1997, shall not relieve the offender of the duty to register or to
3 reregister following a change in residence. The obligation to register
4 shall only cease pursuant to RCW 9A.44.140.

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

32 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
33 who are convicted of a sex offense on or after July 28, 1991, for a sex
34 offense that was committed on or after February 28, 1990, and
35 kidnapping offenders who are convicted on or after July 27, 1997, for
36 a kidnapping offense that was committed on or after July 27, 1997, but
37 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~~) three business days of establishing residence or
10 reestablishing residence if the person is a former Washington resident.
11 The duty to register under this subsection applies to sex offenders
12 convicted under the laws of another state or a foreign country, federal
13 or military statutes, or Washington state for offenses committed on or
14 after February 28, 1990, and to kidnapping offenders convicted under
15 the laws of another state or a foreign country, federal or military
16 statutes, or Washington state for offenses committed on or after July
17 27, 1997. Sex offenders and kidnapping offenders from other states or
18 a foreign country who, when they move to Washington, are under the
19 jurisdiction of the department of corrections, the indeterminate
20 sentence review board, or the department of social and health services
21 must register within twenty-four hours of moving to Washington. The
22 agency that has jurisdiction over the offender shall notify the
23 offender of the registration requirements before the offender moves to
24 Washington.

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

1 February 28, 1990, but who was released before July 23, 1995, or any
2 adult or juvenile who has been found not guilty by reason of insanity
3 of committing a kidnapping offense but who was released before July 27,
4 1997, shall be required to register within twenty-four hours of
5 receiving notice of this registration requirement. The state
6 department of social and health services shall make reasonable attempts
7 within available resources to notify sex offenders who were released
8 before July 23, 1995, and kidnapping offenders who were released before
9 July 27, 1997. Failure to register within twenty-four hours of
10 release, or of receiving notice, constitutes a violation of this
11 section and is punishable as provided in subsection (10) of this
12 section.

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

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

23 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND
24 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,
25 who move to another state, or who work, carry on a vocation, or attend
26 school in another state shall register a new address, fingerprints, and
27 photograph with the new state within ten days after establishing
28 residence, or after beginning to work, carry on a vocation, or attend
29 school in the new state. The person must also send written notice
30 within ten days of moving to the new state or to a foreign country to
31 the county sheriff with whom the person last registered in Washington
32 state. The county sheriff shall promptly forward this information to
33 the Washington state patrol.

34 (b) Failure to register within the time required under this section
35 constitutes a per se violation of this section and is punishable as
36 provided in subsection (10) of this section. The county sheriff shall
37 not be required to determine whether the person is living within the
38 county.

1 (c) An arrest on charges of failure to register, service of an
2 information, or a complaint for a violation of this section, or
3 arraignment on charges for a violation of this section, constitutes
4 actual notice of the duty to register. Any person charged with the
5 crime of failure to register under this section who asserts as a
6 defense the lack of notice of the duty to register shall register
7 immediately following actual notice of the duty through arrest,
8 service, or arraignment. Failure to register as required under this
9 subsection (4)(c) constitutes grounds for filing another charge of
10 failing to register. Registering following arrest, service, or
11 arraignment on charges shall not relieve the offender from criminal
12 liability for failure to register prior to the filing of the original
13 charge.

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

17 (5)(a) If any person required to register pursuant to this section
18 changes his or her residence address within the same county, the person
19 must send signed written notice of the change of address to the county
20 sheriff within seventy-two hours of moving. If any person required to
21 register pursuant to this section moves to a new county, the person
22 must send signed written notice of the change of address at least
23 fourteen days before moving to the county sheriff in the new county of
24 residence and must register with that county sheriff within twenty-four
25 hours of moving. The person must also send signed written notice
26 within ten days of the change of address in the new county to the
27 county sheriff with whom the person last registered. The county
28 sheriff with whom the person last registered shall promptly forward the
29 information concerning the change of address to the county sheriff for
30 the county of the person's new residence. Upon receipt of notice of
31 change of address to a new state, the county sheriff shall promptly
32 forward the information regarding the change of address to the agency
33 designated by the new state as the state's offender registration
34 agency.

35 (b) It is an affirmative defense to a charge that the person failed
36 to send a notice at least fourteen days in advance of moving as
37 required under (a) of this subsection that the person did not know the
38 location of his or her new residence at least fourteen days before

1 moving. The defendant must establish the defense by a preponderance of
2 the evidence and, to prevail on the defense, must also prove by a
3 preponderance that the defendant sent the required notice within
4 twenty-four hours of determining the new address.

5 (6)(a) Any person required to register under this section who lacks
6 a fixed residence shall provide signed written notice to the sheriff of
7 the county where he or she last registered within forty-eight hours
8 excluding weekends and holidays after ceasing to have a fixed
9 residence. The notice shall include the information required by
10 subsection (3)(b) of this section, except the photograph and
11 fingerprints. The county sheriff may, for reasonable cause, require
12 the offender to provide a photograph and fingerprints. The sheriff
13 shall forward this information to the sheriff of the county in which
14 the person intends to reside, if the person intends to reside in
15 another county.

16 (b) A person who lacks a fixed residence must report weekly, in
17 person, to the sheriff of the county where he or she is registered.
18 The weekly report shall be on a day specified by the county sheriff's
19 office, and shall occur during normal business hours. The county
20 sheriff's office may require the person to list the locations where the
21 person has stayed during the last seven days. The lack of a fixed
22 residence is a factor that may be considered in determining an
23 offender's risk level and shall make the offender subject to disclosure
24 of information to the public at large pursuant to RCW 4.24.550.

25 (c) If any person required to register pursuant to this section
26 does not have a fixed residence, it is an affirmative defense to the
27 charge of failure to register, that he or she provided written notice
28 to the sheriff of the county where he or she last registered within
29 forty-eight hours excluding weekends and holidays after ceasing to have
30 a fixed residence and has subsequently complied with the requirements
31 of subsections (4)(a)(vii) or (viii) and (6) of this section. To
32 prevail, the person must prove the defense by a preponderance of the
33 evidence.

34 (7) A sex offender subject to registration requirements under this
35 section who applies to change his or her name under RCW 4.24.130 or any
36 other law shall submit a copy of the application to the county sheriff
37 of the county of the person's residence and to the state patrol not
38 fewer than five days before the entry of an order granting the name

1 change. No sex offender under the requirement to register under this
2 section at the time of application shall be granted an order changing
3 his or her name if the court finds that doing so will interfere with
4 legitimate law enforcement interests, except that no order shall be
5 denied when the name change is requested for religious or legitimate
6 cultural reasons or in recognition of marriage or dissolution of
7 marriage. A sex offender under the requirement to register under this
8 section who receives an order changing his or her name shall submit a
9 copy of the order to the county sheriff of the county of the person's
10 residence and to the state patrol within five days of the entry of the
11 order.

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

14 (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
15 70.48.470, and 72.09.330:

16 (a) "Sex offense" means:

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

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

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

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

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

29 (b) "Kidnapping offense" means: (i) The crimes of kidnapping in
30 the first degree, kidnapping in the second degree, and unlawful
31 imprisonment, as defined in chapter 9A.40 RCW, where the victim is a
32 minor and the offender is not the minor's parent; (ii) any offense that
33 is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation,
34 or criminal conspiracy to commit an offense that is classified as a
35 kidnapping offense under this subsection (9)(b); and (iii) any federal
36 or out-of-state conviction for an offense that under the laws of this
37 state would be classified as a kidnapping offense under this subsection
38 (9)(b).

1 (c) "Employed" or "carries on a vocation" means employment that is
2 full-time or part-time for a period of time exceeding fourteen days, or
3 for an aggregate period of time exceeding thirty days during any
4 calendar year. A person is employed or carries on a vocation whether
5 the person's employment is financially compensated, volunteered, or for
6 the purpose of government or educational benefit.

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

11 (10)(a) A person who knowingly fails to (~~register with the county~~
12 ~~sheriff or notify the county sheriff, or who changes his or her name~~
13 ~~without notifying the county sheriff and the state patrol, as required~~
14 ~~by~~) comply with any of the requirements of this section is guilty of
15 a class C felony if the crime for which the individual was convicted
16 was a felony sex offense as defined in subsection (9)(a) of this
17 section or a federal or out-of-state conviction for an offense that
18 under the laws of this state would be a felony sex offense as defined
19 in subsection (9)(a) of this section.

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

24 (11)(a) A person who knowingly fails to (~~register or who moves~~
25 ~~within the state without notifying the county sheriff as required by~~)
26 comply with any of the requirements of this section is guilty of a
27 class C felony if the crime for which the individual was convicted was
28 a felony kidnapping offense as defined in subsection (9)(b) of this
29 section or a federal or out-of-state conviction for an offense that
30 under the laws of this state would be a felony kidnapping offense as
31 defined in subsection (9)(b) of this section.

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

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

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

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

19 (i) Who is attending, or planning to attend, a public or private
20 school regulated under Title 28A RCW or chapter 72.40 RCW shall, within
21 ten days of enrolling or prior to arriving at the school to attend
22 classes, whichever is earlier, notify the sheriff for the county of the
23 person's residence of the person's intent to attend the school, and the
24 sheriff shall promptly notify the principal of the school;

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

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

35 (iv) Whose enrollment or employment at a public or private
36 institution of higher education is terminated shall, within ten days of
37 such termination, notify the sheriff for the county of the person's

1 residence of the person's termination of enrollment or employment at
2 the institution.

3 (c) Persons required to register under this section who are
4 enrolled in a public or private institution of higher education on June
5 11, 1998, or a public or private school regulated under Title 28A RCW
6 or chapter 72.40 RCW on September 1, 2006, must notify the county
7 sheriff immediately.

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

12 (e)(i) A principal receiving notice under this subsection must
13 disclose the information received from the sheriff under (b) of this
14 subsection as follows:

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

21 (B) If the student who is required to register as a sex offender is
22 classified as a risk level I, the principal shall provide the
23 information received only to personnel who, in the judgment of the
24 principal, for security purposes should be aware of the student's
25 record.

26 (ii) Any information received by a principal or school personnel
27 under this subsection is confidential and may not be further
28 disseminated except as provided in RCW 28A.225.330, other statutes or
29 case law, and the family and educational and privacy rights act of
30 1994, 20 U.S.C. Sec. 1232g et seq.

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

34 (3)(a) The person shall provide the following information when
35 registering: (i) Name; (ii) complete residential address; (iii) date
36 and place of birth; (iv) place of employment; (v) crime for which
37 convicted; (vi) date and place of conviction; (vii) aliases used;
38 (viii) social security number; (ix) photograph; and (x) fingerprints.

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

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

11 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
12 offense on, before, or after February 28, 1990, and who, on or after
13 July 28, 1991, are in custody, as a result of that offense, of the
14 state department of corrections, the state department of social and
15 health services, a local division of youth services, or a local jail or
16 juvenile detention facility, and (B) kidnapping offenders who on or
17 after July 27, 1997, are in custody of the state department of
18 corrections, the state department of social and health services, a
19 local division of youth services, or a local jail or juvenile detention
20 facility, must register at the time of release from custody with an
21 official designated by the agency that has jurisdiction over the
22 offender. The agency shall within three days forward the registration
23 information to the county sheriff for the county of the offender's
24 anticipated residence. The offender must also register within twenty-
25 four hours from the time of release with the county sheriff for the
26 county of the person's residence, or if the person is not a resident of
27 Washington, the county of the person's school, or place of employment
28 or vocation. The agency that has jurisdiction over the offender shall
29 provide notice to the offender of the duty to register. Failure to
30 register at the time of release and within twenty-four hours of release
31 constitutes a violation of this section and is punishable as provided
32 in subsection (10) of this section.

33 When the agency with jurisdiction intends to release an offender
34 with a duty to register under this section, and the agency has
35 knowledge that the offender is eligible for developmental disability
36 services from the department of social and health services, the agency
37 shall notify the division of developmental disabilities of the release.
38 Notice shall occur not more than thirty days before the offender is to

1 be released. The agency and the division shall assist the offender in
2 meeting the initial registration requirement under this section.
3 Failure to provide such assistance shall not constitute a defense for
4 any violation of this section.

5 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
6 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
7 but are under the jurisdiction of the indeterminate sentence review
8 board or under the department of corrections' active supervision, as
9 defined by the department of corrections, the state department of
10 social and health services, or a local division of youth services, for
11 sex offenses committed before, on, or after February 28, 1990, must
12 register within ten days of July 28, 1991. Kidnapping offenders who,
13 on July 27, 1997, are not in custody but are under the jurisdiction of
14 the indeterminate sentence review board or under the department of
15 corrections' active supervision, as defined by the department of
16 corrections, the state department of social and health services, or a
17 local division of youth services, for kidnapping offenses committed
18 before, on, or after July 27, 1997, must register within ten days of
19 July 27, 1997. A change in supervision status of a sex offender who
20 was required to register under this subsection (4)(a)(ii) as of July
21 28, 1991, or a kidnapping offender required to register as of July 27,
22 1997, shall not relieve the offender of the duty to register or to
23 reregister following a change in residence. The obligation to register
24 shall only cease pursuant to RCW 9A.44.140.

25 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
26 or after July 23, 1995, and kidnapping offenders who, on or after July
27 27, 1997, as a result of that offense are in the custody of the United
28 States bureau of prisons or other federal or military correctional
29 agency for sex offenses committed before, on, or after February 28,
30 1990, or kidnapping offenses committed on, before, or after July 27,
31 1997, must register within twenty-four hours from the time of release
32 with the county sheriff for the county of the person's residence, or if
33 the person is not a resident of Washington, the county of the person's
34 school, or place of employment or vocation. Sex offenders who, on July
35 23, 1995, are not in custody but are under the jurisdiction of the
36 United States bureau of prisons, United States courts, United States
37 parole commission, or military parole board for sex offenses committed
38 before, on, or after February 28, 1990, must register within ten days

1 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not
2 in custody but are under the jurisdiction of the United States bureau
3 of prisons, United States courts, United States parole commission, or
4 military parole board for kidnapping offenses committed before, on, or
5 after July 27, 1997, must register within ten days of July 27, 1997.
6 A change in supervision status of a sex offender who was required to
7 register under this subsection (4)(a)(iii) as of July 23, 1995, or a
8 kidnapping offender required to register as of July 27, 1997 shall not
9 relieve the offender of the duty to register or to reregister following
10 a change in residence, or if the person is not a resident of
11 Washington, the county of the person's school, or place of employment
12 or vocation. The obligation to register shall only cease pursuant to
13 RCW 9A.44.140.

14 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
15 who are convicted of a sex offense on or after July 28, 1991, for a sex
16 offense that was committed on or after February 28, 1990, and
17 kidnapping offenders who are convicted on or after July 27, 1997, for
18 a kidnapping offense that was committed on or after July 27, 1997, but
19 who are not sentenced to serve a term of confinement immediately upon
20 sentencing, shall report to the county sheriff to register immediately
21 upon completion of being sentenced.

22 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
23 RESIDENTS. Sex offenders and kidnapping offenders who move to
24 Washington state from another state or a foreign country that are not
25 under the jurisdiction of the state department of corrections, the
26 indeterminate sentence review board, or the state department of social
27 and health services at the time of moving to Washington, must register
28 within (~~thirty~~) three business days of establishing residence or
29 reestablishing residence if the person is a former Washington resident.
30 The duty to register under this subsection applies to sex offenders
31 convicted under the laws of another state or a foreign country, federal
32 or military statutes, or Washington state for offenses committed on or
33 after February 28, 1990, and to kidnapping offenders convicted under
34 the laws of another state or a foreign country, federal or military
35 statutes, or Washington state for offenses committed on or after July
36 27, 1997. Sex offenders and kidnapping offenders from other states or
37 a foreign country who, when they move to Washington, are under the
38 jurisdiction of the department of corrections, the indeterminate

1 sentence review board, or the department of social and health services
2 must register within twenty-four hours of moving to Washington. The
3 agency that has jurisdiction over the offender shall notify the
4 offender of the registration requirements before the offender moves to
5 Washington.

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

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

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

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

16 (b) Failure to register within the time required under this section
17 constitutes a per se violation of this section and is punishable as
18 provided in subsection (10) of this section. The county sheriff shall
19 not be required to determine whether the person is living within the
20 county.

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

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

37 (5)(a) If any person required to register pursuant to this section
38 changes his or her residence address within the same county, the person

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

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

25 (6)(a) Any person required to register under this section who lacks
26 a fixed residence shall provide signed written notice to the sheriff of
27 the county where he or she last registered within forty-eight hours
28 excluding weekends and holidays after ceasing to have a fixed
29 residence. The notice shall include the information required by
30 subsection (3)(b) of this section, except the photograph and
31 fingerprints. The county sheriff may, for reasonable cause, require
32 the offender to provide a photograph and fingerprints. The sheriff
33 shall forward this information to the sheriff of the county in which
34 the person intends to reside, if the person intends to reside in
35 another county.

36 (b) A person who lacks a fixed residence must report weekly, in
37 person, to the sheriff of the county where he or she is registered.
38 The weekly report shall be on a day specified by the county sheriff's

1 office, and shall occur during normal business hours. The county
2 sheriff's office may require the person to list the locations where the
3 person has stayed during the last seven days. The lack of a fixed
4 residence is a factor that may be considered in determining an
5 offender's risk level and shall make the offender subject to disclosure
6 of information to the public at large pursuant to RCW 4.24.550.

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

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

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

34 (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
35 70.48.470, and 72.09.330:

36 (a) "Sex offense" means:

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

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

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

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

8 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
9 criminal attempt, criminal solicitation, or criminal conspiracy to
10 commit an offense that is classified as a sex offense under RCW
11 9.94A.030 or this subsection.

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

22 (c) "Employed" or "carries on a vocation" means employment that is
23 full-time or part-time for a period of time exceeding fourteen days, or
24 for an aggregate period of time exceeding thirty days during any
25 calendar year. A person is employed or carries on a vocation whether
26 the person's employment is financially compensated, volunteered, or for
27 the purpose of government or educational benefit.

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

32 (10)(a) A person who knowingly fails to (~~register with the county~~
33 ~~sheriff or notify the county sheriff, or who changes his or her name~~
34 ~~without notifying the county sheriff and the state patrol, as required~~
35 ~~by~~) comply with any of the requirements of this section is guilty of
36 a class C felony if the crime for which the individual was convicted
37 was a felony sex offense as defined in subsection (9)(a) of this

1 section or a federal or out-of-state conviction for an offense that
2 under the laws of this state would be a felony sex offense as defined
3 in subsection (9)(a) of this section.

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

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

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

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

24 **Sec. 3.** 2006 c ... (SSB 6775) s 1 (uncodified) is amended to read
25 as follows:

26 It is the intent of the legislature to give public and private
27 entities that provide services to children the tools necessary to
28 prevent convicted child sex offenders from contacting children when
29 those children are within the legal (~~boundaries~~) premises of the
30 covered public and private entities.

31 **Sec. 4.** RCW 9A.44.--- and 2006 c ... (SSB 6775) s 2 are each
32 amended to read as follows:

33 As used in this section and RCW 9A.44.--- and 9A.44.--- (sections
34 3 and 4, chapter ... (SSB 6775), Laws of 2006):

35 (1) "Covered entity" means any public facility or private facility
36 whose primary purpose, at any time, is to provide for the education,

1 care, or recreation of a child or children, including but not limited
2 to community and recreational centers, playgrounds, schools, swimming
3 pools, and state or municipal parks.

4 (2) "Child" means a person under the age of eighteen, unless the
5 context clearly indicates that the term is otherwise defined in
6 statute.

7 (3) "Public facility" means a facility operated by a unit of local
8 or state government, or by a nonprofit organization.

9 (4) "Schools" means public and private schools, but does not
10 include home-based instruction as defined in RCW 28A.225.010.

11 (5) "Covered offender" means a person required to register under
12 RCW 9A.44.130 who is eighteen years of age or older, who is not under
13 the jurisdiction of the juvenile rehabilitation authority or currently
14 serving a special sex offender disposition alternative, whose risk
15 level classification has been assessed at a risk level II or a risk
16 level III pursuant to RCW 72.09.345, and who, at any time, has been
17 convicted of one or more of the following offenses:

18 (a) Rape of a child in the first, second, and third degree; child
19 molestation in the first, second, and third degree; indecent liberties
20 against a child under age fifteen; sexual misconduct with a minor in
21 the first and second degree; incest in the first and second degree;
22 luring with sexual motivation; possession of depictions of minors
23 engaged in sexually explicit conduct; dealing in depictions of minors
24 engaged in sexually explicit conduct; bringing into the state
25 depictions of minors engaged in sexually explicit conduct; sexual
26 exploitation of a minor; communicating with a minor for immoral
27 purposes; patronizing a juvenile prostitute;

28 (b) Any felony in effect at any time prior to the effective date of
29 this act that is comparable to an offense listed in (a) of this
30 subsection, including, but not limited to, statutory rape in the first
31 and second degrees and carnal knowledge;

32 (c) Any felony offense for which:

33 (i) There was a finding that the offense was committed with sexual
34 motivation; and

35 (ii) The victim of the offense was less than sixteen years of age
36 at the time of the offense;

37 (d) An attempt, conspiracy, or solicitation to commit any of the
38 offenses listed in (a) through (c) of this subsection;

1 (e) Any conviction from any other jurisdiction which is comparable
2 to any of the offenses listed in (a) through (d) of this subsection.

3 **Sec. 5.** RCW 9A.44.--- and 2006 c ... (SSB 6775) s 3 are each
4 amended to read as follows:

5 (1) An owner, (~~employee, or agent~~) manager, or operator of a
6 covered entity may order a covered offender from the legal premises of
7 a covered entity as provided under this section. To do this, the
8 owner, (~~employee, or agent~~) manager, or operator of a covered entity
9 must first (~~personally serve on~~) provide the covered offender, or
10 cause the covered offender to be provided, personal service of a
11 written notice that informs the covered offender that:

12 (a) The covered offender must leave the legal premises of the
13 covered entity and may not return without the written permission of the
14 covered entity; and

15 (b) If the covered offender refuses to leave the legal
16 (~~boundaries~~) premises of the covered entity, or thereafter returns
17 and enters within the legal (~~boundaries~~) premises of the covered
18 entity without written permission, the offender may be charged and
19 prosecuted for a felony offense as provided in RCW 9A.44.--- (section
20 4, chapter ... (SSB 6775), Laws of 2006).

21 (2) A covered entity may give written permission of entry and use
22 to a covered offender to enter and remain on the legal premises of the
23 covered entity at particular times and for lawful purposes, including,
24 but not limited to, conducting business, voting, or participating in
25 educational or recreational activities. Any written permission of
26 entry and use of the legal premises of a covered entity must be clearly
27 stated in a written document and must be personally served on the
28 covered offender. If the covered offender violates the conditions of
29 entry and use contained in a written document personally served on the
30 offender by the covered entity, the covered offender may be charged and
31 prosecuted for a felony offense as provided in RCW 9A.44.--- (section
32 4, chapter ... (SSB 6775), Laws of 2006).

33 (3) An owner, employee, or agent of a covered entity shall be
34 immune from civil liability for damages arising from (~~ejecting a~~
35 ~~covered offender from a covered entity or from failing to eject a~~
36 ~~covered offender from a covered entity~~) excluding or failing to

1 exclude a covered offender from a covered entity or from imposing or
2 failing to impose conditions of entry and use on a covered offender.

3 (4) A person provided with written notice from a covered entity
4 under this section may file a petition with the district court alleging
5 that he or she does not meet the definition of "covered offender" in
6 RCW 9A.44.--- (section 2, chapter ... (SSB 6775), Laws of 2006). The
7 district court must conduct a hearing on the petition within thirty
8 days of the petition being filed. In the hearing on the petition, the
9 person has the burden of proving that he or she is not a covered
10 offender. If the court finds, by a preponderance of the evidence, that
11 the person is not a covered offender, the court shall order the covered
12 entity to rescind the written notice and shall order the covered entity
13 to pay the person's costs and reasonable attorneys' fees.

14 **Sec. 6.** RCW 9A.44.--- and 2006 c ... (SSB 6775) s 4 are each
15 amended to read as follows:

16 (1) A person is guilty of the crime of criminal trespass against
17 children if he or she:

18 (a) Is a covered offender as defined in RCW 9A.44.--- (section 2,
19 chapter ... (SSB 6775), Laws of 2006); and

20 ~~(b) ((Receives written notice that complies with the requirements~~
21 ~~of section 3 of this act that he or she is not permitted to remain upon~~
22 ~~or reenter the legal boundaries of the covered entity; and~~

23 ~~(c) Remains upon or reenters the legal boundaries of the covered~~
24 ~~entity without the written permission of the covered entity)) (i) Is~~
25 personally served with written notice complying with the requirements
26 of RCW 9A.44.--- (section 3, chapter ... (SSB 6775), Laws of 2006) that
27 excludes the covered offender from the legal premises of the covered
28 entity and remains upon or reenters the legal premises of the covered
29 entity; or

30 (ii) Is personally served with written notice complying with the
31 requirements of RCW 9A.44.--- (section 3, chapter ... (SSB 6775), Laws
32 of 2006) that imposes conditions of entry and use on the covered
33 offender and violates the conditions of entry and use.

34 (2) Criminal trespass against children is a class C felony.

35 NEW SECTION. **Sec. 7.** 2006 c ... (SSB 6775) s 5 is hereby
36 repealed.

1 NEW SECTION. **Sec. 8.** Section 1 of this act expires September 1,
2 2006.

3 NEW SECTION. **Sec. 9.** Sections 1 and 3 through 7 of this act are
4 necessary for the immediate preservation of the public peace, health,
5 or safety, or support of the state government and its existing public
6 institutions, and take effect immediately.

7 NEW SECTION. **Sec. 10.** Section 2 of this act takes effect
8 September 1, 2006.

9 NEW SECTION. **Sec. 11.** Section 3 of this act is null and void if
10 section 1 of Substitute Senate Bill No. 6775 is not enacted into law.

11 Section 4 of this act is null and void if section 2 of Substitute
12 Senate Bill No. 6775 is not enacted into law.

13 Section 5 of this act is null and void if section 3 of Substitute
14 Senate Bill No. 6775 is not enacted into law.

15 Section 6 of this act is null and void if section 4 of Substitute
16 Senate Bill No. 6775 is not enacted into law.

17 Section 7 of this act is null and void if section 5 of Substitute
18 Senate Bill No. 6775 is not enacted into law."

HB 2409 - S AMD
By Senator

19 On page 1, line 1 of the title, after "Relating to" strike the
20 remainder of the title and insert "regulating the conduct of registered
21 sex offenders and kidnapping offenders; amending RCW 9A.44.130,
22 9A.44.---, 9A.44.---, and 9A.44.---; amending 2006 c ... s 1
23 (uncodified); reenacting and amending RCW 9A.44.130; creating a new
24 section; repealing 2006 c ... s 5; providing an effective date;
25 providing an expiration date; and declaring an emergency."

--- END ---