

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 6319

59th Legislature
2006 Regular Session

Passed by the Senate March 6, 2006
YEAS 43 NAYS 1

President of the Senate

Passed by the House March 2, 2006
YEAS 98 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 6319** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 6319

AS AMENDED BY THE HOUSE

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Regala, Brandland, Stevens, Kline, Weinstein, Doumit, Carrell, Keiser, Rockefeller, Berkey, Haugen, Fairley, Spanel, Pflug, Sheldon, Rasmussen, McAuliffe, Shin, Roach and Benton)

READ FIRST TIME 02/7/06.

1 AN ACT Relating to failure to register as a sex offender; amending
2 RCW 9A.44.130, 9.94A.545, and 9.94A.715; reenacting and amending RCW
3 9A.44.130, 9.94A.515, and 9.94A.525; creating new sections; prescribing
4 penalties; providing an effective date; and providing an expiration
5 date.

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

7 **Sec. 1.** RCW 9A.44.130 and 2003 c 215 s 1 and 2003 c 53 s 68 are
8 each reenacted and amended to read as follows:

9 (1) Any adult or juvenile residing whether or not the person has a
10 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

1 department of social and health services, a local division of youth
2 services, or a local jail or juvenile detention facility as a result of
3 a sex offense or kidnapping offense, the person shall also register at
4 the time of release from custody with an official designated by the
5 agency that has jurisdiction over the person. In addition, any such
6 adult or juvenile: (a) Who is admitted to a public or private
7 institution of higher education shall, within ten days of enrolling or
8 by the first business day after arriving at the institution, whichever
9 is earlier, notify the sheriff for the county of the person's residence
10 of the person's intent to attend the institution; (b) who gains
11 employment at a public or private institution of higher education
12 shall, within ten days of accepting employment or by the first business
13 day after commencing work at the institution, whichever is earlier,
14 notify the sheriff for the county of the person's residence of the
15 person's employment by the institution; or (c) whose enrollment or
16 employment at a public or private institution of higher education is
17 terminated shall, within ten days of such termination, notify the
18 sheriff for the county of the person's residence of the person's
19 termination of enrollment or employment at the institution. Persons
20 required to register under this section who are enrolled in a public or
21 private institution of higher education on June 11, 1998, must notify
22 the county sheriff immediately. The sheriff shall notify the
23 institution's department of public safety and shall provide that
24 department with the same information provided to a county sheriff under
25 subsection (3) of this section.

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

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

34 (b) Any person who lacks a fixed residence shall provide the
35 following information when registering: (i) Name; (ii) date and place
36 of birth; (iii) place of employment; (iv) crime for which convicted;
37 (v) date and place of conviction; (vi) aliases used; (vii) social

1 security number; (viii) photograph; (ix) fingerprints; and (x) where he
2 or she plans to stay.

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

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

29 When the agency with jurisdiction intends to release an offender
30 with a duty to register under this section, and the agency has
31 knowledge that the offender is eligible for developmental disability
32 services from the department of social and health services, the agency
33 shall notify the division of developmental disabilities of the release.
34 Notice shall occur not more than thirty days before the offender is to
35 be released. The agency and the division shall assist the offender in
36 meeting the initial registration requirement under this section.
37 Failure to provide such assistance shall not constitute a defense for
38 any violation of this section.

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

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

1 after July 27, 1997, must register within ten days of July 27, 1997.
2 A change in supervision status of a sex offender who was required to
3 register under this subsection (4)(a)(iii) as of July 23, 1995, or a
4 kidnapping offender required to register as of July 27, 1997 shall not
5 relieve the offender of the duty to register or to reregister following
6 a change in 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 obligation to register shall only cease pursuant to
9 RCW 9A.44.140.

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

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

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

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

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

37 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND
38 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,

1 who move to another state, or who work, carry on a vocation, or attend
2 school in another state shall register a new address, fingerprints, and
3 photograph with the new state within ten days after establishing
4 residence, or after beginning to work, carry on a vocation, or attend
5 school in the new state. The person must also send written notice
6 within ten days of moving to the new state or to a foreign country to
7 the county sheriff with whom the person last registered in Washington
8 state. The county sheriff shall promptly forward this information to
9 the Washington state patrol.

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

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

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

31 (5)(a) If any person required to register pursuant to this section
32 changes his or her residence address within the same county, the person
33 must send written notice of the change of address to the county sheriff
34 within seventy-two hours of moving. If any person required to register
35 pursuant to this section moves to a new county, the person must send
36 written notice of the change of address at least fourteen days before
37 moving to the county sheriff in the new county of residence and must
38 register with that county sheriff within twenty-four hours of moving.

1 The person must also send written notice within ten days of the change
2 of address in the new county to the county sheriff with whom the person
3 last registered. The county sheriff with whom the person last
4 registered shall promptly forward the information concerning the change
5 of address to the county sheriff for the county of the person's new
6 residence. Upon receipt of notice of change of address to a new state,
7 the county sheriff shall promptly forward the information regarding the
8 change of address to the agency designated by the new state as the
9 state's offender registration agency.

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

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

29 (b) A person who lacks a fixed residence must report weekly, in
30 person, to the sheriff of the county where he or she is registered.
31 The weekly report shall be on a day specified by the county sheriff's
32 office, and shall occur during normal business hours. The county
33 sheriff's office may require the person to list the locations where the
34 person has stayed during the last seven days. The lack of a fixed
35 residence is a factor that may be considered in determining an
36 offender's risk level and shall make the offender subject to disclosure
37 of information to the public at large pursuant to RCW 4.24.550.

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

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

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

28 (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
29 70.48.470, and 72.09.330:

30 (a) "Sex offense" means:

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

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

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

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

1 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
2 criminal attempt, criminal solicitation, or criminal conspiracy to
3 commit an offense that is classified as a sex offense under RCW
4 9.94A.030 or this subsection.

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

15 (c) "Employed" or "carries on a vocation" means employment that is
16 full-time or part-time for a period of time exceeding fourteen days, or
17 for an aggregate period of time exceeding thirty days during any
18 calendar year. A person is employed or carries on a vocation whether
19 the person's employment is financially compensated, volunteered, or for
20 the purpose of government or educational benefit.

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

25 (10)(a) A person who knowingly fails to (~~register with the county~~
26 ~~sheriff or notify the county sheriff, or who changes his or her name~~
27 ~~without notifying the county sheriff and the state patrol, as required~~
28 ~~by~~) comply with any of the requirements of this section is guilty of
29 a class C felony if the crime for which the individual was convicted
30 was a felony sex offense as defined in subsection (9)(a) of this
31 section or a federal or out-of-state conviction for an offense that
32 under the laws of this state would be a felony sex offense as defined
33 in subsection (9)(a) of this section.

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

1 (11)(a) A person who knowingly fails to register or who moves
2 within the state without notifying the county sheriff as required by
3 this section is guilty of a class C felony if the crime for which the
4 individual was convicted was a felony kidnapping offense as defined in
5 subsection (9)(b) of this section or a federal or out-of-state
6 conviction for an offense that under the laws of this state would be a
7 felony kidnapping offense as defined in subsection (9)(b) of this
8 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 **Sec. 2.** RCW 9A.44.130 and 2005 c 380 s 1 are each amended to read
14 as follows:

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

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

33 (i) Who is attending, or planning to attend, a public or private
34 school regulated under Title 28A RCW or chapter 72.40 RCW shall, within
35 ten days of enrolling or prior to arriving at the school to attend
36 classes, whichever is earlier, notify the sheriff for the county of the

1 person's residence of the person's intent to attend the school, and the
2 sheriff shall promptly notify the principal of the school;

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

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

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

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

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

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

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

36 (B) If the student who is required to register as a sex offender is
37 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 days of establishing residence or reestablishing
8 residence if the person is a former Washington resident. The duty to
9 register under this subsection applies to sex offenders convicted under
10 the laws of another state or a foreign country, federal or military
11 statutes, or Washington state for offenses committed on or after
12 February 28, 1990, and to kidnapping offenders convicted under the laws
13 of another state or a foreign country, federal or military statutes, or
14 Washington state for offenses committed on or after July 27, 1997. Sex
15 offenders and kidnapping offenders from other states or a foreign
16 country who, when they move to Washington, are under the jurisdiction
17 of the department of corrections, the indeterminate sentence review
18 board, or the department of social and health services must register
19 within twenty-four hours of moving to Washington. The agency that has
20 jurisdiction over the offender shall notify the offender of the
21 registration requirements before the offender moves to Washington.

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

1 1997, shall be required to register within twenty-four hours of
2 receiving notice of this registration requirement. The state
3 department of social and health services shall make reasonable attempts
4 within available resources to notify sex offenders who were released
5 before July 23, 1995, and kidnapping offenders who were released before
6 July 27, 1997. Failure to register within twenty-four hours of
7 release, or of receiving notice, constitutes a violation of this
8 section and is punishable as provided in subsection (10) of this
9 section.

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

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

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

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

36 (c) An arrest on charges of failure to register, service of an
37 information, or a complaint for a violation of this section, or
38 arraignment on charges for a violation of this section, constitutes

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

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

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

31 (b) It is an affirmative defense to a charge that the person failed
32 to send a notice at least fourteen days in advance of moving as
33 required under (a) of this subsection that the person did not know the
34 location of his or her new residence at least fourteen days before
35 moving. The defendant must establish the defense by a preponderance of
36 the evidence and, to prevail on the defense, must also prove by a
37 preponderance that the defendant sent the required notice within
38 twenty-four hours of determining the new address.

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

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

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

30 (7) A sex offender subject to registration requirements under this
31 section who applies to change his or her name under RCW 4.24.130 or any
32 other law shall submit a copy of the application to the county sheriff
33 of the county of the person's residence and to the state patrol not
34 fewer than five days before the entry of an order granting the name
35 change. No sex offender under the requirement to register under this
36 section at the time of application shall be granted an order changing
37 his or her name if the court finds that doing so will interfere with
38 legitimate law enforcement interests, except that no order shall be

1 denied when the name change is requested for religious or legitimate
2 cultural reasons or in recognition of marriage or dissolution of
3 marriage. A sex offender under the requirement to register under this
4 section who receives an order changing his or her name shall submit a
5 copy of the order to the county sheriff of the county of the person's
6 residence and to the state patrol within five days of the entry of the
7 order.

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

10 (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
11 70.48.470, and 72.09.330:

12 (a) "Sex offense" means:

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

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

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

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

21 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
22 criminal attempt, criminal solicitation, or criminal conspiracy to
23 commit an offense that is classified as a sex offense under RCW
24 9.94A.030 or this subsection.

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

35 (c) "Employed" or "carries on a vocation" means employment that is
36 full-time or part-time for a period of time exceeding fourteen days, or
37 for an aggregate period of time exceeding thirty days during any

1 calendar year. A person is employed or carries on a vocation whether
2 the person's employment is financially compensated, volunteered, or for
3 the purpose of government or educational benefit.

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

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

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

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

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

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

1 **Sec. 3.** RCW 9.94A.515 and 2005 c 458 s 2 and 2005 c 183 s 9 are
2 each reenacted and amended to read as follows:

TABLE 2	
CRIMES INCLUDED WITHIN	
EACH SERIOUSNESS LEVEL	
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050) Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120) Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073) Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076)
X	Child Molestation 1 (RCW 9A.44.083) Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) Kidnapping 1 (RCW 9A.40.020) Leading Organized Crime (RCW 9A.82.060(1)(a)) Malicious explosion 3 (RCW 70.74.280(3))

1 Sexually Violent Predator Escape
2 (RCW 9A.76.115)
3 IX Assault of a Child 2 (RCW 9A.36.130)
4 Explosive devices prohibited (RCW
5 70.74.180)
6 Hit and Run--Death (RCW
7 46.52.020(4)(a))
8 Homicide by Watercraft, by being
9 under the influence of intoxicating
10 liquor or any drug (RCW
11 79A.60.050)
12 Inciting Criminal Profiteering (RCW
13 9A.82.060(1)(b))
14 Malicious placement of an explosive 2
15 (RCW 70.74.270(2))
16 Robbery 1 (RCW 9A.56.200)
17 Sexual Exploitation (RCW 9.68A.040)
18 Vehicular Homicide, by being under
19 the influence of intoxicating liquor
20 or any drug (RCW 46.61.520)
21 VIII Arson 1 (RCW 9A.48.020)
22 Homicide by Watercraft, by the
23 operation of any vessel in a
24 reckless manner (RCW
25 79A.60.050)
26 Manslaughter 2 (RCW 9A.32.070)
27 Promoting Prostitution 1 (RCW
28 9A.88.070)
29 Theft of Ammonia (RCW 69.55.010)
30 Vehicular Homicide, by the operation
31 of any vehicle in a reckless
32 manner (RCW 46.61.520)
33 VII Burglary 1 (RCW 9A.52.020)
34 Child Molestation 2 (RCW 9A.44.086)
35 Civil Disorder Training (RCW
36 9A.48.120)

1 Dealing in depictions of minor
2 engaged in sexually explicit
3 conduct (RCW 9.68A.050)
4 Drive-by Shooting (RCW 9A.36.045)
5 Homicide by Watercraft, by disregard
6 for the safety of others (RCW
7 79A.60.050)
8 Indecent Liberties (without forcible
9 compulsion) (RCW 9A.44.100(1)
10 (b) and (c))
11 Introducing Contraband 1 (RCW
12 9A.76.140)
13 Malicious placement of an explosive 3
14 (RCW 70.74.270(3))
15 Negligently Causing Death By Use of
16 a Signal Preemption Device
17 (RCW 46.37.675)
18 Sending, bringing into state depictions
19 of minor engaged in sexually
20 explicit conduct (RCW
21 9.68A.060)
22 Unlawful Possession of a Firearm in
23 the first degree (RCW
24 9.41.040(1))
25 Use of a Machine Gun in Commission
26 of a Felony (RCW 9.41.225)
27 Vehicular Homicide, by disregard for
28 the safety of others (RCW
29 46.61.520)
30 VI Bail Jumping with Murder 1 (RCW
31 9A.76.170(3)(a))
32 Bribery (RCW 9A.68.010)
33 Incest 1 (RCW 9A.64.020(1))
34 Intimidating a Judge (RCW
35 9A.72.160)
36 Intimidating a Juror/Witness (RCW
37 9A.72.110, 9A.72.130)

1 Malicious placement of an imitation
2 device 2 (RCW 70.74.272(1)(b))
3 Rape of a Child 3 (RCW 9A.44.079)
4 Theft of a Firearm (RCW 9A.56.300)
5 Unlawful Storage of Ammonia (RCW
6 69.55.020)
7 V Abandonment of dependent person 1
8 (RCW 9A.42.060)
9 Advancing money or property for
10 extortionate extension of credit
11 (RCW 9A.82.030)
12 Bail Jumping with class A Felony
13 (RCW 9A.76.170(3)(b))
14 Child Molestation 3 (RCW 9A.44.089)
15 Criminal Mistreatment 1 (RCW
16 9A.42.020)
17 Custodial Sexual Misconduct 1 (RCW
18 9A.44.160)
19 Domestic Violence Court Order
20 Violation (RCW 10.99.040,
21 10.99.050, 26.09.300, 26.10.220,
22 26.26.138, 26.50.110, 26.52.070,
23 or 74.34.145)
24 Extortion 1 (RCW 9A.56.120)
25 Extortionate Extension of Credit
26 (RCW 9A.82.020)
27 Extortionate Means to Collect
28 Extensions of Credit (RCW
29 9A.82.040)
30 Incest 2 (RCW 9A.64.020(2))
31 Kidnapping 2 (RCW 9A.40.030)
32 Perjury 1 (RCW 9A.72.020)
33 Persistent prison misbehavior (RCW
34 9.94.070)
35 Possession of a Stolen Firearm (RCW
36 9A.56.310)
37 Rape 3 (RCW 9A.44.060)

1 Rendering Criminal Assistance 1
2 (RCW 9A.76.070)
3 Sexual Misconduct with a Minor 1
4 (RCW 9A.44.093)
5 Sexually Violating Human Remains
6 (RCW 9A.44.105)
7 Stalking (RCW 9A.46.110)
8 Taking Motor Vehicle Without
9 Permission 1 (RCW 9A.56.070)
10 IV Arson 2 (RCW 9A.48.030)
11 Assault 2 (RCW 9A.36.021)
12 Assault 3 (of a Peace Officer with a
13 Projectile Stun Gun) (RCW
14 9A.36.031(1)(h))
15 Assault by Watercraft (RCW
16 79A.60.060)
17 Bribing a Witness/Bribe Received by
18 Witness (RCW 9A.72.090,
19 9A.72.100)
20 Cheating 1 (RCW 9.46.1961)
21 Commercial Bribery (RCW
22 9A.68.060)
23 Counterfeiting (RCW 9.16.035(4))
24 Endangerment with a Controlled
25 Substance (RCW 9A.42.100)
26 Escape 1 (RCW 9A.76.110)
27 Hit and Run--Injury (RCW
28 46.52.020(4)(b))
29 Hit and Run with Vessel--Injury
30 Accident (RCW 79A.60.200(3))
31 Identity Theft 1 (RCW 9.35.020(2))
32 Indecent Exposure to Person Under
33 Age Fourteen (subsequent sex
34 offense) (RCW 9A.88.010)
35 Influencing Outcome of Sporting
36 Event (RCW 9A.82.070)

1 Malicious Harassment (RCW
2 9A.36.080)
3 Residential Burglary (RCW
4 9A.52.025)
5 Robbery 2 (RCW 9A.56.210)
6 Theft of Livestock 1 (RCW 9A.56.080)
7 Threats to Bomb (RCW 9.61.160)
8 Trafficking in Stolen Property 1 (RCW
9 9A.82.050)
10 Unlawful factoring of a credit card or
11 payment card transaction (RCW
12 9A.56.290(4)(b))
13 Unlawful transaction of health
14 coverage as a health care service
15 contractor (RCW 48.44.016(3))
16 Unlawful transaction of health
17 coverage as a health maintenance
18 organization (RCW 48.46.033(3))
19 Unlawful transaction of insurance
20 business (RCW 48.15.023(3))
21 Unlicensed practice as an insurance
22 professional (RCW 48.17.063(3))
23 Use of Proceeds of Criminal
24 Profiteering (RCW 9A.82.080 (1)
25 and (2))
26 Vehicular Assault, by being under the
27 influence of intoxicating liquor or
28 any drug, or by the operation or
29 driving of a vehicle in a reckless
30 manner (RCW 46.61.522)
31 Willful Failure to Return from
32 Furlough (RCW 72.66.060)
33 III Abandonment of dependent person 2
34 (RCW 9A.42.070)

1 Assault 3 (Except Assault 3 of a Peace
2 Officer With a Projectile Stun
3 Gun) (RCW 9A.36.031 except
4 subsection (1)(h))
5 Assault of a Child 3 (RCW 9A.36.140)
6 Bail Jumping with class B or C Felony
7 (RCW 9A.76.170(3)(c))
8 Burglary 2 (RCW 9A.52.030)
9 Communication with a Minor for
10 Immoral Purposes (RCW
11 9.68A.090)
12 Criminal Gang Intimidation (RCW
13 9A.46.120)
14 Criminal Mistreatment 2 (RCW
15 9A.42.030)
16 Custodial Assault (RCW 9A.36.100)
17 Cyberstalking (subsequent conviction
18 or threat of death) (RCW
19 9.61.260(3))
20 Escape 2 (RCW 9A.76.120)
21 Extortion 2 (RCW 9A.56.130)
22 Harassment (RCW 9A.46.020)
23 Intimidating a Public Servant (RCW
24 9A.76.180)
25 Introducing Contraband 2 (RCW
26 9A.76.150)
27 Malicious Injury to Railroad Property
28 (RCW 81.60.070)
29 Negligently Causing Substantial Bodily
30 Harm By Use of a Signal
31 Preemption Device (RCW
32 46.37.674)
33 Patronizing a Juvenile Prostitute
34 (RCW 9.68A.100)
35 Perjury 2 (RCW 9A.72.030)
36 Possession of Incendiary Device (RCW
37 9.40.120)

1 Possession of Machine Gun or Short-
2 Barreled Shotgun or Rifle (RCW
3 9.41.190)
4 Promoting Prostitution 2 (RCW
5 9A.88.080)
6 Securities Act violation (RCW
7 21.20.400)
8 Tampering with a Witness (RCW
9 9A.72.120)
10 Telephone Harassment (subsequent
11 conviction or threat of death)
12 (RCW 9.61.230(2))
13 Theft of Livestock 2 (RCW 9A.56.083)
14 Trafficking in Stolen Property 2 (RCW
15 9A.82.055)
16 Unlawful Imprisonment (RCW
17 9A.40.040)
18 Unlawful possession of firearm in the
19 second degree (RCW 9.41.040(2))
20 Vehicular Assault, by the operation or
21 driving of a vehicle with disregard
22 for the safety of others (RCW
23 46.61.522)
24 Willful Failure to Return from Work
25 Release (RCW 72.65.070)
26 II Computer Trespass 1 (RCW
27 9A.52.110)
28 Counterfeiting (RCW 9.16.035(3))
29 Escape from Community Custody
30 (RCW 72.09.310)
31 Health Care False Claims (RCW
32 48.80.030)
33 Identity Theft 2 (RCW 9.35.020(3))
34 Improperly Obtaining Financial
35 Information (RCW 9.35.010)
36 Malicious Mischief 1 (RCW
37 9A.48.070)

1 Possession of Stolen Property 1 (RCW
2 9A.56.150)
3 Failure to Register as a Sex Offender
4 (second or subsequent offense)
5 (RCW 9A.44.130(10)(a))
6 Theft 1 (RCW 9A.56.030)
7 Theft of Rental, Leased, or Lease-
8 purchased Property (valued at one
9 thousand five hundred dollars or
10 more) (RCW 9A.56.096(5)(a))
11 Trafficking in Insurance Claims (RCW
12 48.30A.015)
13 Unlawful factoring of a credit card or
14 payment card transaction (RCW
15 9A.56.290(4)(a))
16 Unlawful Practice of Law (RCW
17 2.48.180)
18 Unlicensed Practice of a Profession or
19 Business (RCW 18.130.190(7))
20 I Attempting to Elude a Pursuing Police
21 Vehicle (RCW 46.61.024)
22 False Verification for Welfare (RCW
23 74.08.055)
24 Forgery (RCW 9A.60.020)
25 Fraudulent Creation or Revocation of a
26 Mental Health Advance Directive
27 (RCW 9A.60.060)
28 Malicious Mischief 2 (RCW
29 9A.48.080)
30 Mineral Trespass (RCW 78.44.330)
31 Possession of Stolen Property 2 (RCW
32 9A.56.160)
33 Reckless Burning 1 (RCW 9A.48.040)
34 Taking Motor Vehicle Without
35 Permission 2 (RCW 9A.56.075)
36 Theft 2 (RCW 9A.56.040)

1 Theft of Rental, Leased, or Lease-
2 purchased Property (valued at two
3 hundred fifty dollars or more but
4 less than one thousand five
5 hundred dollars) (RCW
6 9A.56.096(5)(b))
7 Transaction of insurance business
8 beyond the scope of licensure
9 (RCW 48.17.063(4))
10 Unlawful Issuance of Checks or Drafts
11 (RCW 9A.56.060)
12 Unlawful Possession of Fictitious
13 Identification (RCW 9A.56.320)
14 Unlawful Possession of Instruments of
15 Financial Fraud (RCW
16 9A.56.320)
17 Unlawful Possession of Payment
18 Instruments (RCW 9A.56.320)
19 Unlawful Possession of a Personal
20 Identification Device (RCW
21 9A.56.320)
22 Unlawful Production of Payment
23 Instruments (RCW 9A.56.320)
24 Unlawful Trafficking in Food Stamps
25 (RCW 9.91.142)
26 Unlawful Use of Food Stamps (RCW
27 9.91.144)
28 Vehicle Prowl 1 (RCW 9A.52.095)

29 **Sec. 4.** RCW 9.94A.545 and 2003 c 379 s 8 are each amended to read
30 as follows:

31 (1) Except as provided in RCW 9.94A.650 and in subsection (2) of
32 this section, on all sentences of confinement for one year or less, in
33 which the offender is convicted of a sex offense, a violent offense, a
34 crime against a person under RCW 9.94A.411, or felony violation of
35 chapter 69.50 or 69.52 RCW or an attempt, conspiracy, or solicitation
36 to commit such a crime, the court may impose up to one year of
37 community custody, subject to conditions and sanctions as authorized in

1 RCW 9.94A.715 and 9.94A.720. An offender shall be on community custody
2 as of the date of sentencing. However, during the time for which the
3 offender is in total or partial confinement pursuant to the sentence or
4 a violation of the sentence, the period of community custody shall
5 toll.

6 (2) If the offender is guilty of failure to register under RCW
7 9A.44.130(10)(a), the court shall impose a term of community custody
8 under RCW 9.94A.715.

9 **Sec. 5.** RCW 9.94A.715 and 2003 c 379 s 6 are each amended to read
10 as follows:

11 (1) When a court sentences a person to the custody of the
12 department for a sex offense not sentenced under RCW 9.94A.712, a
13 violent offense, any crime against persons under RCW 9.94A.411(2), or
14 a felony offense under chapter 69.50 or 69.52 RCW, committed on or
15 after July 1, 2000, or when a court sentences a person to a term of
16 confinement of one year or less for a violation of RCW 9A.44.130(10)(a)
17 committed on or after the effective date of this act, the court shall
18 in addition to the other terms of the sentence, sentence the offender
19 to community custody for the community custody range established under
20 RCW 9.94A.850 or up to the period of earned release awarded pursuant to
21 RCW 9.94A.728 (1) and (2), whichever is longer. The community custody
22 shall begin: (a) Upon completion of the term of confinement; (b) at
23 such time as the offender is transferred to community custody in lieu
24 of earned release in accordance with RCW 9.94A.728 (1) and (2); or (c)
25 with regard to offenders sentenced under RCW 9.94A.660, upon failure to
26 complete or administrative termination from the special drug offender
27 sentencing alternative program. Except as provided in RCW 9.94A.501,
28 the department shall supervise any sentence of community custody
29 imposed under this section.

30 (2)(a) Unless a condition is waived by the court, the conditions of
31 community custody shall include those provided for in RCW 9.94A.700(4).
32 The conditions may also include those provided for in RCW 9.94A.700(5).
33 The court may also order the offender to participate in rehabilitative
34 programs or otherwise perform affirmative conduct reasonably related to
35 the circumstances of the offense, the offender's risk of reoffending,
36 or the safety of the community, and the department shall enforce such
37 conditions pursuant to subsection (6) of this section.

1 (b) As part of any sentence that includes a term of community
2 custody imposed under this subsection, the court shall also require the
3 offender to comply with any conditions imposed by the department under
4 RCW 9.94A.720. The department shall assess the offender's risk of
5 reoffense and may establish and modify additional conditions of the
6 offender's community custody based upon the risk to community safety.
7 In addition, the department may require the offender to participate in
8 rehabilitative programs, or otherwise perform affirmative conduct, and
9 to obey all laws.

10 (c) The department may not impose conditions that are contrary to
11 those ordered by the court and may not contravene or decrease court
12 imposed conditions. The department shall notify the offender in
13 writing of any such conditions or modifications. In setting,
14 modifying, and enforcing conditions of community custody, the
15 department shall be deemed to be performing a quasi-judicial function.

16 (3) If an offender violates conditions imposed by the court or the
17 department pursuant to this section during community custody, the
18 department may transfer the offender to a more restrictive confinement
19 status and impose other available sanctions as provided in RCW
20 9.94A.737 and 9.94A.740.

21 (4) Except for terms of community custody under RCW 9.94A.670, the
22 department shall discharge the offender from community custody on a
23 date determined by the department, which the department may modify,
24 based on risk and performance of the offender, within the range or at
25 the end of the period of earned release, whichever is later.

26 (5) At any time prior to the completion or termination of a sex
27 offender's term of community custody, if the court finds that public
28 safety would be enhanced, the court may impose and enforce an order
29 extending any or all of the conditions imposed pursuant to this section
30 for a period up to the maximum allowable sentence for the crime as it
31 is classified in chapter 9A.20 RCW, regardless of the expiration of the
32 offender's term of community custody. If a violation of a condition
33 extended under this subsection occurs after the expiration of the
34 offender's term of community custody, it shall be deemed a violation of
35 the sentence for the purposes of RCW 9.94A.631 and may be punishable as
36 contempt of court as provided for in RCW 7.21.040. If the court
37 extends a condition beyond the expiration of the term of community

1 custody, the department is not responsible for supervision of the
2 offender's compliance with the condition.

3 (6) Within the funds available for community custody, the
4 department shall determine conditions and duration of community custody
5 on the basis of risk to community safety, and shall supervise offenders
6 during community custody on the basis of risk to community safety and
7 conditions imposed by the court. The secretary shall adopt rules to
8 implement the provisions of this subsection.

9 (7) By the close of the next business day after receiving notice of
10 a condition imposed or modified by the department, an offender may
11 request an administrative review under rules adopted by the department.
12 The condition shall remain in effect unless the reviewing officer finds
13 that it is not reasonably related to any of the following: (a) The
14 crime of conviction; (b) the offender's risk of reoffending; or (c) the
15 safety of the community.

16 **Sec. 6.** RCW 9.94A.525 and 2002 c 290 s 3 and 2002 c 107 s 3 are
17 each reenacted and amended to read as follows:

18 The offender score is measured on the horizontal axis of the
19 sentencing grid. The offender score rules are as follows:

20 The offender score is the sum of points accrued under this section
21 rounded down to the nearest whole number.

22 (1) A prior conviction is a conviction which exists before the date
23 of sentencing for the offense for which the offender score is being
24 computed. Convictions entered or sentenced on the same date as the
25 conviction for which the offender score is being computed shall be
26 deemed "other current offenses" within the meaning of RCW 9.94A.589.

27 (2) Class A and sex prior felony convictions shall always be
28 included in the offender score. Class B prior felony convictions other
29 than sex offenses shall not be included in the offender score, if since
30 the last date of release from confinement (including full-time
31 residential treatment) pursuant to a felony conviction, if any, or
32 entry of judgment and sentence, the offender had spent ten consecutive
33 years in the community without committing any crime that subsequently
34 results in a conviction. Class C prior felony convictions other than
35 sex offenses shall not be included in the offender score if, since the
36 last date of release from confinement (including full-time residential
37 treatment) pursuant to a felony conviction, if any, or entry of

1 judgment and sentence, the offender had spent five consecutive years in
2 the community without committing any crime that subsequently results in
3 a conviction. Serious traffic convictions shall not be included in the
4 offender score if, since the last date of release from confinement
5 (including full-time residential treatment) pursuant to a felony
6 conviction, if any, or entry of judgment and sentence, the offender
7 spent five years in the community without committing any crime that
8 subsequently results in a conviction. This subsection applies to both
9 adult and juvenile prior convictions.

10 (3) Out-of-state convictions for offenses shall be classified
11 according to the comparable offense definitions and sentences provided
12 by Washington law. Federal convictions for offenses shall be
13 classified according to the comparable offense definitions and
14 sentences provided by Washington law. If there is no clearly
15 comparable offense under Washington law or the offense is one that is
16 usually considered subject to exclusive federal jurisdiction, the
17 offense shall be scored as a class C felony equivalent if it was a
18 felony under the relevant federal statute.

19 (4) Score prior convictions for felony anticipatory offenses
20 (attempts, criminal solicitations, and criminal conspiracies) the same
21 as if they were convictions for completed offenses.

22 (5)(a) In the case of multiple prior convictions, for the purpose
23 of computing the offender score, count all convictions separately,
24 except:

25 (i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to
26 encompass the same criminal conduct, shall be counted as one offense,
27 the offense that yields the highest offender score. The current
28 sentencing court shall determine with respect to other prior adult
29 offenses for which sentences were served concurrently or prior juvenile
30 offenses for which sentences were served consecutively, whether those
31 offenses shall be counted as one offense or as separate offenses using
32 the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and
33 if the court finds that they shall be counted as one offense, then the
34 offense that yields the highest offender score shall be used. The
35 current sentencing court may presume that such other prior offenses
36 were not the same criminal conduct from sentences imposed on separate
37 dates, or in separate counties or jurisdictions, or in separate
38 complaints, indictments, or informations;

1 (ii) In the case of multiple prior convictions for offenses
2 committed before July 1, 1986, for the purpose of computing the
3 offender score, count all adult convictions served concurrently as one
4 offense, and count all juvenile convictions entered on the same date as
5 one offense. Use the conviction for the offense that yields the
6 highest offender score.

7 (b) As used in this subsection (5), "served concurrently" means
8 that: (i) The latter sentence was imposed with specific reference to
9 the former; (ii) the concurrent relationship of the sentences was
10 judicially imposed; and (iii) the concurrent timing of the sentences
11 was not the result of a probation or parole revocation on the former
12 offense.

13 (6) If the present conviction is one of the anticipatory offenses
14 of criminal attempt, solicitation, or conspiracy, count each prior
15 conviction as if the present conviction were for a completed offense.
16 When these convictions are used as criminal history, score them the
17 same as a completed crime.

18 (7) If the present conviction is for a nonviolent offense and not
19 covered by subsection (11) or (12) of this section, count one point for
20 each adult prior felony conviction and one point for each juvenile
21 prior violent felony conviction and 1/2 point for each juvenile prior
22 nonviolent felony conviction.

23 (8) If the present conviction is for a violent offense and not
24 covered in subsection (9), (10), (11), or (12) of this section, count
25 two points for each prior adult and juvenile violent felony conviction,
26 one point for each prior adult nonviolent felony conviction, and 1/2
27 point for each prior juvenile nonviolent felony conviction.

28 (9) If the present conviction is for a serious violent offense,
29 count three points for prior adult and juvenile convictions for crimes
30 in this category, two points for each prior adult and juvenile violent
31 conviction (not already counted), one point for each prior adult
32 nonviolent felony conviction, and 1/2 point for each prior juvenile
33 nonviolent felony conviction.

34 (10) If the present conviction is for Burglary 1, count prior
35 convictions as in subsection (8) of this section; however count two
36 points for each prior adult Burglary 2 or residential burglary
37 conviction, and one point for each prior juvenile Burglary 2 or
38 residential burglary conviction.

1 (11) If the present conviction is for a felony traffic offense
2 count two points for each adult or juvenile prior conviction for
3 Vehicular Homicide or Vehicular Assault; for each felony offense count
4 one point for each adult and 1/2 point for each juvenile prior
5 conviction; for each serious traffic offense, other than those used for
6 an enhancement pursuant to RCW 46.61.520(2), count one point for each
7 adult and 1/2 point for each juvenile prior conviction.

8 (12) If the present conviction is for manufacture of
9 methamphetamine count three points for each adult prior manufacture of
10 methamphetamine conviction and two points for each juvenile manufacture
11 of methamphetamine offense. If the present conviction is for a drug
12 offense and the offender has a criminal history that includes a sex
13 offense or serious violent offense, count three points for each adult
14 prior felony drug offense conviction and two points for each juvenile
15 drug offense. All other adult and juvenile felonies are scored as in
16 subsection (8) of this section if the current drug offense is violent,
17 or as in subsection (7) of this section if the current drug offense is
18 nonviolent.

19 (13) If the present conviction is for Escape from Community
20 Custody, RCW 72.09.310, count only prior escape convictions in the
21 offender score. Count adult prior escape convictions as one point and
22 juvenile prior escape convictions as 1/2 point.

23 (14) If the present conviction is for Escape 1, RCW 9A.76.110, or
24 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and
25 juvenile prior convictions as 1/2 point.

26 (15) If the present conviction is for Burglary 2 or residential
27 burglary, count priors as in subsection (7) of this section; however,
28 count two points for each adult and juvenile prior Burglary 1
29 conviction, two points for each adult prior Burglary 2 or residential
30 burglary conviction, and one point for each juvenile prior Burglary 2
31 or residential burglary conviction.

32 (16) If the present conviction is for a sex offense, count priors
33 as in subsections (7) through (15) of this section; however count three
34 points for each adult and juvenile prior sex offense conviction.

35 (17) If the present conviction is for failure to register as a sex
36 offender under RCW 9A.44.130(10), count priors as in subsections (7)
37 through (15) of this section; however count three points for each adult

1 and juvenile prior sex offense conviction, excluding prior convictions
2 for failure to register as a sex offender under RCW 9A.44.130(10),
3 which shall count as one point.

4 (18) If the present conviction is for an offense committed while
5 the offender was under community placement, add one point.

6 ((+18+)) (19) The fact that a prior conviction was not included in
7 an offender's offender score or criminal history at a previous
8 sentencing shall have no bearing on whether it is included in the
9 criminal history or offender score for the current offense.
10 Accordingly, prior convictions that were not counted in the offender
11 score or included in criminal history under repealed or previous
12 versions of the sentencing reform act shall be included in criminal
13 history and shall count in the offender score if the current version of
14 the sentencing reform act requires including or counting those
15 convictions.

16 NEW SECTION. Sec. 7. Section 1 of this act expires September 1,
17 2006.

18 NEW SECTION. Sec. 8. Section 2 of this act takes effect September
19 1, 2006.

20 NEW SECTION. Sec. 9. If specific funding for the purposes of
21 section 3 of this act, referencing this act and section 3 of this act
22 by bill or chapter number and section number, is not provided by June
23 30, 2006, in the omnibus appropriations act, section 3 of this act is
24 null and void.

25 NEW SECTION. Sec. 10. If specific funding for the purposes of
26 section 4 of this act, referencing this act and section 4 of this act
27 by bill or chapter number and section number, is not provided by June
28 30, 2006, in the omnibus appropriations act, section 4 of this act is
29 null and void.

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