

SSB 5203 - H COMM AMD

By Committee on Public Safety & Emergency Preparedness

ADOPTED 04/07/2011

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

3 "Sec. 1. RCW 4.24.550 and 2008 c 98 s 1 are each amended to read
4 as follows:

5 (1) In addition to the disclosure under subsection (5) of this
6 section, public agencies are authorized to release information to the
7 public regarding sex offenders and kidnapping offenders when the agency
8 determines that disclosure of the information is relevant and necessary
9 to protect the public and counteract the danger created by the
10 particular offender. This authorization applies to information
11 regarding: (a) Any person adjudicated or convicted of a sex offense as
12 defined in RCW ((9A.44.130)) 9A.44.128 or a kidnapping offense as
13 defined by RCW ((9A.44.130)) 9A.44.128; (b) any person under the
14 jurisdiction of the indeterminate sentence review board as the result
15 of a sex offense or kidnapping offense; (c) any person committed as a
16 sexually violent predator under chapter 71.09 RCW or as a sexual
17 psychopath under chapter 71.06 RCW; (d) any person found not guilty of
18 a sex offense or kidnapping offense by reason of insanity under chapter
19 10.77 RCW; and (e) any person found incompetent to stand trial for a
20 sex offense or kidnapping offense and subsequently committed under
21 chapter 71.05 or 71.34 RCW.

22 (2) Except for the information specifically required under
23 subsection (5) of this section, the extent of the public disclosure of
24 relevant and necessary information shall be rationally related to: (a)
25 The level of risk posed by the offender to the community; (b) the
26 locations where the offender resides, expects to reside, or is
27 regularly found; and (c) the needs of the affected community members
28 for information to enhance their individual and collective safety.

29 (3) Except for the information specifically required under
30 subsection (5) of this section, local law enforcement agencies shall

1 consider the following guidelines in determining the extent of a public
2 disclosure made under this section: (a) For offenders classified as
3 risk level I, the agency shall share information with other appropriate
4 law enforcement agencies and, if the offender is a student, the public
5 or private school regulated under Title 28A RCW or chapter 72.40 RCW
6 which the offender is attending, or planning to attend. The agency may
7 disclose, upon request, relevant, necessary, and accurate information
8 to any victim or witness to the offense and to any individual community
9 member who lives near the residence where the offender resides, expects
10 to reside, or is regularly found; (b) for offenders classified as risk
11 level II, the agency may also disclose relevant, necessary, and
12 accurate information to public and private schools, child day care
13 centers, family day care providers, public libraries, businesses and
14 organizations that serve primarily children, women, or vulnerable
15 adults, and neighbors and community groups near the residence where the
16 offender resides, expects to reside, or is regularly found; (c) for
17 offenders classified as risk level III, the agency may also disclose
18 relevant, necessary, and accurate information to the public at large;
19 and (d) because more localized notification is not feasible and
20 homeless and transient offenders may present unique risks to the
21 community, the agency may also disclose relevant, necessary, and
22 accurate information to the public at large for offenders registered as
23 homeless or transient.

24 (4) The county sheriff with whom an offender classified as risk
25 level III is registered shall cause to be published by legal notice,
26 advertising, or news release a sex offender community notification that
27 conforms to the guidelines established under RCW 4.24.5501 in at least
28 one legal newspaper with general circulation in the area of the sex
29 offender's registered address or location. (~~The county sheriff shall
30 also cause to be published consistent with this subsection a current
31 list of level III registered sex offenders, twice yearly.~~) Unless the
32 information is posted on the web site described in subsection (5) of
33 this section, this list shall be maintained by the county sheriff on a
34 publicly accessible web site and shall be updated at least once per
35 month.

36 (5)(a) When funded by federal grants or other sources, the
37 Washington association of sheriffs and police chiefs shall create and
38 maintain a statewide registered kidnapping and sex offender web site,

1 which shall be available to the public. The web site shall post all
2 level III and level II registered sex offenders, level I registered sex
3 offenders during the time they are out of compliance with registration
4 requirements under RCW 9A.44.130, and all registered kidnapping
5 offenders in the state of Washington.

6 (i) For level III offenders, the web site shall contain, but is not
7 limited to, the registered sex offender's name, relevant criminal
8 convictions, address by hundred block, physical description, and
9 photograph. The web site shall provide mapping capabilities that
10 display the sex offender's address by hundred block on a map. The web
11 site shall allow citizens to search for registered sex offenders within
12 the state of Washington by county, city, zip code, last name, (~~type of~~
13 ~~conviction,~~) and address by hundred block.

14 (ii) For level II offenders, and level I sex offenders during the
15 time they are out of compliance with registration requirements under
16 RCW 9A.44.130, the web site shall contain, but is not limited to, the
17 same information and functionality as described in (a)(i) of this
18 subsection, provided that it is permissible under state and federal
19 law. If it is not permissible, the web site shall be limited to the
20 information and functionality that is permissible under state and
21 federal law.

22 (iii) For kidnapping offenders, the web site shall contain, but is
23 not limited to, the same information and functionality as described in
24 (a)(i) of this subsection, provided that it is permissible under state
25 and federal law. If it is not permissible, the web site shall be
26 limited to the information and functionality that is permissible under
27 state and federal law.

28 (b) Until the implementation of (a) of this subsection, the
29 Washington association of sheriffs and police chiefs shall create a web
30 site available to the public that provides electronic links to county-
31 operated web sites that offer sex offender registration information.

32 (6) Local law enforcement agencies that disseminate information
33 pursuant to this section shall: (a) Review available risk level
34 classifications made by the department of corrections, the department
35 of social and health services, and the indeterminate sentence review
36 board; (b) assign risk level classifications to all offenders about
37 whom information will be disseminated; and (c) make a good faith effort
38 to notify the public and residents (~~at least fourteen days before the~~

1 ~~offender is released from confinement or, where an offender moves from~~
2 ~~another jurisdiction, as soon as possible after the agency learns of~~
3 ~~the offender's move, except that in no case may this notification~~
4 ~~provision be construed to require an extension of an offender's release~~
5 ~~date)) within a reasonable period of time after the offender registers~~
6 ~~with the agency.~~ The juvenile court shall provide local law
7 enforcement officials with all relevant information on offenders
8 allowed to remain in the community in a timely manner.

9 (7) An appointed or elected public official, public employee, or
10 public agency as defined in RCW 4.24.470, or units of local government
11 and its employees, as provided in RCW 36.28A.010, are immune from civil
12 liability for damages for any discretionary risk level classification
13 decisions or release of relevant and necessary information, unless it
14 is shown that the official, employee, or agency acted with gross
15 negligence or in bad faith. The immunity in this section applies to
16 risk level classification decisions and the release of relevant and
17 necessary information regarding any individual for whom disclosure is
18 authorized. The decision of a local law enforcement agency or official
19 to classify an offender to a risk level other than the one assigned by
20 the department of corrections, the department of social and health
21 services, or the indeterminate sentence review board, or the release of
22 any relevant and necessary information based on that different
23 classification shall not, by itself, be considered gross negligence or
24 bad faith. The immunity provided under this section applies to the
25 release of relevant and necessary information to other public
26 officials, public employees, or public agencies, and to the general
27 public.

28 (8) Except as may otherwise be provided by law, nothing in this
29 section shall impose any liability upon a public official, public
30 employee, or public agency for failing to release information
31 authorized under this section.

32 (9) Nothing in this section implies that information regarding
33 persons designated in subsection (1) of this section is confidential
34 except as may otherwise be provided by law.

35 (10) When a local law enforcement agency or official classifies an
36 offender differently than the offender is classified by the end of
37 sentence review committee or the department of social and health
38 services at the time of the offender's release from confinement, the

1 law enforcement agency or official shall notify the end of sentence
2 review committee or the department of social and health services and
3 submit its reasons supporting the change in classification. (~~Upon~~
4 ~~implementation of subsection (5)(a) of this section, notification of~~
5 ~~the change shall also be sent to the Washington association of sheriffs~~
6 ~~and police chiefs.))~~)

7 **Sec. 2.** RCW 9A.44.128 and 2010 c 267 s 1 are each amended to read
8 as follows:

9 For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200,
10 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

11 (1) "Business day" means any day other than Saturday, Sunday, or a
12 legal local, state, or federal holiday.

13 (2) "Conviction" means any adult conviction or juvenile
14 adjudication for a sex offense or kidnapping offense.

15 (3) "Disqualifying offense" means a conviction for: Any offense
16 that is a felony; a sex offense as defined in this section; a crime
17 against children or persons as defined in RCW 43.43.830(5) and
18 9.94A.411(2)(a); an offense with a domestic violence designation as
19 provided in RCW 10.99.020; permitting the commercial sexual abuse of a
20 minor as defined in RCW 9.68A.103; or any violation of chapter 9A.88
21 RCW.

22 (4) "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 (5) "Fixed residence" means a building that a person lawfully and
29 habitually uses as living quarters a majority of the week. Uses as
30 living quarters means to conduct activities consistent with the common
31 understanding of residing, such as sleeping; eating; keeping personal
32 belongings; receiving mail; and paying utilities, rent, or mortgage.
33 A nonpermanent structure including, but not limited to, a motor home,
34 travel trailer, camper, or boat may qualify as a residence provided it
35 is lawfully and habitually used as living quarters a majority of the
36 week, primarily kept at one location with a physical address, and the
37 location it is kept at is either owned or rented by the person or used

1 by the person with the permission of the owner or renter. A shelter
2 program may qualify as a residence provided it is a shelter program
3 designed to provide temporary living accommodations for the homeless,
4 provides an offender with a personally assigned living space, and the
5 offender is permitted to store belongings in the living space.

6 (6) "In the community" means residing outside of confinement or
7 incarceration for a disqualifying offense.

8 (7) "Institution of higher education" means any public or private
9 institution dedicated to postsecondary education, including any
10 college, university, community college, trade, or professional school.

11 (8) "Kidnapping offense" means:

12 (a) The crimes of kidnapping in the first degree, kidnapping in the
13 second degree, and unlawful imprisonment, as defined in chapter 9A.40
14 RCW, where the victim is a minor and the offender is not the minor's
15 parent;

16 (b) Any offense that is, under chapter 9A.28 RCW, a criminal
17 attempt, criminal solicitation, or criminal conspiracy to commit an
18 offense that is classified as a kidnapping offense under this
19 subsection; and

20 (c) Any federal or out-of-state conviction for: An offense for
21 which the person would be required to register as a kidnapping offender
22 (~~while~~) if residing in the state of conviction; or, if not required
23 to register in the state of conviction, an offense that under the laws
24 of this state would be classified as a kidnapping offense under this
25 subsection(~~, unless a court in the person's state of conviction has~~
26 ~~made an individualized determination that the person should not be~~
27 ~~required to register)).~~

28 ~~((+6))~~ (9) "Lacks a fixed residence" means the person does not
29 have a living situation that meets the definition of a fixed residence
30 and includes, but is not limited to, a shelter program designed to
31 provide temporary living accommodations for the homeless, an outdoor
32 sleeping location, or locations where the person does not have
33 permission to stay.

34 (10) "Sex offense" means:

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

36 (b) Any violation under RCW 9A.44.096 (sexual misconduct with a
37 minor in the second degree);

1 (c) Any violation under RCW 9.68A.090 (communication with a minor
2 for immoral purposes);

3 (d) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
4 criminal attempt, criminal solicitation, or criminal conspiracy to
5 commit an offense that is classified as a sex offense under RCW
6 9.94A.030 or this subsection;

7 ~~(e) Any ((federal or)) out-of-state conviction for((+)) an offense~~
8 ~~for which the person would be required to register as a sex offender~~
9 ~~while residing in the state of conviction; or, if not required to~~
10 ~~register in the state of conviction, an offense that under the laws of~~
11 ~~this state would be classified as a sex offense under this~~
12 ~~subsection((, unless a court in the person's state of conviction has~~
13 ~~made an individualized determination that the person should not be~~
14 ~~required to register; and~~

15 ~~(e) Any gross misdemeanor that is, under chapter 9A.28 RCW, a~~
16 ~~criminal attempt, criminal solicitation, or criminal conspiracy to~~
17 ~~commit an offense that is classified as a sex offense under RCW~~
18 ~~9.94A.030 or this subsection));~~

19 (f) Any federal conviction classified as a sex offense under 42
20 U.S.C. Sec. 16911 (SORNA);

21 (g) Any military conviction for a sex offense. This includes sex
22 offenses under the uniform code of military justice, as specified by
23 the United States secretary of defense;

24 (h) Any conviction in a foreign country for a sex offense if it was
25 obtained with sufficient safeguards for fundamental fairness and due
26 process for the accused under guidelines or regulations established
27 pursuant to 42 U.S.C. Sec. 16912.

28 ((+7)) (11) "School" means a public or private school regulated
29 under Title 28A RCW or chapter 72.40 RCW.

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

34 **Sec. 3.** RCW 9A.44.130 and 2010 c 267 s 2 and 2010 c 265 s 1 are
35 each reenacted and amended to read as follows:

36 (1)(a) Any adult or juvenile residing whether or not the person has
37 a fixed residence, or who is a student, is employed, or carries on a

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

15 (b) Any adult or juvenile who is required to register under (a) of
16 this subsection must give notice to the county sheriff of the county
17 with whom the person is registered within three business days:

18 (i) Prior to arriving at a school or institution of higher
19 education to attend classes;

20 (ii) Prior to starting work at an institution of higher education;
21 or

22 (iii) After any termination of enrollment or employment at a school
23 or institution of higher education.

24 ~~((i) Who is attending, or planning to attend, a public or private~~
25 ~~school regulated under Title 28A RCW or chapter 72.40 RCW shall, within~~
26 ~~three business days prior to arriving at the school to attend classes,~~
27 ~~notify the sheriff for the county of the person's residence of the~~
28 ~~person's intent to attend the school, and the sheriff shall promptly~~
29 ~~notify the principal of the school;~~

30 ~~(ii) Who is admitted to a public or private institution of higher~~
31 ~~education shall, within three business days prior to arriving at the~~
32 ~~institution, notify the sheriff for the county of the person's~~
33 ~~residence of the person's intent to attend the institution;~~

34 ~~(iii) Who gains employment at a public or private institution of~~
35 ~~higher education shall, within three business days prior to commencing~~
36 ~~work at the institution, notify the sheriff for the county of the~~
37 ~~person's residence of the person's employment by the institution; or~~

1 ~~(iv) Whose enrollment or employment at a public or private~~
2 ~~institution of higher education is terminated shall, within three~~
3 ~~business days of such termination, notify the sheriff for the county of~~
4 ~~the person's residence of the person's termination of enrollment or~~
5 ~~employment at the institution.~~

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

10 ~~(d)(i) A principal receiving notice under this subsection must~~
11 ~~disclose the information received from the sheriff under (b) of this~~
12 ~~subsection as follows:~~

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

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

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

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

32 ~~(3)) (2)(a) ((The)) A person ((shall)) required to register under~~
33 ~~this section must provide the following information when registering:~~

34 ~~(i) Name and any aliases used; (ii) complete and accurate residential~~
35 ~~address or, if the person lacks a fixed residence, where he or she~~
36 ~~plans to stay; (iii) date and place of birth; (iv) place of employment;~~
37 ~~(v) crime for which convicted; (vi) date and place of conviction; (vii)~~

1 (~~(aliases used; (viii))~~) social security number; (~~((ix))~~) (viii)
2 photograph; and (~~((x))~~) (ix) fingerprints.

3 (b) (~~(Any)~~) A person (~~(who lacks a fixed residence shall provide~~
4 ~~the following information when registering: (i) Name; (ii) date and~~
5 ~~place of birth; (iii) place of employment; (iv) crime for which~~
6 ~~convicted; (v) date and place of conviction; (vi) aliases used; (vii)~~
7 ~~social security number; (viii) photograph; (ix) fingerprints; and (x)~~
8 ~~where he or she plans to stay))~~ may be required to update any of the
9 information required in this subsection in conjunction with any address
10 verification conducted by the county sheriff or as part of any notice
11 required by this section.

12 (c) A photograph or copy of an individual's fingerprints may be
13 taken at any time to update an individual's file.

14 (~~((4))~~) (3)(a) Offenders shall register with the county sheriff
15 within the following deadlines:

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

35 When the agency with jurisdiction intends to release an offender
36 with a duty to register under this section, and the agency has
37 knowledge that the offender is eligible for developmental disability
38 services from the department of social and health services, the agency

1 shall notify the division of developmental disabilities of the release.
2 Notice shall occur not more than thirty days before the offender is to
3 be released. The agency and the division shall assist the offender in
4 meeting the initial registration requirement under this section.
5 Failure to provide such assistance shall not constitute a defense for
6 any violation of this section.

7 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
8 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
9 but are under the jurisdiction of the indeterminate sentence review
10 board or under the department of corrections' active supervision, as
11 defined by the department of corrections, the state department of
12 social and health services, or a local division of youth services, for
13 sex offenses committed before, on, or after February 28, 1990, must
14 register within ten days of July 28, 1991. Kidnapping offenders who,
15 on July 27, 1997, are not in custody but are under the jurisdiction of
16 the indeterminate sentence review board or under the department of
17 corrections' active supervision, as defined by the department of
18 corrections, the state department of social and health services, or a
19 local division of youth services, for kidnapping offenses committed
20 before, on, or after July 27, 1997, must register within ten days of
21 July 27, 1997. A change in supervision status of a sex offender who
22 was required to register under this subsection (~~(+4)~~) (3)(a)(ii) as of
23 July 28, 1991, or a kidnapping offender required to register as of July
24 27, 1997, shall not relieve the offender of the duty to register or to
25 reregister following a change in residence.

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

1 before, on, or after February 28, 1990, must register within ten days
2 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not
3 in custody but are under the jurisdiction of the United States bureau
4 of prisons, United States courts, United States parole commission, or
5 military parole board for kidnapping offenses committed before, on, or
6 after July 27, 1997, must register within ten days of July 27, 1997.
7 A change in supervision status of a sex offender who was required to
8 register under this subsection (~~(+4)~~) (3)(a)(iii) as of July 23, 1995,
9 or a kidnapping offender required to register as of July 27, 1997 shall
10 not relieve the offender of the duty to register or to reregister
11 following a change in residence, or if the person is not a resident of
12 Washington, the county of the person's school, or place of employment
13 or vocation.

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 within three
21 business days 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 three business days of establishing residence or reestablishing
29 residence if the person is a former Washington resident. The duty to
30 register under this subsection applies to sex offenders convicted under
31 the laws of another state or a foreign country, federal or military
32 statutes for offenses committed before, on, or after February 28, 1990,
33 or Washington state for offenses committed before, on, or after
34 February 28, 1990, and to kidnapping offenders convicted under the laws
35 of another state or a foreign country, federal or military statutes, or
36 Washington state for offenses committed before, on, or after July 27,
37 1997. Sex offenders and kidnapping offenders from other states or a
38 foreign country who, when they move to Washington, are under the

1 jurisdiction of the department of corrections, the indeterminate
2 sentence review board, or the department of social and health services
3 must register within three business days of moving to Washington. The
4 agency that has jurisdiction over the offender shall notify the
5 offender of the registration requirements before the offender moves to
6 Washington.

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

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

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

36 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND
37 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,
38 who move to another state, or who work, carry on a vocation, or attend

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

9 (b) The county sheriff shall not be required to determine whether
10 the person is living within the county.

11 (c) An arrest on charges of failure to register, service of an
12 information, or a complaint for a violation of RCW 9A.44.132, or
13 arraignment on charges for a violation of RCW 9A.44.132, constitutes
14 actual notice of the duty to register. Any person charged with the
15 crime of failure to register under RCW 9A.44.132 who asserts as a
16 defense the lack of notice of the duty to register shall register
17 within three business days following actual notice of the duty through
18 arrest, service, or arraignment. Failure to register as required under
19 this subsection (~~((+4))~~) (3)(c) constitutes grounds for filing another
20 charge of failing to register. Registering following arrest, service,
21 or arraignment on charges shall not relieve the offender from criminal
22 liability for failure to register prior to the filing of the original
23 charge.

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

27 (~~((+5))~~) (4)(a) If any person required to register pursuant to this
28 section changes his or her residence address within the same county,
29 the person must provide, by certified mail, with return receipt
30 requested or in person, signed written notice of the change of address
31 to the county sheriff within three business days of moving.

32 (b) If any person required to register pursuant to this section
33 moves to a new county, the person must register with that county
34 sheriff within three business days of moving. Within three business
35 days, the person must also provide, by certified mail, with return
36 receipt requested or in person, signed written notice of the change of
37 address in the new county to the county sheriff with whom the person
38 last registered. The county sheriff with whom the person last

1 registered shall promptly forward the information concerning the change
2 of address to the county sheriff for the county of the person's new
3 residence. Upon receipt of notice of change of address to a new state,
4 the county sheriff shall promptly forward the information regarding the
5 change of address to the agency designated by the new state as the
6 state's offender registration agency.

7 ~~((+6+))~~ (5)(a) Any person required to register under this section
8 who lacks a fixed residence shall provide signed written notice to the
9 sheriff of the county where he or she last registered within three
10 business days after ceasing to have a fixed residence. The notice
11 shall include the information required by subsection ~~((+3+)(b+))~~ (2)(a)
12 of this section, except the photograph and fingerprints. The county
13 sheriff may, for reasonable cause, require the offender to provide a
14 photograph and fingerprints. The sheriff shall forward this
15 information to the sheriff of the county in which the person intends to
16 reside, if the person intends to reside in another county.

17 (b) A person who lacks a fixed residence must report weekly, in
18 person, to the sheriff of the county where he or she is registered.
19 The weekly report shall be on a day specified by the county sheriff's
20 office, and shall occur during normal business hours. The person must
21 keep an accurate accounting of where he or she stays during the week
22 and provide it to the county sheriff upon request. The lack of a fixed
23 residence is a factor that may be considered in determining an
24 offender's risk level and shall make the offender subject to disclosure
25 of information to the public at large pursuant to RCW 4.24.550.

26 (c) If any person required to register pursuant to this section
27 does not have a fixed residence, it is an affirmative defense to the
28 charge of failure to register, that he or she provided written notice
29 to the sheriff of the county where he or she last registered within
30 three business days of ceasing to have a fixed residence and has
31 subsequently complied with the requirements of subsections ~~((+4+))~~
32 (3)(a)(vii) or (viii) and ~~((+6+))~~ (5) of this section. To prevail, the
33 person must prove the defense by a preponderance of the evidence.

34 ~~((+7+))~~ (6) A sex offender subject to registration requirements
35 under this section who applies to change his or her name under RCW
36 4.24.130 or any other law shall submit a copy of the application to the
37 county sheriff of the county of the person's residence and to the state
38 patrol not fewer than five days before the entry of an order granting

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

12 ~~((8) The county sheriff shall obtain a photograph of the~~
13 ~~individual and shall obtain a copy of the individual's fingerprints.~~
14 ~~A photograph may be taken at any time to update an individual's file.~~

15 ~~(9))~~ (7) Except as may otherwise be provided by law, nothing in
16 this section shall impose any liability upon a peace officer, including
17 a county sheriff, or law enforcement agency, for failing to release
18 information authorized under this section.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 9A.44 RCW
20 to read as follows:

21 (1) Upon receiving notice from a registered person pursuant to RCW
22 9A.44.130 that the person will be attending a school or institution of
23 higher education or will be employed with an institution of higher
24 education, the sheriff must promptly notify the school district and the
25 school principal or institution's department of public safety and shall
26 provide that school or department with the person's: (a) Name and any
27 aliases used; (b) complete residential address; (c) date and place of
28 birth; (d) place of employment; (e) crime for which convicted; (f) date
29 and place of conviction; (g) social security number; (h) photograph;
30 and (i) risk level classification.

31 (2) A principal or department receiving notice under this
32 subsection must disclose the information received from the sheriff as
33 follows:

34 (a) If the student is classified as a risk level II or III, the
35 principal shall provide the information received to every teacher of
36 the student and to any other personnel who, in the judgment of the

1 principal, supervises the student or for security purposes should be
2 aware of the student's record;

3 (b) If the student is classified as a risk level I, the principal
4 or department shall provide the information received only to personnel
5 who, in the judgment of the principal or department, for security
6 purposes should be aware of the student's record.

7 (3) The sheriff shall notify the applicable school district and
8 school principal or institution's department of public safety whenever
9 a student's risk level classification is changed or the sheriff is
10 notified of a change in the student's address.

11 (4) Any information received by school or institution personnel
12 under this subsection is confidential and may not be further
13 disseminated except as provided in RCW 28A.225.330, other statutes or
14 case law, and the family and educational and privacy rights act of
15 1994, 20 U.S.C. Sec. 1232g et seq.

16 **Sec. 5.** RCW 9A.44.132 and 2010 c 267 s 3 are each amended to read
17 as follows:

18 (1) A person commits the crime of failure to register as a sex
19 offender if the person has a duty to register under RCW 9A.44.130 for
20 a felony sex offense (~~(as defined in that section)~~) and knowingly fails
21 to comply with any of the requirements of RCW 9A.44.130.

22 (a) (~~Except as provided in (b) of this subsection,~~) The failure
23 to register as a sex offender pursuant to this subsection is a class C
24 felony if:

25 (i) It is the person's first conviction for a felony failure to
26 register; or

27 (ii) The person has previously been convicted of a felony failure
28 to register as a sex offender in this state or pursuant to the laws of
29 another state.

30 (b) If a person has been convicted (~~(in this state)~~) of a felony
31 failure to register as a sex offender in this state or pursuant to the
32 laws of another state on two or more prior occasions, the failure to
33 register under this subsection is a class B felony.

34 (2) A person is guilty of failure to register as a sex offender if
35 the person has a duty to register under RCW 9A.44.130 for a sex offense
36 other than a felony and knowingly fails to comply with any of the

1 requirements of RCW 9A.44.130. The failure to register as a sex
2 offender under this subsection is a gross misdemeanor.

3 (3) A person commits the crime of failure to register as a
4 kidnapping offender if the person has a duty to register under RCW
5 9A.44.130 for a kidnapping offense and knowingly fails to comply with
6 any of the requirements of RCW 9A.44.130.

7 (a) If the person has a duty to register for a felony kidnapping
8 offense, the failure to register as a kidnapping offender is a class C
9 felony.

10 (b) If the person has a duty to register for a kidnapping offense
11 other than a felony, the failure to register as a kidnapping offender
12 is a gross misdemeanor.

13 (4) Unless relieved of the duty to register pursuant to RCW
14 9A.44.141 and 9A.44.142, a violation of this section is an ongoing
15 offense for purposes of the statute of limitations under RCW 9A.04.080.

16 **Sec. 6.** RCW 9A.44.141 and 2010 c 267 s 5 are each amended to read
17 as follows:

18 (1) Upon the request of a person who is listed in the Washington
19 state patrol central registry of sex offenders and kidnapping
20 offenders, the county sheriff shall investigate whether a person's duty
21 to register has ended by operation of law pursuant to RCW 9A.44.140.

22 (a) Using available records, the county sheriff shall verify that
23 the offender has spent the requisite time in the community and has not
24 been convicted of a disqualifying offense.

25 (b) If the county sheriff determines the person's duty to register
26 has ended by operation of law, the county sheriff shall request the
27 Washington state patrol remove the person's name from the central
28 registry.

29 (2) Nothing in this subsection prevents a county sheriff from
30 investigating, upon his or her own initiative, whether a person's duty
31 to register has ended by operation of law pursuant to RCW 9A.44.140.

32 (3)(a) A person who is listed in the central registry as the result
33 of a federal or out-of-state conviction may request the county sheriff
34 to investigate whether the person should be removed from the registry
35 if:

36 (i) A court in the person's state of conviction has made an

1 individualized determination that the person should not be required to
2 register; and

3 (ii) The person provides proof of relief from registration to the
4 county sheriff.

5 (b) If the county sheriff determines the person has been relieved
6 of the duty to register in his or her state of conviction, the county
7 sheriff shall request the Washington state patrol remove the person's
8 name from the central registry.

9 (4) An appointed or elected public official, public employee, or
10 public agency as defined in RCW 4.24.470, or units of local government
11 and its employees, as provided in RCW 36.28A.010, are immune from civil
12 liability for damages for removing or requesting the removal of a
13 person from the central registry of sex offenders and kidnapping
14 offenders or the failure to remove or request removal of a person
15 within the time frames provided in RCW 9A.44.140.

16 **Sec. 7.** RCW 9A.44.142 and 2010 c 267 s 6 are each amended to read
17 as follows:

18 (1) A person who is required to register under RCW 9A.44.130 may
19 petition the superior court to be relieved of the duty to register:

20 (a) If the person has a duty to register for a sex offense or
21 kidnapping offense committed when the offender was a juvenile,
22 regardless of whether the conviction was in this state, as provided in
23 RCW 9A.44.143;

24 (b) If the person is required to register for a conviction in this
25 state and is not prohibited from petitioning for relief from
26 registration under subsection (2) of this section, when the person has
27 spent ten consecutive years in the community without being convicted of
28 a disqualifying offense during that time period; (~~and~~) or

29 (c) If the person is required to register for a federal or out-of-
30 state conviction, when the person has spent fifteen consecutive years
31 in the community without being convicted of a disqualifying offense
32 during that time period.

33 (2)(a) A person may not petition for relief from registration if
34 the person has been:

35 (i) Determined to be a sexually violent predator as defined in RCW
36 71.09.020;

1 (ii) Convicted as an adult of a sex offense or kidnapping offense
2 that is a class A felony and that was committed with forcible
3 compulsion on or after June 8, 2000; or

4 (iii) Until July 1, 2012, convicted of one aggravated offense or
5 more than one sexually violent offense, as defined in subsection (5) of
6 this section, and the offense or offenses were committed on or after
7 March 12, 2002. After July 1, 2012, this subsection (2)(a)(iii) shall
8 have no further force and effect.

9 (b) Any person who may not be relieved of the duty to register may
10 petition the court to be exempted from any community notification
11 requirements that the person may be subject to fifteen years after the
12 later of the entry of the judgment and sentence or the last date of
13 release from confinement, including full-time residential treatment,
14 pursuant to the conviction, if the person has spent the time in the
15 community without being convicted of a disqualifying offense.

16 (3) A petition for relief from registration or exemption from
17 notification under this section shall be made to the court in which the
18 petitioner was convicted of the offense that subjects him or her to the
19 duty to register or, in the case of convictions in other states, a
20 foreign country, or a federal or military court, to the court in
21 ((Thurston)) the county where the person is registered at the time the
22 petition is sought. The prosecuting attorney of the county shall be
23 named and served as the respondent in any such petition.

24 (4)(a) The court may relieve a petitioner of the duty to register
25 only if the petitioner shows by clear and convincing evidence that the
26 petitioner is sufficiently rehabilitated to warrant removal from the
27 central registry of sex offenders and kidnapping offenders.

28 (b) In determining whether the petitioner is sufficiently
29 rehabilitated to warrant removal from the registry, the following
30 factors are provided as guidance to assist the court in making its
31 determination:

32 (i) The nature of the registrable offense committed including the
33 number of victims and the length of the offense history;

34 (ii) Any subsequent criminal history;

35 (iii) The petitioner's compliance with supervision requirements;

36 (iv) The length of time since the charged incident(s) occurred;

37 (v) Any input from community corrections officers, law enforcement,
38 or treatment providers;

1 (vi) Participation in sex offender treatment;
2 (vii) Participation in other treatment and rehabilitative programs;
3 (viii) The offender's stability in employment and housing;
4 (ix) The offender's community and personal support system;
5 (x) Any risk assessments or evaluations prepared by a qualified
6 professional;
7 (xi) Any updated polygraph examination;
8 (xii) Any input of the victim;
9 (xiii) Any other factors the court may consider relevant.

10 (5)(a) A person who has been convicted of an aggravated offense, or
11 has been convicted of one or more prior sexually violent offenses or
12 criminal offenses against a victim who is a minor, as defined in (b) of
13 this subsection:

14 (i) Until July 1, 2012, may not be relieved of the duty to
15 register;

16 (ii) After July 1, 2012, may petition the court to be relieved of
17 the duty to register as provided in this section;

18 (iii) This provision shall apply to convictions for crimes
19 committed on or after July 22, 2001.

20 (b) Unless the context clearly requires otherwise, the following
21 definitions apply only to the federal lifetime registration
22 requirements under this subsection:

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

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

27 (B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape
28 of a child in the first degree), or RCW 9A.44.083 (child molestation in
29 the first degree);

30 (C) Any of the following offenses when committed by forcible
31 compulsion or by the offender administering, by threat or force or
32 without the knowledge or permission of that person, a drug, intoxicant,
33 or other similar substance that substantially impairs the ability of
34 that person to appraise or control conduct: RCW 9A.44.050 (rape in the
35 second degree), RCW 9A.44.100 (indecent liberties), RCW 9A.44.160
36 (custodial sexual misconduct in the first degree), RCW 9A.64.020
37 (incest), or RCW 9.68A.040 (sexual exploitation of a minor);

1 (D) Any of the following offenses when committed by forcible
2 compulsion or by the offender administering, by threat or force or
3 without the knowledge or permission of that person, a drug, intoxicant,
4 or other similar substance that substantially impairs the ability of
5 that person to appraise or control conduct, if the victim is twelve
6 years of age or over but under sixteen years of age and the offender is
7 eighteen years of age or over and is more than forty-eight months older
8 than the victim: RCW 9A.44.076 (rape of a child in the second degree),
9 RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086
10 (child molestation in the second degree), or RCW 9A.44.089 (child
11 molestation in the third degree);

12 (E) A felony with a finding of sexual motivation under RCW
13 9.94A.835 where the victim is under twelve years of age or that is
14 committed by forcible compulsion or by the offender administering, by
15 threat or force or without the knowledge or permission of that person,
16 a drug, intoxicant, or other similar substance that substantially
17 impairs the ability of that person to appraise or control conduct;

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

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

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

26 (A) An aggravated offense;

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

31 (C) A felony with a finding of sexual motivation under RCW
32 9.94A.835 where the victim is incapable of appraising the nature of the
33 conduct or physically incapable of declining participation in, or
34 communicating unwillingness to engage in, the conduct;

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

37 (E) An offense defined by federal law or the laws of another state

1 that is equivalent to the offenses listed in (b)(ii)(A) through (D) of
2 this subsection.

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

7 (A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape
8 of a child in the second degree), RCW 9A.44.079 (rape of a child in the
9 third degree), RCW 9A.44.086 (child molestation in the second degree),
10 RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093
11 (sexual misconduct with a minor in the first degree), RCW 9A.44.096
12 (sexual misconduct with a minor in the second degree), RCW 9A.44.160
13 (custodial sexual misconduct in the first degree), RCW 9A.64.020
14 (incest), RCW 9.68A.040 (sexual exploitation of a minor), RCW 9.68A.090
15 (communication with a minor for immoral purposes), or RCW 9.68A.100
16 (commercial sexual abuse of a minor);

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

21 (C) A felony with a finding of sexual motivation under RCW
22 9.94A.835 where the victim is a minor;

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

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

28 **Sec. 8.** RCW 43.43.540 and 2006 c 136 s 1 are each amended to read
29 as follows:

30 (1) The county sheriff shall ~~((+1+))~~ forward ~~((the))~~ registration
31 information, photographs, and fingerprints obtained pursuant to RCW
32 9A.44.130, including the sex offender's risk level classification and
33 any notice of change of address, to the Washington state patrol within
34 five working days~~((+and))~~.

35 (2) ~~Upon implementation of RCW 4.24.550(5)(a), the Washington state~~
36 ~~patrol ((will forward the information necessary to operate the~~
37 ~~registered sex offender web site described in RCW 4.24.550(5)(a) to the~~

1 ~~Washington association of sheriffs and police chiefs within five~~
2 ~~working days of receiving the information, including any notice of~~
3 ~~change of address or change in risk level notification. The state~~
4 ~~patrol)) shall maintain a central registry of sex offenders and~~
5 kidnapping offenders required to register under RCW 9A.44.130 and shall
6 adopt rules consistent with chapters 10.97, 10.98, and 43.43 RCW as are
7 necessary to carry out the purposes of RCW 9A.44.130, 9A.44.140,
8 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The
9 Washington state patrol shall reimburse the counties for the costs of
10 processing the offender registration, including taking the offender's
11 fingerprints and ((the)) photograph((s))."

12 Correct the title.

EFFECT: References the definition of "fixed residence" rather than "residence" for the definition of "lacks a fixed residence." Corrects typographical errors.

--- END ---