

SSB 5204 - H AMD TO H AMD (H2588.2/11) 636

By Representative Pearson

FAILED 04/09/2011

1 On page 19, after line 33 of the amendment, insert the following:

2 "Sec. 7. RCW 9A.44.130 and 2010 c 267 s 2 and 2010 c 265 s 1 are
3 each reenacted and amended to read as follows:

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

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

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

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

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

9 (iv) Whose enrollment or employment at a public or private
10 institution of higher education is terminated shall, within three
11 business days of such termination, notify the sheriff for the county
12 of the person's residence of the person's termination of enrollment or
13 employment at the institution.

14 (c) The sheriff shall notify the school district and the school's
15 principal or the institution's department of public safety and shall
16 provide (~~that department with~~) the same information provided to a
17 county sheriff under subsection (~~(+3+)~~) (2) of this section.

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

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

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

32 ~~(ii) Any information received by a principal or school personnel~~
33 ~~under this subsection is confidential and may not be further~~
34 ~~disseminated except as provided in RCW 28A.225.330, other statutes or~~

1 ease law, and the family and educational and privacy rights act of
2 1994, 20 U.S.C. Sec. 1232g et seq.

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

6 ~~((+3))~~ (2)(a) The person shall provide the following information
7 when registering: (i) Name; (ii) complete residential address; (iii)
8 date and place of birth; (iv) place of employment; (v) crime for which
9 convicted; (vi) date and place of conviction; (vii) sentence imposed
10 for conviction; (viii) aliases used; ~~((+viii))~~ (ix) social security
11 number; ~~((+ix))~~ (x) photograph; and ~~((+x))~~ (xi) fingerprints.

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

19 ~~((+4))~~ (3)(a) Offenders shall register with the county sheriff
20 within the following deadlines:

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

1 within three business days from the time of release with the county
2 sheriff for the county of the person's residence, or if the person is
3 not a resident of Washington, the county of the person's school, or
4 place of employment or vocation. The agency that has jurisdiction
5 over the offender shall provide notice to the offender of the duty to
6 register.

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

17 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
18 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
19 but are under the jurisdiction of the indeterminate sentence review
20 board or under the department of corrections' active supervision, as
21 defined by the department of corrections, the state department of
22 social and health services, or a local division of youth services, for
23 sex offenses committed before, on, or after February 28, 1990, must
24 register within ten days of July 28, 1991. Kidnapping offenders who,
25 on July 27, 1997, are not in custody but are under the jurisdiction of
26 the indeterminate sentence review board or under the department of
27 corrections' active supervision, as defined by the department of
28 corrections, the state department of social and health services, or a
29 local division of youth services, for kidnapping offenses committed
30 before, on, or after July 27, 1997, must register within ten days of
31 July 27, 1997. A change in supervision status of a sex offender who
32 was required to register under this subsection ((+4)) (3)(a)(ii) as
33 of July 28, 1991, or a kidnapping offender required to register as of
34

1 July 27, 1997, shall not relieve the offender of the duty to register
2 or to reregister following a change in residence.

3 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
4 or after July 23, 1995, and kidnapping offenders who, on or after July
5 27, 1997, as a result of that offense are in the custody of the United
6 States bureau of prisons or other federal or military correctional
7 agency for sex offenses committed before, on, or after February 28,
8 1990, or kidnapping offenses committed on, before, or after July 27,
9 1997, must register within three business days from the time of
10 release with the county sheriff for the county of the person's
11 residence, or if the person is not a resident of Washington, the
12 county of the person's school, or place of employment or vocation.
13 Sex offenders who, on July 23, 1995, are not in custody but are under
14 the jurisdiction of the United States bureau of prisons, United States
15 courts, United States parole commission, or military parole board for
16 sex offenses committed before, on, or after February 28, 1990, must
17 register within ten days of July 23, 1995. Kidnapping offenders who,
18 on July 27, 1997, are not in custody but are under the jurisdiction of
19 the United States bureau of prisons, United States courts, United
20 States parole commission, or military parole board for kidnapping
21 offenses committed before, on, or after July 27, 1997, must register
22 within ten days of July 27, 1997. A change in supervision status of a
23 sex offender who was required to register under this subsection
24 (~~(4)~~) (3)(a)(iii) as of July 23, 1995, or a kidnapping offender
25 required to register as of July 27, 1997 shall not relieve the
26 offender of the duty to register or to reregister following a change
27 in residence, or if the person is not a resident of Washington, the
28 county of the person's school, or place of employment or vocation.

29 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
30 who are convicted of a sex offense on or after July 28, 1991, for a
31 sex offense that was committed on or after February 28, 1990, and
32 kidnapping offenders who are convicted on or after July 27, 1997, for
33 a kidnapping offense that was committed on or after July 27, 1997, but
34 who are not sentenced to serve a term of confinement immediately upon

1 sentencing, shall report to the county sheriff to register within
2 three business days of being sentenced.

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

26 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
27 or juvenile who has been found not guilty by reason of insanity under
28 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
29 February 28, 1990, and who, on or after July 23, 1995, is in custody,
30 as a result of that finding, of the state department of social and
31 health services, or (B) committing a kidnapping offense on, before, or
32 after July 27, 1997, and who on or after July 27, 1997, is in custody,
33 as a result of that finding, of the state department of social and
34 health services, must register within three business days from the

1 time of release with the county sheriff for the county of the person's
2 residence. The state department of social and health services shall
3 provide notice to the adult or juvenile in its custody of the duty to
4 register. Any adult or juvenile who has been found not guilty by
5 reason of insanity of committing a sex offense on, before, or after
6 February 28, 1990, but who was released before July 23, 1995, or any
7 adult or juvenile who has been found not guilty by reason of insanity
8 of committing a kidnapping offense but who was released before July
9 27, 1997, shall be required to register within three business days of
10 receiving notice of this registration requirement.

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

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

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

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

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

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

17 (5)(a) If any person required to register pursuant to this section
18 changes his or her residence address within the same county, the
19 person must provide, by certified mail, with return receipt requested
20 or in person, signed written notice of the change of address to the
21 county sheriff within three business days of moving.

22 (b) If any person required to register pursuant to this section
23 moves to a new county, the person must register with that county
24 sheriff within three business days of moving. Within three business
25 days, the person must also provide, by certified mail, with return
26 receipt requested or in person, signed written notice of the change of
27 address in the new county to the county sheriff with whom the person
28 last registered. The county sheriff with whom the person last
29 registered shall promptly forward the information concerning the
30 change of address to the county sheriff for the county of the person's
31 new residence. Upon receipt of notice of change of address to a new
32 state, the county sheriff shall promptly forward the information
33 regarding the change of address to the agency designated by the new
34 state as the state's offender registration agency.

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

11 (b) A person who lacks a fixed residence must report weekly, in
12 person, to the sheriff of the county where he or she is registered.
13 The weekly report shall be on a day specified by the county sheriff's
14 office, and shall occur during normal business hours. The person must
15 keep an accurate accounting of where he or she stays during the week
16 and provide it to the county sheriff upon request. The lack of a
17 fixed residence is a factor that may be considered in determining an
18 offender's risk level and shall make the offender subject to
19 disclosure of information to the public at large pursuant to RCW
20 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 three business days of ceasing to have a fixed residence and has
26 subsequently complied with the requirements of subsections (~~(4)~~)
27 (3)(a)(vii) or (viii) and (~~(6)~~) (5) of this section. To prevail,
28 the person must prove the defense by a preponderance of the evidence.

29 (7) A sex offender subject to registration requirements under this
30 section who applies to change his or her name under RCW 4.24.130 or
31 any other law shall submit a copy of the application to the county
32 sheriff of the county of the person's residence and to the state
33 patrol not fewer than five days before the entry of an order granting
34 the name change. No sex offender under the requirement to register

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

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

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

18
19 NEW SECTION. **Sec. 8.** A new section is added to chapter 9A.44 RCW
20 to read as follows:

21 (1) When a school district or department of public safety of an
22 institution of higher education receives notice under RCW 9A.44.130
23 that a person who is required to register as a sex offender plans to
24 attend the school, it shall make the following notifications:

25 (a) If the student who is required to register as a sex offender
26 is classified as a risk level I or is unclassified, the school
27 district or department of public safety shall provide the information
28 received under RCW 9A.44.130 only to personnel who, in the judgment of
29 the school district, the school principal, or department of public
30 safety, for security purposes should be aware of the student's record.

31 (b)(i) If the student who is required to register as a sex
32 offender is classified as a risk level II or III, the school district
33 or department of public safety shall provide the information received
34 under RCW 9A.44.130 to the student's teachers and to any other

1 personnel who, in the judgment of the school district, the school
2 principal, or department of public safety, supervises the student or
3 for security purposes should be aware of the student's record.

4 (ii) If the student who is required to register as a sex offender
5 is classified as a risk level II or III, the school district or
6 department of public safety shall also notify parents, legal
7 guardians, students who are eighteen years of age or older, and any
8 personnel who may observe or come into contact with the student,
9 including school administrators, teachers, staff persons, bus drivers,
10 security staff, coaches, playground supervisors, and maintenance
11 personnel.

12 (iii) A school district or department of public safety shall
13 provide the notice required by (b)(ii) of this subsection in writing
14 at the beginning of the school year and at any time a new student who
15 is required to register as a sex offender enrolls in or arrives at the
16 school or institution to attend classes. The school district or
17 department of public safety shall also provide the notice by e-mail,
18 if available. The notice provided under (b)(ii) of this subsection
19 must include the name of the student required to register as a sex
20 offender, the crime of conviction, the sentence imposed, and an
21 internet link, if available, to a local law enforcement agency web
22 site where interested persons may seek further information about
23 registered sex offenders.

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

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

32

EFFECT:

- Requires a school district or public safety department of an

institution of higher education to notify the following people if a registered sex offender classified as a risk level II or III enrolls in a school: (1) parents and legal guardians; (2) students who are 18 years of age or older; and (3) any school personnel who may observe or come into contact with the student, including administrators, teachers, staff people, bus drivers, security staff, coaches, playground supervisors, and maintenance personnel.

- Requires that the notice include the student's name, crime of conviction, and the sentence imposed, as well as a link to a law enforcement website with more information. Requires that the notice be sent in writing and by e-mail, if available, at the beginning of the school year and any time a registered sex offender enrolls or arrives to attend classes.
- Requires that a sex offender provide the sheriff with information regarding the sentence imposed at the time of registration.

--- END ---