

1 **ESB 6708 - H AMDS 401**

2 By Representatives D. Sommers, Cole and others

3 On page 5, line 5, after "RCW 9.68A.090" insert "or 9A.44.096"

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5 On page 5, after line 17, insert the following:

6 "**Sec. 2.** RCW 9A.44.140 and 1995 c 268 s 4, 1995 c 248 s 2,  
7 and 1995 c 195 s 2 are each reenacted and amended to read as  
8 follows:

9 (1) The duty to register under RCW 9A.44.130 shall end:

10 (a) For a person convicted of a class A felony: Such person  
11 may only be relieved of the duty to register under subsection (3)  
12 or (4) of this section.

13 (b) For a person convicted of a class B felony: Fifteen years  
14 after the last date of release from confinement, if any, (including  
15 full-time residential treatment) pursuant to the conviction, or  
16 entry of the judgment and sentence, if the person has spent fifteen  
17 consecutive years in the community without being convicted of any  
18 new offenses.

19 (c) For a person convicted of a class C felony (~~(or any)~~), a  
20 violation of RCW 9.68A.090 or 9A.44.096, or an attempt,  
21 solicitation, or conspiracy to commit a class C felony: Ten years  
22 after the last date of release from confinement, if any, (including  
23 full-time residential treatment) pursuant to the conviction, or  
24 entry of the judgment and sentence, if the person has spent ten  
25 consecutive years in the community without being convicted of any  
26 new offenses.

27 (2) The provisions of subsection (1) of this section shall  
28 apply equally to a person who has been found not guilty by reason  
29 of insanity under chapter 10.77 RCW of a sex offense.

30 (3) Any person having a duty to register under RCW 9A.44.130  
31 may petition the superior court to be relieved of that duty. The

1 petition shall be made to the court in which the petitioner was  
2 convicted of the offense that subjects him or her to the duty to  
3 register, or, in the case of convictions in other states, a foreign  
4 country, or a federal or military court, to the court in Thurston  
5 county. The prosecuting attorney of the county shall be named and  
6 served as the respondent in any such petition. The court shall  
7 consider the nature of the registrable offense committed, and the  
8 criminal and relevant noncriminal behavior of the petitioner both  
9 before and after conviction, and may consider other factors.  
10 Except as provided in subsection (4) of this section, the court may  
11 relieve the petitioner of the duty to register only if the  
12 petitioner shows, with clear and convincing evidence, that future  
13 registration of the petitioner will not serve the purposes of RCW  
14 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and  
15 72.09.330.

16 (4) An offender having a duty to register under RCW 9A.44.130  
17 for a sex offense committed when the offender was a juvenile may  
18 petition the superior court to be relieved of that duty. The court  
19 shall consider the nature of the registrable offense committed, and  
20 the criminal and relevant noncriminal behavior of the petitioner  
21 both before and after adjudication, and may consider other factors.  
22 The court may relieve the petitioner of the duty to register for a  
23 sex offense that was committed while the petitioner was fifteen  
24 years of age or older only if the petitioner shows, with clear and  
25 convincing evidence, that future registration of the petitioner  
26 will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540,  
27 46.20.187, 70.48.470, and 72.09.330. The court may relieve the  
28 petitioner of the duty to register for a sex offense that was  
29 committed while the petitioner was under the age of fifteen if the  
30 petitioner (a) has not been adjudicated of any additional sex  
31 offenses during the twenty-four months following the adjudication  
32 for the sex offense giving rise to the duty to register, and (b)  
33 the petitioner proves by a preponderance of the evidence that

1 future registration of the petitioner will not serve the purposes  
2 of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and  
3 72.09.330.

4 (5) Unless relieved of the duty to register pursuant to this  
5 section, a violation of RCW 9A.44.130 is an ongoing offense for  
6 purposes of the statute of limitations under RCW 9A.04.080.

7 (6) Nothing in RCW 9.94A.220 relating to discharge of an  
8 offender shall be construed as operating to relieve the offender of  
9 his or her duty to register pursuant to RCW 9A.44.130."

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11 Correct the title accordingly.

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**EFFECT:** Adds the crime of second degree sexual misconduct with a minor to the list of offenses that require sex offender registration. The offender must remain registered for 10 years following release unless a judge shortens the requirement. Second degree sexual misconduct is a gross misdemeanor. The crime involves sexual contact with a 16-year-old or 17-year-old when the perpetrator: (1) is more than five years older than the victim; (2) is in a significant relationship to the victim (including such positions as teacher, coach, counselor, or supervisor); and (3) abuses a supervisory position in order to have the sexual contact.