

CERTIFICATION OF ENROLLMENT

SENATE BILL 5239

Chapter 195, Laws of 1995

54th Legislature
1995 Regular Session

SEX OFFENDER REGISTRATION--COMMUNICATION WITH A MINOR
FOR IMMORAL PURPOSES--CONVICTEES

EFFECTIVE DATE: 7/23/95

Passed by the Senate April 17, 1995
YEAS 45 NAYS 0

JOEL PRITCHARD

President of the Senate

Passed by the House April 4, 1995
YEAS 96 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 1, 1995

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5239** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

May 1, 1995 - 11:37 a.m.

**Secretary of State
State of Washington**

SENATE BILL 5239

AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

State of Washington **54th Legislature** **1995 Regular Session**

By Senators Oke and Owen

Read first time 01/16/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to registration of sex offenders; and amending RCW
2 9A.44.130 and 9A.44.140.

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

4 **Sec. 1.** RCW 9A.44.130 and 1994 c 84 s 2 are each amended to read
5 as follows:

6 (1) Any adult or juvenile residing in this state who has been found
7 to have committed or has been convicted of any sex offense shall
8 register with the county sheriff for the county of the person's
9 residence.

10 (2) The person shall provide the county sheriff with the following
11 information when registering: (a) Name; (b) address; (c) date and
12 place of birth; (d) place of employment; (e) crime for which convicted;
13 (f) date and place of conviction; (g) aliases used; and (h) social
14 security number.

15 (3)(a) Sex offenders shall register within the following deadlines.
16 For purposes of this section the term "conviction" refers to adult
17 convictions and juvenile adjudications for sex offenses:

18 (i) SEX OFFENDERS IN CUSTODY. Sex offenders who committed a sex
19 offense on, before, or after February 28, 1990, and who, on or after

1 July 28, 1991, are in custody, as a result of that offense, of the
2 state department of corrections, the state department of social and
3 health services, a local division of youth services, or a local jail or
4 juvenile detention facility, must register within twenty-four hours
5 from the time of release with the county sheriff for the county of the
6 person's residence. The agency that has jurisdiction over the offender
7 shall provide notice to the sex offender of the duty to register.
8 Failure to register within twenty-four hours of release constitutes a
9 violation of this section and is punishable as provided in subsection
10 (7) of this section.

11 (ii) SEX OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
12 JURISDICTION. Sex offenders, who, on July 28, 1991, are not in custody
13 but are under the jurisdiction of the indeterminate sentence review
14 board or under the department of correction's active supervision, as
15 defined by the department of corrections, the state department of
16 social and health services, or a local division of youth services, for
17 sex offenses committed before, on, or after February 28, 1990, must
18 register within ten days of July 28, 1991. A change in supervision
19 status of a sex offender who was required to register under this
20 subsection (3)(a)(ii) as of July 28, 1991, shall not relieve the
21 offender of the duty to register or to reregister following a change in
22 residence. The obligation to register shall only cease pursuant to RCW
23 9A.44.140.

24 (iii) SEX OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex
25 offenders who are convicted of a sex offense on or after July 28, 1991,
26 for a sex offense that was committed on or after February 28, 1990, but
27 who are not sentenced to serve a term of confinement immediately upon
28 sentencing, shall report to the county sheriff to register immediately
29 upon completion of being sentenced.

30 (iv) SEX OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
31 RESIDENTS. Sex offenders who move to Washington state from another
32 state that are not under the jurisdiction of the state department of
33 corrections, the indeterminate sentence review board, or the state
34 department of social and health services at the time of moving to
35 Washington, must register within thirty days of establishing residence
36 or reestablishing residence if the person is a former Washington
37 resident. The duty to register under this subsection applies to sex
38 offenders convicted under the laws of another state, federal statutes,
39 or Washington state for offenses committed on or after February 28,

1 1990. Sex offenders from other states who, when they move to
2 Washington, are under the jurisdiction of the department of
3 corrections, the indeterminate sentence review board, or the department
4 of social and health services must register within twenty-four hours of
5 moving to Washington. The agency that has jurisdiction over the
6 offender shall notify the offender of the registration requirements
7 before the offender moves to Washington.

8 (b) Failure to register within the time required under this section
9 constitutes a per se violation of this section and is punishable as
10 provided in subsection (7) of this section. The county sheriff shall
11 not be required to determine whether the person is living within the
12 county.

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

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

28 (4) If any person required to register pursuant to this section
29 changes his or her residence address within the same county, the person
30 must send written notice of the change of address to the county sheriff
31 within ten days of establishing the new residence. If any person
32 required to register pursuant to this section moves to a new county,
33 the person must register with the county sheriff in the new county
34 within ten days of establishing the new residence. The person must
35 also send written notice within ten days of the change of address in
36 the new county to the county sheriff with whom the person last
37 registered.

38 (5) The county sheriff shall obtain a photograph of the individual
39 and shall obtain a copy of the individual's fingerprints.

1 (6) "Sex offense" for the purpose of RCW 9A.44.130, 10.01.200,
2 43.43.540, 70.48.470, and 72.09.330 means any offense defined as a sex
3 offense by RCW 9.94A.030 and any violation of RCW 9.68A.090.

4 (7) A person who knowingly fails to register as required by this
5 section is guilty of a class C felony if the crime for which the
6 individual was convicted was a class A felony or a federal or out-of-
7 state conviction for an offense that under the laws of this state would
8 be a class A felony. If the crime was other than a class A felony or
9 a federal or out-of-state conviction for an offense that under the laws
10 of this state would be a class A felony, violation of this section is
11 a gross misdemeanor.

12 **Sec. 2.** RCW 9A.44.140 and 1991 c 274 s 3 are each amended to read
13 as follows:

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

15 (a) For a person convicted of a class A felony: Such person may
16 only be relieved of the duty to register under subsection (2) or (3) of
17 this section.

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

24 (c) For a person convicted of a class C felony or any violation of
25 RCW 9.68A.090: Ten years after the last date of release from
26 confinement, if any, (including full-time residential treatment)
27 pursuant to the conviction, or entry of the judgment and sentence, if
28 the person has spent ten consecutive years in the community without
29 being convicted of any new offenses.

30 (2) Any person having a duty to register under RCW 9A.44.130 may
31 petition the superior court to be relieved of that duty. The petition
32 shall be made to the court in which the petitioner was convicted of the
33 offense that subjects him or her to the duty to register, or, in the
34 case of convictions in other states, to the court in Thurston county.
35 The prosecuting attorney of the county shall be named and served as the
36 respondent in any such petition. The court shall consider the nature
37 of the registrable offense committed, and the criminal and relevant
38 noncriminal behavior of the petitioner both before and after

1 conviction, and may consider other factors. Except as provided in
2 subsection (3) of this section, the court may relieve the petitioner of
3 the duty to register only if the petitioner shows, with clear and
4 convincing evidence, that future registration of the petitioner will
5 not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540,
6 46.20.187, 70.48.470, and 72.09.330.

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

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

30 (5) Nothing in RCW 9.94A.220 relating to discharge of an offender
31 shall be construed as operating to relieve the offender of his or her
32 duty to register pursuant to RCW 9A.44.130.

Passed the Senate April 17, 1995.

Passed the House April 4, 1995.

Approved by the Governor May 1, 1995.

Filed in Office of Secretary of State May 1, 1995.