

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2368

Chapter 139, Laws of 1998

55th Legislature
1998 Regular Session

REGISTRATION OF SEX OFFENDERS AND KIDNAPPERS FOR SECURITY PURPOSES
AT INSTITUTIONS OF HIGHER LEARNING

EFFECTIVE DATE: 6/11/98

Passed by the House March 7, 1998
Yeas 96 Nays 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate March 4, 1998
Yeas 47 Nays 0

BRAD OWEN
President of the Senate

Approved March 25, 1998

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2368** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

March 25, 1998 - 4:25 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2368

AS AMENDED BY THE SENATE

Passed Legislature - 1998 Regular Session

State of Washington 55th Legislature 1998 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Carlson, Kenney, Radcliff, Gardner, Anderson, Constantine and Mason)

Read first time 01/28/98. Referred to Committee on .

1 AN ACT Relating to security on campuses of institutions of higher
2 education; reenacting and amending RCW 9A.44.130; and adding a new
3 section to chapter 9A.44 RCW.

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

5 **Sec. 1.** RCW 9A.44.130 and 1997 c 340 s 3 and 1997 c 113 s 3 are
6 each reenacted and amended to read as follows:

7 (1) Any adult or juvenile residing in this state who has been found
8 to have committed or has been convicted of any sex offense or
9 kidnapping offense, or who has been found not guilty by reason of
10 insanity under chapter 10.77 RCW of committing any sex offense or
11 kidnapping offense, shall register with the county sheriff for the
12 county of the person's residence. In addition, any such adult or
13 juvenile who is admitted to a public or private institution of higher
14 education shall, within ten days of enrolling or by the first business
15 day after arriving at the institution, whichever is earlier, notify the
16 sheriff for the county of the person's residence of the person's intent
17 to attend the institution. Persons required to register under this
18 section who are enrolled in a public or private institution of higher
19 education on the effective date of this act must notify the county

1 sheriff immediately. The sheriff shall notify the institution's
2 department of public safety and shall provide that department with the
3 same information provided to a county sheriff under subsection (3) of
4 this section.

5 (2) This section may not be construed to confer any powers pursuant
6 to RCW 4.24.500 upon the public safety department of any public or
7 private institution of higher education.

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

13 (~~(3)~~) (4)(a) Offenders shall register with the county sheriff
14 within the following deadlines. For purposes of this section the term
15 "conviction" refers to adult convictions and juvenile adjudications for
16 sex offenses or kidnapping offenses:

17 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
18 offense on, before, or after February 28, 1990, and who, on or after
19 July 28, 1991, are in custody, as a result of that offense, of the
20 state department of corrections, the state department of social and
21 health services, a local division of youth services, or a local jail or
22 juvenile detention facility, and (B) kidnapping offenders who on or
23 after July 27, 1997, are in custody of the state department of
24 corrections, the state department of social and health services, a
25 local division of youth services, or a local jail or juvenile detention
26 facility, must register within twenty-four hours from the time of
27 release with the county sheriff for the county of the person's
28 residence. The agency that has jurisdiction over the offender shall
29 provide notice to the offender of the duty to register. Failure to
30 register within twenty-four hours of release constitutes a violation of
31 this section and is punishable as provided in subsection (~~(7)~~) (8) of
32 this section.

33 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
34 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
35 but are under the jurisdiction of the indeterminate sentence review
36 board or under the department of correction's active supervision, as
37 defined by the department of corrections, the state department of
38 social and health services, or a local division of youth services, for
39 sex offenses committed before, on, or after February 28, 1990, must

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

14 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
15 or after July 23, 1995, and kidnapping offenders who, on or after July
16 27, 1997, as a result of that offense are in the custody of the United
17 States bureau of prisons or other federal or military correctional
18 agency for sex offenses committed before, on, or after February 28,
19 1990, or kidnapping offenses committed on, before, or after July 27,
20 1997, must register within twenty-four hours from the time of release
21 with the county sheriff for the county of the person's residence. Sex
22 offenders who, on July 23, 1995, are not in custody but are under the
23 jurisdiction of the United States bureau of prisons, United States
24 courts, United States parole commission, or military parole board for
25 sex offenses committed before, on, or after February 28, 1990, must
26 register within ten days of July 23, 1995. Kidnapping offenders who,
27 on July 27, 1997, are not in custody but are under the jurisdiction of
28 the United States bureau of prisons, United States courts, United
29 States parole commission, or military parole board for kidnapping
30 offenses committed before, on, or after July 27, 1997, must register
31 within ten days of July 27, 1997. A change in supervision status of a
32 sex offender who was required to register under this subsection (~~((3))~~)
33 (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to
34 register as of July 27, 1997 shall not relieve the offender of the duty
35 to register or to reregister following a change in residence. The
36 obligation to register shall only cease pursuant to RCW 9A.44.140.

37 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
38 who are convicted of a sex offense on or after July 28, 1991, for a sex
39 offense that was committed on or after February 28, 1990, and

1 kidnapping offenders who are convicted on or after July 27, 1997, for
2 a kidnapping offense that was committed on or after July 27, 1997, but
3 who are not sentenced to serve a term of confinement immediately upon
4 sentencing, shall report to the county sheriff to register immediately
5 upon completion of being sentenced.

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

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

1 reason of insanity of committing a sex offense on, before, or after
2 February 28, 1990, but who was released before July 23, 1995, or any
3 adult or juvenile who has been found not guilty by reason of insanity
4 of committing a kidnapping offense but who was released before July 27,
5 1997, shall be required to register within twenty-four hours of
6 receiving notice of this registration requirement. The state
7 department of social and health services shall make reasonable attempts
8 within available resources to notify sex offenders who were released
9 before July 23, 1995, and kidnapping offenders who were released before
10 July 27, 1997. Failure to register within twenty-four hours of
11 release, or of receiving notice, constitutes a violation of this
12 section and is punishable as provided in subsection (~~(+7)~~) (8) of this
13 section.

14 (b) Failure to register within the time required under this section
15 constitutes a per se violation of this section and is punishable as
16 provided in subsection (~~(+7)~~) (8) of this section. The county sheriff
17 shall not be required to determine whether the person is living within
18 the county.

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

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

34 (~~(+4)~~) (5)(a) If any person required to register pursuant to this
35 section changes his or her residence address within the same county,
36 the person must send written notice of the change of address to the
37 county sheriff at least fourteen days before moving. If any person
38 required to register pursuant to this section moves to a new county,
39 the person must send written notice of the change of address at least

1 fourteen days before moving to the county sheriff in the new county of
2 residence and must register with that county sheriff within twenty-four
3 hours of moving. The person must also send written notice within ten
4 days of the change of address in the new county to the county sheriff
5 with whom the person last registered. If any person required to
6 register pursuant to this section moves out of Washington state, the
7 person must also send written notice within ten days of moving to the
8 new state or a foreign country to the county sheriff with whom the
9 person last registered in Washington state.

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

18 ((+5)) (6) The county sheriff shall obtain a photograph of the
19 individual and shall obtain a copy of the individual's fingerprints.

20 ((+6)) (7) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
21 70.48.470, and 72.09.330:

22 (a) "Sex offense" means any offense defined as a sex offense by RCW
23 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation of a
24 minor), 9.68A.050 (dealing in depictions of minor engaged in sexually
25 explicit conduct), 9.68A.060 (sending, bringing into state depictions
26 of minor engaged in sexually explicit conduct), 9.68A.090
27 (communication with minor for immoral purposes), 9.68A.100 (patronizing
28 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in
29 the second degree), as well as any gross misdemeanor that is, under
30 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or
31 criminal conspiracy to commit an offense that is classified as a sex
32 offense under RCW 9.94A.030.

33 (b) "Kidnapping offense" means the crimes of kidnapping in the
34 first degree, kidnapping in the second degree, and unlawful
35 imprisonment as defined in chapter 9A.40 RCW, where the victim is a
36 minor and the offender is not the minor's parent.

37 ((+7)) (8) A person who knowingly fails to register with the
38 county sheriff or (~~who moves without notifying~~) notify the county
39 sheriff as required by this section is guilty of a class C felony if

1 the crime for which the individual was convicted was a felony or a
2 federal or out-of-state conviction for an offense that under the laws
3 of this state would be a felony. If the crime was other than a felony
4 or a federal or out-of-state conviction for an offense that under the
5 laws of this state would be other than a felony, violation of this
6 section is a gross misdemeanor.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 9A.44 RCW
8 to read as follows:

9 The state patrol shall notify registered sex and kidnapping
10 offenders of any change to the registration requirements.

Passed the House March 7, 1998.

Passed the Senate March 4, 1998.

Approved by the Governor March 25, 1998.

Filed in Office of Secretary of State March 25, 1998.