
SENATE BILL 5249

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By Senators Wojahn, Winsley, Jacobsen, Kohl-Welles, Thibaudeau, Deccio, Rasmussen, Spanel, Fraser, Goings, Roach, Oke, T. Sheldon, Eide, Costa and Benton

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1 AN ACT Relating to sex offender and kidnapping offender residences;
2 reenacting and amending RCW 9A.44.130; adding a new section to chapter
3 9A.44 RCW; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.44 RCW
6 to read as follows:

7 (1) Conviction, or a finding of not guilty by reason of insanity,
8 for a sex offense or kidnapping offense, as defined in RCW
9 9A.44.130(8), creates a rebuttable presumption that the offender shall
10 not reside within a one-mile radius of the victim's residence as
11 measured from property lines. The court shall order that the offender
12 must not live within a one-mile radius unless the presumption is
13 overcome by written findings supported by clear and convincing evidence
14 that no physical or psychological harm to the victim will result.

15 (2) "Victim" as used in this section means a victim as defined in
16 RCW 9.94A.030.

17 (3) It is not a violation of any court order issued under this
18 section if the victim moves to within one mile of the offender after
19 the offender has established a residence.

1 (4) Any court order issued under this section shall expire at the
2 same time that the duty to register under RCW 9A.44.130 expires
3 pursuant to RCW 9A.44.140.

4 (5) A person who knowingly violates the provisions of this section
5 is subject to sanctions enumerated in RCW 9.94A.195, 9.94A.200, or any
6 other sanction cognizable by the court.

7 **Sec. 2.** RCW 9A.44.130 and 1998 c 220 (HB 1172) s 1 and 1998 c 139
8 (SHB 2368) s 1 are each reenacted and amended to read as follows:

9 (1) Any adult or juvenile residing, or who is a student, is
10 employed, or carries on a vocation in this state who has been found to
11 have committed or has been convicted of any sex offense or kidnapping
12 offense, or who has been found not guilty by reason of insanity under
13 chapter 10.77 RCW of committing any sex offense or kidnapping offense,
14 shall register with the county sheriff for the county of the person's
15 residence, or if the person is not a resident of Washington, the county
16 of the person's school, or place of employment or vocation. Where a
17 person required to register under this section is in custody of the
18 state department of corrections, the state department of social and
19 health services, a local division of youth services, or a local jail or
20 juvenile detention facility as a result of a sex offense or kidnapping
21 offense, the person shall also register at the time of release from
22 custody with an official designated by the agency that has jurisdiction
23 over the person. In addition, any such adult or juvenile who is
24 admitted to a public or private institution of higher education shall,
25 within ten days of enrolling or by the first business day after
26 arriving at the institution, whichever is earlier, notify the sheriff
27 for the county of the person's residence of the person's intent to
28 attend the institution. Persons required to register under this
29 section who are enrolled in a public or private institution of higher
30 education on June 11, 1998, must notify the county sheriff immediately.
31 The sheriff shall notify the institution's department of public safety
32 and shall provide that department with the same information provided to
33 a county sheriff under subsection (3) of this section.

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

37 (3) The person shall provide the following information when
38 registering: (a) Name; (b) address; (c) date and place of birth; (d)

1 place of employment; (e) crime for which convicted; (f) date and place
2 of conviction; (g) aliases used; (h) social security number; (i)
3 photograph; and (j) fingerprints.

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

8 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
9 offense on, before, or after February 28, 1990, and who, on or after
10 July 28, 1991, are in custody, as a result of that offense, of the
11 state department of corrections, the state department of social and
12 health services, a local division of youth services, or a local jail or
13 juvenile detention facility, and (B) kidnapping offenders who on or
14 after July 27, 1997, are in custody of the state department of
15 corrections, the state department of social and health services, a
16 local division of youth services, or a local jail or juvenile detention
17 facility, must register at the time of release from custody with an
18 official designated by the agency that has jurisdiction over the
19 offender. The agency shall within three days forward the registration
20 information to the county sheriff for the county of the offender's
21 anticipated residence. The offender must also register within twenty-
22 four hours from the time of release with the county sheriff for the
23 county of the person's residence, or if the person is not a resident of
24 Washington, the county of the person's school, or place of employment
25 or vocation. The agency that has jurisdiction over the offender shall
26 provide notice to the offender of the duty to register. Failure to
27 register at the time of release and within twenty-four hours of release
28 constitutes a violation of this section and is punishable as provided
29 in subsection (9) of this section.

30 When the agency with jurisdiction intends to release an offender
31 with a duty to register under this section, and the agency has
32 knowledge that the offender is eligible for developmental disability
33 services from the department of social and health services, the agency
34 shall notify the division of developmental disabilities of the release.
35 Notice shall occur not more than thirty days before the offender is to
36 be released. The agency and the division shall assist the offender in
37 meeting the initial registration requirement under this section.
38 Failure to provide such assistance shall not constitute a defense for
39 any violation of this section.

1 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
2 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
3 but are under the jurisdiction of the indeterminate sentence review
4 board or under the department of correction's active supervision, as
5 defined by the department of corrections, the state department of
6 social and health services, or a local division of youth services, for
7 sex offenses committed before, on, or after February 28, 1990, must
8 register within ten days of July 28, 1991. Kidnapping offenders who,
9 on July 27, 1997, are not in custody but are under the jurisdiction of
10 the indeterminate sentence review board or under the department of
11 correction's active supervision, as defined by the department of
12 corrections, the state department of social and health services, or a
13 local division of youth services, for kidnapping offenses committed
14 before, on, or after July 27, 1997, must register within ten days of
15 July 27, 1997. A change in supervision status of a sex offender who
16 was required to register under this subsection (4)(a)(ii) as of July
17 28, 1991, or a kidnapping offender required to register as of July 27,
18 1997, shall not relieve the offender of the duty to register or to
19 reregister following a change in residence. The obligation to register
20 shall only cease pursuant to RCW 9A.44.140.

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

1 A change in supervision status of a sex offender who was required to
2 register under this subsection (4)(a)(iii) as of July 23, 1995, or a
3 kidnapping offender required to register as of July 27, 1997 shall not
4 relieve the offender of the duty to register or to reregister following
5 a change in residence, or if the person is not a resident of
6 Washington, the county of the person's school, or place of employment
7 or vocation. The obligation to register shall only cease pursuant to
8 RCW 9A.44.140.

9 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
10 who are convicted of a sex offense on or after July 28, 1991, for a sex
11 offense that was committed on or after February 28, 1990, and
12 kidnapping offenders who are convicted on or after July 27, 1997, for
13 a kidnapping offense that was committed on or after July 27, 1997, but
14 who are not sentenced to serve a term of confinement immediately upon
15 sentencing, shall report to the county sheriff to register immediately
16 upon completion of being sentenced.

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

38 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
39 or juvenile who has been found not guilty by reason of insanity under

1 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
2 February 28, 1990, and who, on or after July 23, 1995, is in custody,
3 as a result of that finding, of the state department of social and
4 health services, or (B) committing a kidnapping offense on, before, or
5 after July 27, 1997, and who on or after July 27, 1997, is in custody,
6 as a result of that finding, of the state department of social and
7 health services, must register within twenty-four hours from the time
8 of release with the county sheriff for the county of the person's
9 residence. The state department of social and health services shall
10 provide notice to the adult or juvenile in its custody of the duty to
11 register. Any adult or juvenile who has been found not guilty by
12 reason of insanity of committing a sex offense on, before, or after
13 February 28, 1990, but who was released before July 23, 1995, or any
14 adult or juvenile who has been found not guilty by reason of insanity
15 of committing a kidnapping offense but who was released before July 27,
16 1997, shall be required to register within twenty-four hours of
17 receiving notice of this registration requirement. The state
18 department of social and health services shall make reasonable attempts
19 within available resources to notify sex offenders who were released
20 before July 23, 1995, and kidnapping offenders who were released before
21 July 27, 1997. Failure to register within twenty-four hours of
22 release, or of receiving notice, constitutes a violation of this
23 section and is punishable as provided in subsection (9) of this
24 section.

25 (b) Failure to register within the time required under this section
26 constitutes a per se violation of this section and is punishable as
27 provided in subsection (9) of this section. The county sheriff shall
28 not be required to determine whether the person is living within the
29 county.

30 (c) An arrest on charges of failure to register, service of an
31 information, or a complaint for a violation of this section, or
32 arraignment on charges for a violation of this section, constitutes
33 actual notice of the duty to register. Any person charged with the
34 crime of failure to register under this section who asserts as a
35 defense the lack of notice of the duty to register shall register
36 immediately following actual notice of the duty through arrest,
37 service, or arraignment. Failure to register as required under this
38 subsection (4)(c) constitutes grounds for filing another charge of
39 failing to register. Registering following arrest, service, or

1 arraignment on charges shall not relieve the offender from criminal
2 liability for failure to register prior to the filing of the original
3 charge.

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

7 (5)(a) If any person required to register pursuant to this section
8 changes his or her residence address within the same county, the person
9 must send written notice of the change of address to the county sheriff
10 within seventy-two hours of moving. If any person required to register
11 pursuant to this section moves to a new county, the person must send
12 written notice of the change of address at least fourteen days before
13 moving to the county sheriff in the new county of residence and must
14 register with that county sheriff within twenty-four hours of moving.
15 The person must also send written notice within ten days of the change
16 of address in the new county to the county sheriff with whom the person
17 last registered. The county sheriff with whom the person last
18 registered shall promptly forward the information concerning the change
19 of address to the county sheriff for the county of the person's new
20 residence. If any person required to register pursuant to this section
21 moves out of Washington state, the person must also send written notice
22 within ten days of moving to the new state or a foreign country to the
23 county sheriff with whom the person last registered in Washington
24 state. Upon receipt of notice of change of address to a new state, the
25 county sheriff shall promptly forward the information regarding the
26 change of address to the agency designated by the new state as the
27 state's offender registration agency.

28 (b) It is an affirmative defense to a charge that the person failed
29 to send a notice at least fourteen days in advance of moving as
30 required under (a) of this subsection that the person did not know the
31 location of his or her new residence at least fourteen days before
32 moving. The defendant must establish the defense by a preponderance of
33 the evidence and, to prevail on the defense, must also prove by a
34 preponderance that the defendant sent the required notice within
35 twenty-four hours of determining the new address.

36 (6) A sex offender subject to registration requirements under this
37 section who applies to change his or her name under RCW 4.24.130 or any
38 other law shall submit a copy of the application to the county sheriff
39 of the county of the person's residence and to the state patrol not

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

13 (7) The county sheriff shall obtain a photograph of the individual
14 and shall obtain a copy of the individual's fingerprints.

15 (8) For the purposes of (~~RCW 9A.44.130~~) this section, section 1
16 of this act, RCW 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

17 (a) "Sex offense" means any offense defined as a sex offense by RCW
18 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation of a
19 minor), 9.68A.050 (dealing in depictions of minor engaged in sexually
20 explicit conduct), 9.68A.060 (sending, bringing into state depictions
21 of minor engaged in sexually explicit conduct), 9.68A.090
22 (communication with minor for immoral purposes), 9.68A.100 (patronizing
23 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in
24 the second degree), as well as any gross misdemeanor that is, under
25 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or
26 criminal conspiracy to commit an offense that is classified as a sex
27 offense under RCW 9.94A.030.

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

32 (c) "Employed" or "carries on a vocation" means employment that is
33 full-time or part-time for a period of time exceeding fourteen days, or
34 for an aggregate period of time exceeding thirty days during any
35 calendar year. A person is employed or carries on a vocation whether
36 the person's employment is financially compensated, volunteered, or for
37 the purpose of government or educational benefit.

38 (d) "Student" means a person who is enrolled, on a full-time or
39 part-time basis, in any public or private educational institution. An

1 educational institution includes any secondary school, trade or
2 professional institution, or institution of higher education.

3 (9) A person who knowingly fails to register with the county
4 sheriff or notify the county sheriff, or who changes his or her name
5 without notifying the county sheriff and the state patrol, as required
6 by this section is guilty of a class C felony if the crime for which
7 the individual was convicted was a felony or a federal or out-of-state
8 conviction for an offense that under the laws of this state would be a
9 felony. If the crime was other than a felony or a federal or out-of-
10 state conviction for an offense that under the laws of this state would
11 be other than a felony, violation of this section is a gross
12 misdemeanor.

13 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of the
15 state government and its existing public institutions, and takes effect
16 immediately.

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