

CERTIFICATION OF ENROLLMENT

SENATE BILL 6341

Chapter 25, Laws of 2002

57th Legislature
2002 Regular Session

SEX OFFENDER REGISTRATION--JUDICIAL REVIEW

EFFECTIVE DATE: 3/12/02

Passed by the Senate February 14, 2002
YEAS 44 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 5, 2002
YEAS 96 NAYS 0

FRANK CHOPP

**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6341** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK

Secretary

Approved March 12, 2002

FILED

March 12, 2002 - 2:18 p.m.

GARY LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

SENATE BILL 6341

Passed Legislature - 2002 Regular Session

State of Washington

57th Legislature

2002 Regular Session

By Senators Hargrove, Long, Winsley and Oke

Read first time 01/16/2002. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to amending the judicial review of sex offender
2 registration to comply with federal funding requirements; amending RCW
3 9A.44.140; providing an expiration date; and declaring an emergency.

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

5 **Sec. 1.** RCW 9A.44.140 and 2001 c 170 s 2 are each amended to read
6 as follows:

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

8 (a) For a person convicted of a class A felony or an offense listed
9 in subsection (5) of this section, or a person convicted of any sex
10 offense or kidnapping offense who has one or more prior convictions for
11 a sex offense or kidnapping offense: Such person may only be relieved
12 of the duty to register under subsection (3) or (4) of this section.

13 (b) For a person convicted of a class B felony, and the person does
14 not have one or more prior convictions for a sex offense or kidnapping
15 offense and the person's current offense is not listed in subsection
16 (5) of this section: Fifteen years after the last date of release from
17 confinement, if any, (including full-time residential treatment)
18 pursuant to the conviction, or entry of the judgment and sentence, if

1 the person has spent fifteen consecutive years in the community without
2 being convicted of any new offenses.

3 (c) For a person convicted of a class C felony, a violation of RCW
4 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to
5 commit a class C felony, and the person does not have one or more prior
6 convictions for a sex offense or kidnapping offense and the person's
7 current offense is not listed in subsection (5) of this section: Ten
8 years after the last date of release from confinement, if any,
9 (including full-time residential treatment) pursuant to the conviction,
10 or entry of the judgment and sentence, if the person has spent ten
11 consecutive years in the community without being convicted of any new
12 offenses.

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

16 (3)(a) Except as provided in (b) of this subsection, any person
17 having a duty to register under RCW 9A.44.130 may petition the superior
18 court to be relieved of that duty, if the person has spent ten
19 consecutive years in the community without being convicted of any new
20 offenses. The petition shall be made to the court in which the
21 petitioner was convicted of the offense that subjects him or her to the
22 duty to register, or, in the case of convictions in other states, a
23 foreign country, or a federal or military court, to the court in
24 Thurston county. The prosecuting attorney of the county shall be named
25 and served as the respondent in any such petition. The court shall
26 consider the nature of the registrable offense committed, and the
27 criminal and relevant noncriminal behavior of the petitioner both
28 before and after conviction, and may consider other factors. Except as
29 provided in subsection (4) of this section, the court may relieve the
30 petitioner of the duty to register only if the petitioner shows, with
31 clear and convincing evidence, that future registration of the
32 petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
33 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

34 (b)(i) The court may not relieve a person of the duty to register
35 if the person has been determined to be a sexually violent predator as
36 defined in RCW 71.09.020, or has been convicted of a sex offense or
37 kidnapping offense that is a class A felony and that was committed with
38 forcible compulsion on or after June 8, 2000.

1 (ii) The court may not relieve a person of the duty to register if
2 the person has been convicted of one aggravated offense or more than
3 one sexually violent offense, as defined in subsection (5) of this
4 section, and the offense or offenses were committed on or after the
5 effective date of this act.

6 (c) Any person subject to (b)((+i)) of this subsection or
7 subsection (5) of this section may petition the court to be exempted
8 from any community notification requirements that the person may be
9 subject to fifteen years after the later of the entry of the judgment
10 and sentence or the last date of release from confinement, including
11 full-time residential treatment, pursuant to the conviction, if the
12 person has spent the time in the community without being convicted of
13 any new offense.

14 (4) An offender having a duty to register under RCW 9A.44.130 for
15 a sex offense or kidnapping offense committed when the offender was a
16 juvenile may petition the superior court to be relieved of that duty.
17 The court shall consider the nature of the registrable offense
18 committed, and the criminal and relevant noncriminal behavior of the
19 petitioner both before and after adjudication, and may consider other
20 factors.

21 (a) The court may relieve the petitioner of the duty to register
22 for a sex offense or kidnapping offense that was committed while the
23 petitioner was fifteen years of age or older only if the petitioner
24 shows, with clear and convincing evidence, that future registration of
25 the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
26 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

27 (b) The court may relieve the petitioner of the duty to register
28 for a sex offense or kidnapping offense that was committed while the
29 petitioner was under the age of fifteen if the petitioner (i) has not
30 been adjudicated of any additional sex offenses or kidnapping offenses
31 during the twenty-four months following the adjudication for the
32 offense giving rise to the duty to register, and (ii) proves by a
33 preponderance of the evidence that future registration of the
34 petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,
35 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

36 This subsection shall not apply to juveniles prosecuted as adults.

37 (5)(a) A person who has been convicted of an aggravated offense, or
38 has been convicted of one or more prior sexually violent offenses or
39 criminal offenses against a victim who is a minor, as defined in (b) of

1 this subsection may only be relieved of the duty to register under
2 subsection (3) (~~(or (4))~~) (b) of this section. This provision shall
3 apply to convictions for crimes committed on or after July 22, 2001.

4 (b) Unless the context clearly requires otherwise, the following
5 definitions apply only to the federal lifetime registration
6 requirements under this subsection:

7 (i) "Aggravated offense" means an adult conviction that meets the
8 definition of 18 U.S.C. Sec. 2241, which is limited to the following:

9 (A) Any sex offense involving sexual intercourse or sexual contact
10 where the victim is under twelve years of age;

11 (B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape
12 of a child in the first degree), or RCW 9A.44.083 (child molestation in
13 the first degree);

14 (C) Any of the following offenses when committed by forcible
15 compulsion or by the offender administering, by threat or force or
16 without the knowledge or permission of that person, a drug, intoxicant,
17 or other similar substance that substantially impairs the ability of
18 that person to appraise or control conduct: RCW 9A.44.050 (rape in the
19 second degree), RCW 9A.44.100 (indecent liberties), RCW 9A.44.160
20 (custodial sexual misconduct in the first degree), RCW 9A.64.020
21 (incest), or RCW 9.68A.040 (sexual exploitation of a minor);

22 (D) Any of the following offenses when committed by forcible
23 compulsion or by the offender administering, by threat or force or
24 without the knowledge or permission of that person, a drug, intoxicant,
25 or other similar substance that substantially impairs the ability of
26 that person to appraise or control conduct, if the victim is twelve
27 years of age or over but under sixteen years of age and the offender is
28 eighteen years of age or over and is more than forty-eight months older
29 than the victim: RCW 9A.44.076 (rape of a child in the second degree),
30 RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086
31 (child molestation in the second degree), or RCW 9A.44.089 (child
32 molestation in the third degree);

33 (E) A felony with a finding of sexual motivation under RCW
34 9.94A.835 where the victim is under twelve years of age or that is
35 committed by forcible compulsion or by the offender administering, by
36 threat or force or without the knowledge or permission of that person,
37 a drug, intoxicant, or other similar substance that substantially
38 impairs the ability of that person to appraise or control conduct;

1 (F) An offense that is, under chapter 9A.28 RCW, an attempt or
2 solicitation to commit such an offense; or

3 (G) An offense defined by federal law or the laws of another state
4 that is equivalent to the offenses listed in (b)(i)(A) through (F) of
5 this subsection.

6 (ii) "Sexually violent offense" means an adult conviction that
7 meets the definition of 42 U.S.C. Sec. 14071(a)(1)(A), which is limited
8 to the following:

9 (A) An aggravated offense;

10 (B) An offense that is not an aggravated offense but meets the
11 definition of 18 U.S.C. Sec. 2242, which is limited to RCW 9A.44.050(1)
12 (b) through (f) (rape in the second degree) and RCW 9A.44.100(1) (b)
13 through (f) (indecent liberties);

14 (C) A felony with a finding of sexual motivation under RCW
15 9.94A.835 where the victim is incapable of appraising the nature of the
16 conduct or physically incapable of declining participation in, or
17 communicating unwillingness to engage in, the conduct;

18 (D) An offense that is, under chapter 9A.28 RCW, an attempt or
19 solicitation to commit such an offense; or

20 (E) An offense defined by federal law or the laws of another state
21 that is equivalent to the offenses listed in (b)(ii)(A) through (D) of
22 this subsection.

23 (iii) "Criminal offense against a victim who is a minor" means, in
24 addition to any aggravated offense or sexually violent offense where
25 the victim was under eighteen years of age, an adult conviction for the
26 following offenses where the victim is under eighteen years of age:

27 (A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape
28 of a child in the second degree), RCW 9A.44.079 (rape of a child in the
29 third degree), RCW 9A.44.086 (child molestation in the second degree),
30 RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093
31 (sexual misconduct with a minor in the first degree), RCW 9A.44.096
32 (sexual misconduct with a minor in the second degree), RCW 9A.44.160
33 (custodial sexual misconduct in the first degree), RCW 9A.64.020
34 (incest), RCW 9.68A.040 (sexual exploitation of a minor), RCW 9.68A.090
35 (communication with a minor for immoral purposes), or RCW 9.68A.100
36 (patronizing a juvenile prostitute);

37 (B) RCW 9A.40.020 (kidnapping in the first degree), RCW 9A.40.030
38 (kidnapping in the second degree), or RCW 9A.40.040 (unlawful

1 imprisonment), where the victim is a minor and the offender is not the
2 minor's parent;

3 (C) A felony with a finding of sexual motivation under RCW
4 9.94A.835 where the victim is a minor;

5 (D) An offense that is, under chapter 9A.28 RCW, an attempt or
6 solicitation to commit such an offense; or

7 (E) An offense defined by federal law or the laws of another state
8 that is equivalent to the offenses listed in (b)(iii)(A) through (D) of
9 this subsection.

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

13 (7) Nothing in RCW 9.94A.637 relating to discharge of an offender
14 shall be construed as operating to relieve the offender of his or her
15 duty to register pursuant to RCW 9A.44.130.

16 (8) For purposes of determining whether a person has been convicted
17 of more than one sex offense, failure to register as a sex offender or
18 kidnapping offender is not a sex or kidnapping offense.

19 NEW SECTION. **Sec. 2.** RCW 9A.44.140(3)(b)(ii) expires July 1,
20 2012.

21 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of the
23 state government and its existing public institutions, and takes effect
24 immediately.

Passed the Senate February 14, 2002.

Passed the House March 5, 2002.

Approved by the Governor March 12, 2002.

Filed in Office of Secretary of State March 12, 2002.