

HB 1712 - S COMM AMD

By Committee on Children & Family Services & Corrections

ADOPTED AS AMENDED 04/14/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 9A.44.130 and 2002 c 31 s 1 are each amended to read
4 as follows:

5 (1) Any adult or juvenile residing whether or not the person has a
6 fixed residence, or who is a student, is employed, or carries on a
7 vocation in this state who has been found to have committed or has been
8 convicted of any sex offense or kidnapping offense, or who has been
9 found not guilty by reason of insanity under chapter 10.77 RCW of
10 committing any sex offense or kidnapping offense, shall register with
11 the county sheriff for the county of the person's residence, or if the
12 person is not a resident of Washington, the county of the person's
13 school, or place of employment or vocation, or as otherwise specified
14 in this section. Where a person required to register under this
15 section is in custody of the state department of corrections, the state
16 department of social and health services, a local division of youth
17 services, or a local jail or juvenile detention facility as a result of
18 a sex offense or kidnapping offense, the person shall also register at
19 the time of release from custody with an official designated by the
20 agency that has jurisdiction over the person. In addition, any such
21 adult or juvenile: (a) Who is admitted to a public or private
22 institution of higher education shall, within ten days of enrolling or
23 by the first business day after arriving at the institution, whichever
24 is earlier, notify the sheriff for the county of the person's residence
25 of the person's intent to attend the institution; (b) who gains
26 employment at a public or private institution of higher education
27 shall, within ten days of accepting employment or by the first business
28 day after commencing work at the institution, whichever is earlier,
29 notify the sheriff for the county of the person's residence of the

1 person's employment by the institution; or (c) whose enrollment or
2 employment at a public or private institution of higher education is
3 terminated shall, within ten days of such termination, notify the
4 sheriff for the county of the person's residence of the person's
5 termination of enrollment or employment at the institution. Persons
6 required to register under this section who are enrolled in a public or
7 private institution of higher education on June 11, 1998, must notify
8 the county sheriff immediately. The sheriff shall notify the
9 institution's department of public safety and shall provide that
10 department with the same information provided to a county sheriff under
11 subsection (3) of this section.

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

15 (3)(a) The person shall provide the following information when
16 registering: (i) Name; (ii) address; (iii) date and place of birth;
17 (iv) place of employment; (v) crime for which convicted; (vi) date and
18 place of conviction; (vii) aliases used; (viii) social security number;
19 (ix) photograph; and (x) fingerprints.

20 (b) Any person who lacks a fixed residence shall provide the
21 following information when registering: (i) Name; (ii) date and place
22 of birth; (iii) place of employment; (iv) crime for which convicted;
23 (v) date and place of conviction; (vi) aliases used; (vii) social
24 security number; (viii) photograph; (ix) fingerprints; and (x) where he
25 or she plans to stay.

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

30 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
31 offense on, before, or after February 28, 1990, and who, on or after
32 July 28, 1991, are in custody, as a result of that offense, of the
33 state department of corrections, the state department of social and
34 health services, a local division of youth services, or a local jail or
35 juvenile detention facility, and (B) kidnapping offenders who on or
36 after July 27, 1997, are in custody of the state department of
37 corrections, the state department of social and health services, a
38 local division of youth services, or a local jail or juvenile detention

1 facility, must register at the time of release from custody with an
2 official designated by the agency that has jurisdiction over the
3 offender. The agency shall within three days forward the registration
4 information to the county sheriff for the county of the offender's
5 anticipated residence. The offender must also register within twenty-
6 four hours from the time of release with the county sheriff for the
7 county of the person's residence, or if the person is not a resident of
8 Washington, the county of the person's school, or place of employment
9 or vocation. The agency that has jurisdiction over the offender shall
10 provide notice to the offender of the duty to register. Failure to
11 register at the time of release and within twenty-four hours of release
12 constitutes a violation of this section and is punishable as provided
13 in subsection (10) of this section.

14 When the agency with jurisdiction intends to release an offender
15 with a duty to register under this section, and the agency has
16 knowledge that the offender is eligible for developmental disability
17 services from the department of social and health services, the agency
18 shall notify the division of developmental disabilities of the release.
19 Notice shall occur not more than thirty days before the offender is to
20 be released. The agency and the division shall assist the offender in
21 meeting the initial registration requirement under this section.
22 Failure to provide such assistance shall not constitute a defense for
23 any violation of this section.

24 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
25 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
26 but are under the jurisdiction of the indeterminate sentence review
27 board or under the department of correction's active supervision, as
28 defined by the department of corrections, the state department of
29 social and health services, or a local division of youth services, for
30 sex offenses committed before, on, or after February 28, 1990, must
31 register within ten days of July 28, 1991. Kidnapping offenders who,
32 on July 27, 1997, are not in custody but are under the jurisdiction of
33 the indeterminate sentence review board or under the department of
34 correction's active supervision, as defined by the department of
35 corrections, the state department of social and health services, or a
36 local division of youth services, for kidnapping offenses committed
37 before, on, or after July 27, 1997, must register within ten days of
38 July 27, 1997. A change in supervision status of a sex offender who

1 was required to register under this subsection (4)(a)(ii) as of July
2 28, 1991, or a kidnapping offender required to register as of July 27,
3 1997, shall not relieve the offender of the duty to register or to
4 reregister following a change in residence. The obligation to register
5 shall only cease pursuant to RCW 9A.44.140.

6 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
7 or after July 23, 1995, and kidnapping offenders who, on or after July
8 27, 1997, as a result of that offense are in the custody of the United
9 States bureau of prisons or other federal or military correctional
10 agency for sex offenses committed before, on, or after February 28,
11 1990, or kidnapping offenses committed on, before, or after July 27,
12 1997, must register within twenty-four hours from the time of release
13 with the county sheriff for the county of the person's residence, or if
14 the person is not a resident of Washington, the county of the person's
15 school, or place of employment or vocation. Sex offenders who, on July
16 23, 1995, are not in custody but are under the jurisdiction of the
17 United States bureau of prisons, United States courts, United States
18 parole commission, or military parole board for sex offenses committed
19 before, on, or after February 28, 1990, must register within ten days
20 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not
21 in custody but are under the jurisdiction of the United States bureau
22 of prisons, United States courts, United States parole commission, or
23 military parole board for kidnapping offenses committed before, on, or
24 after July 27, 1997, must register within ten days of July 27, 1997.
25 A change in supervision status of a sex offender who was required to
26 register under this subsection (4)(a)(iii) as of July 23, 1995, or a
27 kidnapping offender required to register as of July 27, 1997 shall not
28 relieve the offender of the duty to register or to reregister following
29 a change in residence, or if the person is not a resident of
30 Washington, the county of the person's school, or place of employment
31 or vocation. The obligation to register shall only cease pursuant to
32 RCW 9A.44.140.

33 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
34 who are convicted of a sex offense on or after July 28, 1991, for a sex
35 offense that was committed on or after February 28, 1990, and
36 kidnapping offenders who are convicted on or after July 27, 1997, for
37 a kidnapping offense that was committed on or after July 27, 1997, but

1 who are not sentenced to serve a term of confinement immediately upon
2 sentencing, shall report to the county sheriff to register immediately
3 upon completion of being sentenced.

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

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

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

13 (vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks
14 a fixed residence and leaves the county in which he or she is
15 registered and enters and remains within a new county for twenty-four
16 hours is required to register with the county sheriff not more than
17 twenty-four hours after entering the county and provide the information
18 required in subsection (3)(b) of this section.

19 (viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER
20 SUPERVISION. Offenders who lack a fixed residence and who are under
21 the supervision of the department shall register in the county of their
22 supervision.

23 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND
24 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,
25 who move to another state, or who work, carry on a vocation, or attend
26 school in another state shall register a new address, fingerprints, and
27 photograph with the new state within ten days after establishing
28 residence, or after beginning to work, carry on a vocation, or attend
29 school in the new state. The person must also send written notice
30 within ten days of moving to the new state or to a foreign country to
31 the county sheriff with whom the person last registered in Washington
32 state. The county sheriff shall promptly forward this information to
33 the Washington state patrol.

34 (b) Failure to register within the time required under this section
35 constitutes a per se violation of this section and is punishable as
36 provided in subsection (10) of this section. The county sheriff shall
37 not be required to determine whether the person is living within the
38 county.

1 (c) An arrest on charges of failure to register, service of an
2 information, or a complaint for a violation of this section, or
3 arraignment on charges for a violation of this section, constitutes
4 actual notice of the duty to register. Any person charged with the
5 crime of failure to register under this section who asserts as a
6 defense the lack of notice of the duty to register shall register
7 immediately following actual notice of the duty through arrest,
8 service, or arraignment. Failure to register as required under this
9 subsection (4)(c) constitutes grounds for filing another charge of
10 failing to register. Registering following arrest, service, or
11 arraignment on charges shall not relieve the offender from criminal
12 liability for failure to register prior to the filing of the original
13 charge.

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

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

34 (b) It is an affirmative defense to a charge that the person failed
35 to send a notice at least fourteen days in advance of moving as
36 required under (a) of this subsection that the person did not know the
37 location of his or her new residence at least fourteen days before
38 moving. The defendant must establish the defense by a preponderance of

1 the evidence and, to prevail on the defense, must also prove by a
2 preponderance that the defendant sent the required notice within
3 twenty-four hours of determining the new address.

4 (6)(a) Any person required to register under this section who lacks
5 a fixed residence shall provide written notice to the sheriff of the
6 county where he or she last registered within forty-eight hours
7 excluding weekends and holidays after ceasing to have a fixed
8 residence. The notice shall include the information required by
9 subsection (3)(b) of this section, except the photograph and
10 fingerprints. The county sheriff may, for reasonable cause, require
11 the offender to provide a photograph and fingerprints. The sheriff
12 shall forward this information to the sheriff of the county in which
13 the person intends to reside, if the person intends to reside in
14 another county.

15 (b) A person who lacks a fixed residence must report weekly, in
16 person, to the sheriff of the county where he or she is registered.
17 The weekly report shall be on a day specified by the county sheriff's
18 office, and shall occur during normal business hours. The county
19 sheriff's office may require the person to list the locations where the
20 person has stayed during the last seven days. The lack of a fixed
21 residence is a factor that may be considered in determining an
22 offender's risk level and shall make the offender subject to disclosure
23 of information to the public at large pursuant to RCW 4.24.550.

24 (c) If any person required to register pursuant to this section
25 does not have a fixed residence, it is an affirmative defense to the
26 charge of failure to register, that he or she provided written notice
27 to the sheriff of the county where he or she last registered within
28 forty-eight hours excluding weekends and holidays after ceasing to have
29 a fixed residence and has subsequently complied with the requirements
30 of subsections (4)(a)(vii) or (viii) and (6) of this section. To
31 prevail, the person must prove the defense by a preponderance of the
32 evidence.

33 (7) A sex offender subject to registration requirements under this
34 section who applies to change his or her name under RCW 4.24.130 or any
35 other law shall submit a copy of the application to the county sheriff
36 of the county of the person's residence and to the state patrol not
37 fewer than five days before the entry of an order granting the name
38 change. No sex offender under the requirement to register under this

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

11 (8) The county sheriff shall obtain a photograph of the individual
12 and shall obtain a copy of the individual's fingerprints.

13 (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
14 70.48.470, and 72.09.330:

15 (a) "Sex offense" means:

16 (i) Any offense defined as a sex offense by RCW 9.94A.030;

17 (ii) Any violation under RCW 9A.44.096 (sexual misconduct with a
18 minor in the second degree);

19 (iii) Any violation under RCW 9.68A.090 (communication with a minor
20 for immoral purposes);

21 (iv) Any federal or out-of-state conviction for an offense that
22 under the laws of this state would be classified as a sex offense under
23 this subsection; and

24 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
25 criminal attempt, criminal solicitation, or criminal conspiracy to
26 commit an offense that is classified as a sex offense under RCW
27 9.94A.030 or this subsection.

28 (b) "Kidnapping offense" means: (i) The crimes of kidnapping in
29 the 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; (ii) any offense that
32 is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation,
33 or criminal conspiracy to commit an offense that is classified as a
34 kidnapping offense under this subsection (9)(b); and (iii) any federal
35 or out-of-state conviction for an offense that under the laws of this
36 state would be classified as a kidnapping offense under this subsection
37 (9)(b).

1 (c) "Employed" or "carries on a vocation" means employment that is
2 full-time or part-time for a period of time exceeding fourteen days, or
3 for an aggregate period of time exceeding thirty days during any
4 calendar year. A person is employed or carries on a vocation whether
5 the person's employment is financially compensated, volunteered, or for
6 the purpose of government or educational benefit.

7 (d) "Student" means a person who is enrolled, on a full-time or
8 part-time basis, in any public or private educational institution. An
9 educational institution includes any secondary school, trade or
10 professional institution, or institution of higher education.

11 (10) A person who knowingly fails to register with the county
12 sheriff or notify the county sheriff, or who changes his or her name
13 without notifying the county sheriff and the state patrol, as required
14 by this section is guilty of a class C felony if the crime for which
15 the individual was convicted was a felony sex offense as defined in
16 subsection (9)(a) of this section or a federal or out-of-state
17 conviction for an offense that under the laws of this state would be a
18 felony sex offense as defined in subsection (9)(a) of this section. If
19 the crime was other than a felony or a federal or out-of-state
20 conviction for an offense that under the laws of this state would be
21 other than a felony, violation of this section is a gross misdemeanor.

22 (11) A person who knowingly fails to register or who moves within
23 the state without notifying the county sheriff as required by this
24 section is guilty of a class C felony if the crime for which the
25 individual was convicted was a felony kidnapping offense as defined in
26 subsection (9)(b) of this section or a federal or out-of-state
27 conviction for an offense that under the laws of this state would be a
28 felony kidnapping offense as defined in subsection (9)(b) of this
29 section. If the crime was other than a felony or a federal or out-of-
30 state conviction for an offense that under the laws of this state would
31 be other than a felony, violation of this section is a gross
32 misdemeanor."

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1 On page 1, line 2 of the title, after "offenders;" strike the
2 remainder of the title and insert "and amending RCW 9A.44.130."

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