
HOUSE BILL 2328

State of Washington 58th Legislature 2004 Regular Session

By Representatives Dickerson, O'Brien, Delvin, Chase and Nixon

Prefiled 1/5/2004. Read first time 01/12/2004. Referred to
Committee on Juvenile Justice & Family Law.

1 AN ACT Relating to registration of sex offenders and kidnapping
2 offenders who are students; reenacting and amending RCW 9A.44.130; and
3 providing an effective date.

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

5 **Sec. 1.** RCW 9A.44.130 and 2003 c 215 s 1 and 2003 c 53 s 68 are
6 each reenacted and amended to read as follows:

7 (1)(a) Any adult or juvenile residing whether or not the person has
8 a fixed residence, or who is a student, is employed, or carries on a
9 vocation in this state who has been found to have committed or has been
10 convicted of any sex offense or kidnapping offense, or who has been
11 found not guilty by reason of insanity under chapter 10.77 RCW of
12 committing any sex offense or kidnapping offense, shall register with
13 the county sheriff for the county of the person's residence, or if the
14 person is not a resident of Washington, the county of the person's
15 school, or place of employment or vocation, or as otherwise specified
16 in this section. Where a person required to register under this
17 section is in custody of the state department of corrections, the state
18 department of social and health services, a local division of youth
19 services, or a local jail or juvenile detention facility as a result of

1 a sex offense or kidnapping offense, the person shall also register at
2 the time of release from custody with an official designated by the
3 agency that has jurisdiction over the person. (~~In addition, any~~
4 ~~such~~)

5 (b) Any adult or juvenile who is required to register under (a) of
6 this subsection:

7 (~~(a)~~) (i) Who is attending, or planning to attend, a public or
8 private school regulated under Title 28A RCW shall, within ten days of
9 enrolling or prior to arriving at the school to attend classes,
10 whichever is earlier, notify the sheriff for the county of the person's
11 residence of the person's intent to attend the school, and the sheriff
12 shall promptly notify the school;

13 (ii) 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;

18 (~~(b)~~) (iii) Who gains employment at a public or private
19 institution of higher education shall, within ten days of accepting
20 employment or by the first business day after commencing work at the
21 institution, whichever is earlier, notify the sheriff for the county of
22 the person's residence of the person's employment by the institution;
23 or

24 (~~(e)~~) (iv) Whose enrollment or employment at a public or private
25 institution of higher education is terminated shall, within ten days of
26 such termination, notify the sheriff for the county of the person's
27 residence of the person's termination of enrollment or employment at
28 the institution.

29 (c) Persons required to register under this section who are
30 enrolled in a public or private institution of higher education on June
31 11, 1998, or a public or private school regulated under Title 28A RCW
32 on July 1, 2004, must notify the county sheriff immediately.

33 (d) The sheriff shall notify the school's or institution's
34 department of public safety and shall provide that department with the
35 same information provided to a county sheriff under subsection (3) of
36 this section.

37 (2) This section may not be construed to confer any powers pursuant

1 to RCW 4.24.500 upon the public safety department of any public or
2 private school or institution of higher education.

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

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

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

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

1 constitutes a violation of this section and is punishable as provided
2 in subsection (10) of this section.

3 When the agency with jurisdiction intends to release an offender
4 with a duty to register under this section, and the agency has
5 knowledge that the offender is eligible for developmental disability
6 services from the department of social and health services, the agency
7 shall notify the division of developmental disabilities of the release.
8 Notice shall occur not more than thirty days before the offender is to
9 be released. The agency and the division shall assist the offender in
10 meeting the initial registration requirement under this section.
11 Failure to provide such assistance shall not constitute a defense for
12 any violation of this section.

13 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
14 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
15 but are under the jurisdiction of the indeterminate sentence review
16 board or under the department of correction's active supervision, as
17 defined by the department of corrections, the state department of
18 social and health services, or a local division of youth services, for
19 sex offenses committed before, on, or after February 28, 1990, must
20 register within ten days of July 28, 1991. Kidnapping offenders who,
21 on July 27, 1997, are not in custody but are under the jurisdiction of
22 the indeterminate sentence review board or under the department of
23 correction's active supervision, as defined by the department of
24 corrections, the state department of social and health services, or a
25 local division of youth services, for kidnapping offenses committed
26 before, on, or after July 27, 1997, must register within ten days of
27 July 27, 1997. A change in supervision status of a sex offender who
28 was required to register under this subsection (4)(a)(ii) as of July
29 28, 1991, or a kidnapping offender required to register as of July 27,
30 1997, shall not relieve the offender of the duty to register or to
31 reregister following a change in residence. The obligation to register
32 shall only cease pursuant to RCW 9A.44.140.

33 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
34 or after July 23, 1995, and kidnapping offenders who, on or after July
35 27, 1997, as a result of that offense are in the custody of the United
36 States bureau of prisons or other federal or military correctional
37 agency for sex offenses committed before, on, or after February 28,
38 1990, or kidnapping offenses committed on, before, or after July 27,

1 1997, must register within twenty-four hours from the time of release
2 with the county sheriff for the county of the person's residence, or if
3 the person is not a resident of Washington, the county of the person's
4 school, or place of employment or vocation. Sex offenders who, on July
5 23, 1995, are not in custody but are under the jurisdiction of the
6 United States bureau of prisons, United States courts, United States
7 parole commission, or military parole board for sex offenses committed
8 before, on, or after February 28, 1990, must register within ten days
9 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not
10 in custody but are under the jurisdiction of the United States bureau
11 of prisons, United States courts, United States parole commission, or
12 military parole board for kidnapping offenses committed before, on, or
13 after July 27, 1997, must register within ten days of July 27, 1997.
14 A change in supervision status of a sex offender who was required to
15 register under this subsection (4)(a)(iii) as of July 23, 1995, or a
16 kidnapping offender required to register as of July 27, 1997 shall not
17 relieve the offender of the duty to register or to reregister following
18 a change in residence, or if the person is not a resident of
19 Washington, the county of the person's school, or place of employment
20 or vocation. The obligation to register shall only cease pursuant to
21 RCW 9A.44.140.

22 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
23 who are convicted of a sex offense on or after July 28, 1991, for a sex
24 offense that was committed on or after February 28, 1990, and
25 kidnapping offenders who are convicted on or after July 27, 1997, for
26 a kidnapping offense that was committed on or after July 27, 1997, 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 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
31 RESIDENTS. Sex offenders and kidnapping offenders who move to
32 Washington state from another state or a foreign country that are not
33 under the jurisdiction of the state department of corrections, the
34 indeterminate sentence review board, or the state department of social
35 and health services at the time of moving to Washington, must register
36 within thirty days of establishing residence or reestablishing
37 residence if the person is a former Washington resident. The duty to
38 register under this subsection applies to sex offenders convicted under

1 the laws of another state or a foreign country, federal or military
2 statutes, or Washington state for offenses committed on or after
3 February 28, 1990, and to kidnapping offenders convicted under the laws
4 of another state or a foreign country, federal or military statutes, or
5 Washington state for offenses committed on or after July 27, 1997. Sex
6 offenders and kidnapping offenders from other states or a foreign
7 country who, when they move to Washington, are under the jurisdiction
8 of the department of corrections, the indeterminate sentence review
9 board, or the department of social and health services must register
10 within twenty-four hours of moving to Washington. The agency that has
11 jurisdiction over the offender shall notify the offender of the
12 registration requirements before the offender moves to Washington.

13 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
14 or juvenile who has been found not guilty by reason of insanity under
15 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
16 February 28, 1990, and who, on or after July 23, 1995, is in custody,
17 as a result of that finding, of the state department of social and
18 health services, or (B) committing a kidnapping offense on, before, or
19 after July 27, 1997, and who on or after July 27, 1997, is in custody,
20 as a result of that finding, of the state department of social and
21 health services, must register within twenty-four hours from the time
22 of release with the county sheriff for the county of the person's
23 residence. The state department of social and health services shall
24 provide notice to the adult or juvenile in its custody of the duty to
25 register. Any adult or juvenile who has been found not guilty by
26 reason of insanity of committing a sex offense on, before, or after
27 February 28, 1990, but who was released before July 23, 1995, or any
28 adult or juvenile who has been found not guilty by reason of insanity
29 of committing a kidnapping offense but who was released before July 27,
30 1997, shall be required to register within twenty-four hours of
31 receiving notice of this registration requirement. The state
32 department of social and health services shall make reasonable attempts
33 within available resources to notify sex offenders who were released
34 before July 23, 1995, and kidnapping offenders who were released before
35 July 27, 1997. Failure to register within twenty-four hours of
36 release, or of receiving notice, constitutes a violation of this
37 section and is punishable as provided in subsection (10) of this
38 section.

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

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

11 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND
12 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,
13 who move to another state, or who work, carry on a vocation, or attend
14 school in another state shall register a new address, fingerprints, and
15 photograph with the new state within ten days after establishing
16 residence, or after beginning to work, carry on a vocation, or attend
17 school in the new state. The person must also send written notice
18 within ten days of moving to the new state or to a foreign country to
19 the county sheriff with whom the person last registered in Washington
20 state. The county sheriff shall promptly forward this information to
21 the Washington state patrol.

22 (b) Failure to register within the time required under this section
23 constitutes a per se violation of this section and is punishable as
24 provided in subsection (10) of this section. The county sheriff shall
25 not be required to determine whether the person is living within the
26 county.

27 (c) An arrest on charges of failure to register, service of an
28 information, or a complaint for a violation of this section, or
29 arraignment on charges for a violation of this section, constitutes
30 actual notice of the duty to register. Any person charged with the
31 crime of failure to register under this section who asserts as a
32 defense the lack of notice of the duty to register shall register
33 immediately following actual notice of the duty through arrest,
34 service, or arraignment. Failure to register as required under this
35 subsection (4)(c) constitutes grounds for filing another charge of
36 failing to register. Registering following arrest, service, or
37 arraignment on charges shall not relieve the offender from criminal

1 liability for failure to register prior to the filing of the original
2 charge.

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

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

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

31 (6)(a) Any person required to register under this section who lacks
32 a fixed residence shall provide written notice to the sheriff of the
33 county where he or she last registered within forty-eight hours
34 excluding weekends and holidays after ceasing to have a fixed
35 residence. The notice shall include the information required by
36 subsection (3)(b) of this section, except the photograph and
37 fingerprints. The county sheriff may, for reasonable cause, require
38 the offender to provide a photograph and fingerprints. The sheriff

1 shall forward this information to the sheriff of the county in which
2 the person intends to reside, if the person intends to reside in
3 another county.

4 (b) A person who lacks a fixed residence must report weekly, in
5 person, to the sheriff of the county where he or she is registered.
6 The weekly report shall be on a day specified by the county sheriff's
7 office, and shall occur during normal business hours. The county
8 sheriff's office may require the person to list the locations where the
9 person has stayed during the last seven days. The lack of a fixed
10 residence is a factor that may be considered in determining an
11 offender's risk level and shall make the offender subject to disclosure
12 of information to the public at large pursuant to RCW 4.24.550.

13 (c) If any person required to register pursuant to this section
14 does not have a fixed residence, it is an affirmative defense to the
15 charge of failure to register, that he or she provided written notice
16 to the sheriff of the county where he or she last registered within
17 forty-eight hours excluding weekends and holidays after ceasing to have
18 a fixed residence and has subsequently complied with the requirements
19 of subsections (4)(a)(vii) or (viii) and (6) of this section. To
20 prevail, the person must prove the defense by a preponderance of the
21 evidence.

22 (7) A sex offender subject to registration requirements under this
23 section who applies to change his or her name under RCW 4.24.130 or any
24 other law shall submit a copy of the application to the county sheriff
25 of the county of the person's residence and to the state patrol not
26 fewer than five days before the entry of an order granting the name
27 change. No sex offender under the requirement to register under this
28 section at the time of application shall be granted an order changing
29 his or her name if the court finds that doing so will interfere with
30 legitimate law enforcement interests, except that no order shall be
31 denied when the name change is requested for religious or legitimate
32 cultural reasons or in recognition of marriage or dissolution of
33 marriage. A sex offender under the requirement to register under this
34 section who receives an order changing his or her name shall submit a
35 copy of the order to the county sheriff of the county of the person's
36 residence and to the state patrol within five days of the entry of the
37 order.

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

3 (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
4 70.48.470, and 72.09.330:

5 (a) "Sex offense" means:

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

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

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

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

14 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
15 criminal attempt, criminal solicitation, or criminal conspiracy to
16 commit an offense that is classified as a sex offense under RCW
17 9.94A.030 or this subsection.

18 (b) "Kidnapping offense" means: (i) The crimes of kidnapping in
19 the first degree, kidnapping in the second degree, and unlawful
20 imprisonment, as defined in chapter 9A.40 RCW, where the victim is a
21 minor and the offender is not the minor's parent; (ii) any offense that
22 is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation,
23 or criminal conspiracy to commit an offense that is classified as a
24 kidnapping offense under this subsection (9)(b); and (iii) any federal
25 or out-of-state conviction for an offense that under the laws of this
26 state would be classified as a kidnapping offense under this subsection
27 (9)(b).

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

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

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

9 (b) If the crime for which the individual was convicted was other
10 than a felony or a federal or out-of-state conviction for an offense
11 that under the laws of this state would be other than a felony,
12 violation of this section is a gross misdemeanor.

13 (11)(a) A person who knowingly fails to register or who moves
14 within the state without notifying the county sheriff as required by
15 this section is guilty of a class C felony if the crime for which the
16 individual was convicted was a felony kidnapping offense as defined in
17 subsection (9)(b) of this section or a federal or out-of-state
18 conviction for an offense that under the laws of this state would be a
19 felony kidnapping offense as defined in subsection (9)(b) of this
20 section.

21 (b) If the crime for which the individual was convicted was other
22 than a felony or a federal or out-of-state conviction for an offense
23 that under the laws of this state would be other than a felony,
24 violation of this section is a gross misdemeanor.

25 NEW SECTION. **Sec. 2.** This act takes effect July 1, 2004.

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