

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1712

58th Legislature
2003 Regular Session

Passed by the House April 25, 2003
Yeas 98 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 25, 2003
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1712** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1712

AS AMENDED BY THE SENATE

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By Representatives O'Brien, Mielke and Darneille; by request of
Department of Community, Trade, and Economic Development

Read first time 02/05/2003. Referred to Committee on Criminal
Justice & Corrections.

1 AN ACT Relating to registration of sex offenders and kidnapping
2 offenders; and amending RCW 9A.44.130.

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

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

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

1 the time of release from custody with an official designated by the
2 agency that has jurisdiction over the person. In addition, any such
3 adult or juvenile: (a) Who is admitted to a public or private
4 institution of higher education shall, within ten days of enrolling or
5 by the first business day after arriving at the institution, whichever
6 is earlier, notify the sheriff for the county of the person's residence
7 of the person's intent to attend the institution; (b) who gains
8 employment at a public or private institution of higher education
9 shall, within ten days of accepting employment or by the first business
10 day after commencing work at the institution, whichever is earlier,
11 notify the sheriff for the county of the person's residence of the
12 person's employment by the institution; or (c) whose enrollment or
13 employment at a public or private institution of higher education is
14 terminated shall, within ten days of such termination, notify the
15 sheriff for the county of the person's residence of the person's
16 termination of enrollment or employment at the institution. Persons
17 required to register under this section who are enrolled in a public or
18 private institution of higher education on June 11, 1998, must notify
19 the county sheriff immediately. The sheriff shall notify the
20 institution's department of public safety and shall provide that
21 department with the same information provided to a county sheriff under
22 subsection (3) of this section.

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

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

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

37 (4)(a) Offenders shall register with the county sheriff within the

1 following deadlines. For purposes of this section the term
2 "conviction" refers to adult convictions and juvenile adjudications for
3 sex offenses or kidnapping offenses:

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

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

36 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
37 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
38 but are under the jurisdiction of the indeterminate sentence review

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

18 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
19 or after July 23, 1995, and kidnapping offenders who, on or after July
20 27, 1997, as a result of that offense are in the custody of the United
21 States bureau of prisons or other federal or military correctional
22 agency for sex offenses committed before, on, or after February 28,
23 1990, or kidnapping offenses committed on, before, or after July 27,
24 1997, must register within twenty-four hours from the time of release
25 with the county sheriff for the county of the person's residence, or if
26 the person is not a resident of Washington, the county of the person's
27 school, or place of employment or vocation. Sex offenders who, on July
28 23, 1995, are not in custody but are under the jurisdiction of the
29 United States bureau of prisons, United States courts, United States
30 parole commission, or military parole board for sex offenses committed
31 before, on, or after February 28, 1990, must register within ten days
32 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not
33 in custody but are under the jurisdiction of the United States bureau
34 of prisons, United States courts, United States parole commission, or
35 military parole board for kidnapping offenses committed before, on, or
36 after July 27, 1997, must register within ten days of July 27, 1997.
37 A change in supervision status of a sex offender who was required to
38 register under this subsection (4)(a)(iii) as of July 23, 1995, or a

1 kidnapping offender required to register as of July 27, 1997 shall not
2 relieve the offender of the duty to register or to reregister following
3 a change in residence, or if the person is not a resident of
4 Washington, the county of the person's school, or place of employment
5 or vocation. The obligation to register shall only cease pursuant to
6 RCW 9A.44.140.

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

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

36 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
37 or juvenile who has been found not guilty by reason of insanity under
38 chapter 10.77 RCW of (A) committing a sex offense on, before, or after

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

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

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

34 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND
35 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,
36 who move to another state, or who work, carry on a vocation, or attend
37 school in another state shall register a new address, fingerprints, and
38 photograph with the new state within ten days after establishing

1 residence, or after beginning to work, carry on a vocation, or attend
2 school in the new state. The person must also send written notice
3 within ten days of moving to the new state or to a foreign country to
4 the county sheriff with whom the person last registered in Washington
5 state. The county sheriff shall promptly forward this information to
6 the Washington state patrol.

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

12 (c) An arrest on charges of failure to register, service of an
13 information, or a complaint for a violation of this section, or
14 arraignment on charges for a violation of this section, constitutes
15 actual notice of the duty to register. Any person charged with the
16 crime of failure to register under this section who asserts as a
17 defense the lack of notice of the duty to register shall register
18 immediately following actual notice of the duty through arrest,
19 service, or arraignment. Failure to register as required under this
20 subsection (4)(c) constitutes grounds for filing another charge of
21 failing to register. Registering following arrest, service, or
22 arraignment on charges shall not relieve the offender from criminal
23 liability for failure to register prior to the filing of the original
24 charge.

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

28 (5)(a) If any person required to register pursuant to this section
29 changes his or her residence address within the same county, the person
30 must send written notice of the change of address to the county sheriff
31 within seventy-two hours of moving. If any person required to register
32 pursuant to this section moves to a new county, the person must send
33 written notice of the change of address at least fourteen days before
34 moving to the county sheriff in the new county of residence and must
35 register with that county sheriff within twenty-four hours of moving.
36 The person must also send written notice within ten days of the change
37 of address in the new county to the county sheriff with whom the person
38 last registered. The county sheriff with whom the person last

1 registered shall promptly forward the information concerning the change
2 of address to the county sheriff for the county of the person's new
3 residence. Upon receipt of notice of change of address to a new state,
4 the county sheriff shall promptly forward the information regarding the
5 change of address to the agency designated by the new state as the
6 state's offender registration agency.

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

15 (6)(a) Any person required to register under this section who lacks
16 a fixed residence shall provide written notice to the sheriff of the
17 county where he or she last registered within forty-eight hours
18 excluding weekends and holidays after ceasing to have a fixed
19 residence. The notice shall include the information required by
20 subsection (3)(b) of this section, except the photograph and
21 fingerprints. The county sheriff may, for reasonable cause, require
22 the offender to provide a photograph and fingerprints. The sheriff
23 shall forward this information to the sheriff of the county in which
24 the person intends to reside, if the person intends to reside in
25 another county.

26 (b) A person who lacks a fixed residence must report weekly, in
27 person, to the sheriff of the county where he or she is registered.
28 The weekly report shall be on a day specified by the county sheriff's
29 office, and shall occur during normal business hours. The county
30 sheriff's office may require the person to list the locations where the
31 person has stayed during the last seven days. The lack of a fixed
32 residence is a factor that may be considered in determining an
33 offender's risk level and shall make the offender subject to disclosure
34 of information to the public at large pursuant to RCW 4.24.550.

35 (c) If any person required to register pursuant to this section
36 does not have a fixed residence, it is an affirmative defense to the
37 charge of failure to register, that he or she provided written notice
38 to the sheriff of the county where he or she last registered within

1 forty-eight hours excluding weekends and holidays after ceasing to have
2 a fixed residence and has subsequently complied with the requirements
3 of subsections (4)(a)(vii) or (viii) and (6) of this section. To
4 prevail, the person must prove the defense by a preponderance of the
5 evidence.

6 (7) A sex offender subject to registration requirements under this
7 section who applies to change his or her name under RCW 4.24.130 or any
8 other law shall submit a copy of the application to the county sheriff
9 of the county of the person's residence and to the state patrol not
10 fewer than five days before the entry of an order granting the name
11 change. No sex offender under the requirement to register under this
12 section at the time of application shall be granted an order changing
13 his or her name if the court finds that doing so will interfere with
14 legitimate law enforcement interests, except that no order shall be
15 denied when the name change is requested for religious or legitimate
16 cultural reasons or in recognition of marriage or dissolution of
17 marriage. A sex offender under the requirement to register under this
18 section who receives an order changing his or her name shall submit a
19 copy of the order to the county sheriff of the county of the person's
20 residence and to the state patrol within five days of the entry of the
21 order.

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

24 (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
25 70.48.470, and 72.09.330:

26 (a) "Sex offense" means:

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

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

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

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

35 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
36 criminal attempt, criminal solicitation, or criminal conspiracy to
37 commit an offense that is classified as a sex offense under RCW
38 9.94A.030 or this subsection.

1 (b) "Kidnapping offense" means: (i) The crimes of kidnapping in
2 the first degree, kidnapping in the second degree, and unlawful
3 imprisonment, as defined in chapter 9A.40 RCW, where the victim is a
4 minor and the offender is not the minor's parent; (ii) any offense that
5 is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation,
6 or criminal conspiracy to commit an offense that is classified as a
7 kidnapping offense under this subsection (9)(b); and (iii) any federal
8 or out-of-state conviction for an offense that under the laws of this
9 state would be classified as a kidnapping offense under this subsection
10 (9)(b).

11 (c) "Employed" or "carries on a vocation" means employment that is
12 full-time or part-time for a period of time exceeding fourteen days, or
13 for an aggregate period of time exceeding thirty days during any
14 calendar year. A person is employed or carries on a vocation whether
15 the person's employment is financially compensated, volunteered, or for
16 the purpose of government or educational benefit.

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

21 (10) A person who knowingly fails to register with the county
22 sheriff or notify the county sheriff, or who changes his or her name
23 without notifying the county sheriff and the state patrol, as required
24 by this section is guilty of a class C felony if the crime for which
25 the individual was convicted was a felony sex offense as defined in
26 subsection (9)(a) 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 sex offense as defined in subsection (9)(a) of this section. If
29 the crime was other than a felony or a federal or out-of-state
30 conviction for an offense that under the laws of this state would be
31 other than a felony, violation of this section is a gross misdemeanor.

32 (11) A person who knowingly fails to register or who moves within
33 the state without notifying the county sheriff as required by this
34 section is guilty of a class C felony if the crime for which the
35 individual was convicted was a felony kidnapping offense as defined in
36 subsection (9)(b) of this section or a federal or out-of-state
37 conviction for an offense that under the laws of this state would be a
38 felony kidnapping offense as defined in subsection (9)(b) of this

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

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