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HOUSE BILL 1277

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State of Washington

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By Representatives Strow, Green, Ericks, Kretz, Pearson, Holmquist, Buri, Quall, Rodne, Condotta, Bailey, Ahern, Darneille, O'Brien, Kirby, Serben, Hasegawa, Tom, Ericksen, Kristiansen, Roach, Campbell, Wallace and Ormsby

Read first time 01/19/2005. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to registration requirements for sex offenders and  
2 kidnapping offenders; and reenacting 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 2003 c 215 s 1 and 2003 c 53 s 68 are  
5 each reenacted and amended to read 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~~)) 4.24.550 upon the public safety department of any  
25 public or 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~~) seventy-two hours of establishing residence or  
22 reestablishing residence if the person is a former Washington resident.  
23 The duty to register under this subsection applies to sex offenders  
24 convicted under the laws of another state or a foreign country, federal  
25 or military statutes, or Washington state for offenses committed on or  
26 after February 28, 1990, and to kidnapping offenders convicted under  
27 the laws of another state or a foreign country, federal or military  
28 statutes, or Washington state for offenses committed on or after July  
29 27, 1997. Sex offenders and kidnapping offenders from other states or  
30 a foreign country who, when they move to Washington, are under the  
31 jurisdiction of the department of corrections, the indeterminate  
32 sentence review board, or the department of social and health services  
33 must register within twenty-four hours of moving to Washington. The  
34 agency that has jurisdiction over the offender shall notify the  
35 offender of the registration requirements before the offender moves to  
36 Washington.

37 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult  
38 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 (10) of this  
24 section.

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

25 (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,  
26 70.48.470, and 72.09.330:

27 (a) "Sex offense" means:

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

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

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

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

36 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a  
37 criminal attempt, criminal solicitation, or criminal conspiracy to

1 commit an offense that is classified as a sex offense under RCW  
2 9.94A.030 or this subsection.

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

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

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

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

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

35 (11)(a) A person who knowingly fails to register or who moves  
36 within the state without notifying the county sheriff as required by  
37 this section is guilty of a class C felony if the crime for which the  
38 individual was convicted was a felony kidnapping offense as defined in

1 subsection (9)(b) of this section or a federal or out-of-state  
2 conviction for an offense that under the laws of this state would be a  
3 felony kidnapping offense as defined in subsection (9)(b) of this  
4 section.

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

9 NEW SECTION. **Sec. 2.** If any provision of this act or its  
10 application to any person or circumstance is held invalid, the  
11 remainder of the act or the application of the provision to other  
12 persons or circumstances is not affected.

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