
SENATE BILL 6153

State of Washington 59th Legislature 2006 Regular Session

By Senators Roach, Pflug, Carrell, Benson, Delvin, Schoesler, Schmidt, McCaslin, Oke, Mulliken, Sheldon, Parlette, Benton and Esser

Read first time 01/09/2006. Referred to Committee on Judiciary.

1 AN ACT Relating to sex offenses committed against children;
2 amending RCW 9.94A.540, 9.94A.712, 9A.44.130, and 9A.76.050; reenacting
3 and amending RCW 9.94A.515 and 9.95.204; adding a new section to
4 chapter 9A.76 RCW; adding a new section to chapter 9.94A RCW; creating
5 a new section; prescribing penalties; and providing an effective date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that children are
8 particularly vulnerable to the crimes committed by sex offenders and
9 that more must be done to stop sex offenders who prey upon children.
10 The legislature intends to further protect children from sex offenders
11 by increasing the penalty for offenders convicted of rape of a child in
12 the first degree and child molestation in the first degree to a minimum
13 term of imprisonment of not less than twenty-five years. The
14 legislature also intends to require the use of electronic monitoring to
15 supervise the most dangerous sex offenders, if an offender is released
16 back into the community.

17 **Sec. 2.** RCW 9.94A.540 and 2005 c 437 s 2 are each amended to read
18 as follows:

1 (1) Except to the extent provided in subsection (3) of this
2 section, the following minimum terms of total confinement are mandatory
3 and shall not be varied or modified under RCW 9.94A.535:

4 (a) An offender convicted of the crime of murder in the first
5 degree shall be sentenced to a term of total confinement not less than
6 twenty years.

7 (b) An offender convicted of the crime of assault in the first
8 degree or assault of a child in the first degree where the offender
9 used force or means likely to result in death or intended to kill the
10 victim shall be sentenced to a term of total confinement not less than
11 five years.

12 (c) An offender convicted of the crime of rape in the first degree
13 shall be sentenced to a term of total confinement not less than five
14 years.

15 (d) An offender convicted of the crime of sexually violent predator
16 escape shall be sentenced to a minimum term of total confinement not
17 less than sixty months.

18 (e) An offender convicted of the crime of rape of a child in the
19 first degree or child molestation in the first degree shall be
20 sentenced to a minimum term of total confinement not less than
21 twenty-five years. An offender sentenced under this subsection (1)(e)
22 is subject to lifetime supervision with active electronic monitoring
23 that monitors and identifies the offender's location and timely reports
24 or records the offender's presence near or within a crime scene or in
25 a prohibited area or the offender's departure from specified geographic
26 limitations for any period of partial confinement.

27 (2) During such minimum terms of total confinement, no offender
28 subject to the provisions of this section is eligible for community
29 custody, earned release time, furlough, home detention, partial
30 confinement, work crew, work release, or any other form of early
31 release authorized under RCW 9.94A.728, or any other form of authorized
32 leave of absence from the correctional facility while not in the direct
33 custody of a corrections officer. The provisions of this subsection
34 shall not apply: (a) In the case of an offender in need of emergency
35 medical treatment; (b) for the purpose of commitment to an inpatient
36 treatment facility in the case of an offender convicted of the crime of
37 rape in the first degree; or (c) for an extraordinary medical placement
38 when authorized under RCW 9.94A.728(4).

1 (3)(a) Subsection (1) of this section shall not be applied in
2 sentencing of juveniles tried as adults pursuant to RCW
3 13.04.030(1)(e)(i).

4 (b) This subsection (3) applies only to crimes committed on or
5 after July 24, 2005.

6 **Sec. 3.** RCW 9.94A.515 and 2005 c 458 s 2 and 2005 c 183 s 9 are
7 each reenacted and amended to read as follows:

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TABLE 2
CRIMES INCLUDED WITHIN
EACH SERIOUSNESS LEVEL

| | |
|------|---|
| XVI | Aggravated Murder 1 (RCW 10.95.020) |
| XV | <u>Child Molestation 1 (RCW 9A.44.083)</u> Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030) <u>Rape of a Child 1 (RCW 9A.44.073)</u> |
| XIV | Murder 2 (RCW 9A.32.050) Trafficking 1 (RCW 9A.40.100(1)) |
| XIII | Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1)) |
| XII | Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120) Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) Rape 1 (RCW 9A.44.040) ((Rape of a Child 1 (RCW 9A.44.073))) |
| XI | Trafficking 2 (RCW 9A.40.100(2)) Manslaughter 1 (RCW 9A.32.060) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076) |

1 X ((~~Child Molestation 1 (RCW~~
2 9A.44.083)))
3 Indecent Liberties (with forcible
4 compulsion) (RCW
5 9A.44.100(1)(a))
6 Kidnapping 1 (RCW 9A.40.020)
7 Leading Organized Crime (RCW
8 9A.82.060(1)(a))
9 Malicious explosion 3 (RCW
10 70.74.280(3))
11 Sexually Violent Predator Escape
12 (RCW 9A.76.115)
13 IX Assault of a Child 2 (RCW 9A.36.130)
14 Explosive devices prohibited (RCW
15 70.74.180)
16 Hit and Run--Death (RCW
17 46.52.020(4)(a))
18 Homicide by Watercraft, by being
19 under the influence of intoxicating
20 liquor or any drug (RCW
21 79A.60.050)
22 Inciting Criminal Profiteering (RCW
23 9A.82.060(1)(b))
24 Malicious placement of an explosive 2
25 (RCW 70.74.270(2))
26 Robbery 1 (RCW 9A.56.200)
27 Sexual Exploitation (RCW 9.68A.040)
28 Vehicular Homicide, by being under
29 the influence of intoxicating liquor
30 or any drug (RCW 46.61.520)
31 VIII Arson 1 (RCW 9A.48.020)
32 Homicide by Watercraft, by the
33 operation of any vessel in a
34 reckless manner (RCW
35 79A.60.050)
36 Manslaughter 2 (RCW 9A.32.070)

1 Promoting Prostitution 1 (RCW
2 9A.88.070)
3 Theft of Ammonia (RCW 69.55.010)
4 Vehicular Homicide, by the operation
5 of any vehicle in a reckless
6 manner (RCW 46.61.520)
7 VII Burglary 1 (RCW 9A.52.020)
8 Child Molestation 2 (RCW 9A.44.086)
9 Civil Disorder Training (RCW
10 9A.48.120)
11 Dealing in depictions of minor
12 engaged in sexually explicit
13 conduct (RCW 9.68A.050)
14 Drive-by Shooting (RCW 9A.36.045)
15 Homicide by Watercraft, by disregard
16 for the safety of others (RCW
17 79A.60.050)
18 Indecent Liberties (without forcible
19 compulsion) (RCW 9A.44.100(1)
20 (b) and (c))
21 Introducing Contraband 1 (RCW
22 9A.76.140)
23 Malicious placement of an explosive 3
24 (RCW 70.74.270(3))
25 Negligently Causing Death By Use of
26 a Signal Preemption Device
27 (RCW 46.37.675)
28 Sending, bringing into state depictions
29 of minor engaged in sexually
30 explicit conduct (RCW
31 9.68A.060)
32 Unlawful Possession of a Firearm in
33 the first degree (RCW
34 9.41.040(1))
35 Use of a Machine Gun in Commission
36 of a Felony (RCW 9.41.225)

1 Vehicular Homicide, by disregard for
2 the safety of others (RCW
3 46.61.520)

4 VI Bail Jumping with Murder 1 (RCW
5 9A.76.170(3)(a))
6 Bribery (RCW 9A.68.010)
7 Incest 1 (RCW 9A.64.020(1))
8 Intimidating a Judge (RCW
9 9A.72.160)
10 Intimidating a Juror/Witness (RCW
11 9A.72.110, 9A.72.130)
12 Malicious placement of an imitation
13 device 2 (RCW 70.74.272(1)(b))
14 Rape of a Child 3 (RCW 9A.44.079)
15 Theft of a Firearm (RCW 9A.56.300)
16 Unlawful Storage of Ammonia (RCW
17 69.55.020)

18 V Abandonment of dependent person 1
19 (RCW 9A.42.060)
20 Advancing money or property for
21 extortionate extension of credit
22 (RCW 9A.82.030)
23 Bail Jumping with class A Felony
24 (RCW 9A.76.170(3)(b))
25 Child Molestation 3 (RCW 9A.44.089)
26 Criminal Mistreatment 1 (RCW
27 9A.42.020)
28 Custodial Sexual Misconduct 1 (RCW
29 9A.44.160)
30 Domestic Violence Court Order
31 Violation (RCW 10.99.040,
32 10.99.050, 26.09.300, 26.10.220,
33 26.26.138, 26.50.110, 26.52.070,
34 or 74.34.145)
35 Extortion 1 (RCW 9A.56.120)
36 Extortionate Extension of Credit
37 (RCW 9A.82.020)

1 Extortionate Means to Collect
2 Extensions of Credit (RCW
3 9A.82.040)
4 Failure to Register as a Sex Offender
5 (RCW 9A.44.130)
6 Incest 2 (RCW 9A.64.020(2))
7 Kidnapping 2 (RCW 9A.40.030)
8 Perjury 1 (RCW 9A.72.020)
9 Persistent prison misbehavior (RCW
10 9.94.070)
11 Possession of a Stolen Firearm (RCW
12 9A.56.310)
13 Rape 3 (RCW 9A.44.060)
14 Rendering Criminal Assistance 1
15 (RCW 9A.76.070)
16 Sexual Misconduct with a Minor 1
17 (RCW 9A.44.093)
18 Sexually Violating Human Remains
19 (RCW 9A.44.105)
20 Stalking (RCW 9A.46.110)
21 Taking Motor Vehicle Without
22 Permission 1 (RCW 9A.56.070)
23 IV Arson 2 (RCW 9A.48.030)
24 Assault 2 (RCW 9A.36.021)
25 Assault 3 (of a Peace Officer with a
26 Projectile Stun Gun) (RCW
27 9A.36.031(1)(h))
28 Assault by Watercraft (RCW
29 79A.60.060)
30 Bribing a Witness/Bribe Received by
31 Witness (RCW 9A.72.090,
32 9A.72.100)
33 Cheating 1 (RCW 9.46.1961)
34 Commercial Bribery (RCW
35 9A.68.060)
36 Counterfeiting (RCW 9.16.035(4))

1 Endangerment with a Controlled
2 Substance (RCW 9A.42.100)
3 Escape 1 (RCW 9A.76.110)
4 Hit and Run--Injury (RCW
5 46.52.020(4)(b))
6 Hit and Run with Vessel--Injury
7 Accident (RCW 79A.60.200(3))
8 Identity Theft 1 (RCW 9.35.020(2))
9 Indecent Exposure to Person Under
10 Age Fourteen (subsequent sex
11 offense) (RCW 9A.88.010)
12 Influencing Outcome of Sporting
13 Event (RCW 9A.82.070)
14 Malicious Harassment (RCW
15 9A.36.080)
16 Residential Burglary (RCW
17 9A.52.025)
18 Robbery 2 (RCW 9A.56.210)
19 Theft of Livestock 1 (RCW 9A.56.080)
20 Threats to Bomb (RCW 9.61.160)
21 Trafficking in Stolen Property 1 (RCW
22 9A.82.050)
23 Unlawful factoring of a credit card or
24 payment card transaction (RCW
25 9A.56.290(4)(b))
26 Unlawful transaction of health
27 coverage as a health care service
28 contractor (RCW 48.44.016(3))
29 Unlawful transaction of health
30 coverage as a health maintenance
31 organization (RCW 48.46.033(3))
32 Unlawful transaction of insurance
33 business (RCW 48.15.023(3))
34 Unlicensed practice as an insurance
35 professional (RCW 48.17.063(3))

1 Use of Proceeds of Criminal
2 Profiteering (RCW 9A.82.080 (1)
3 and (2))
4 Vehicular Assault, by being under the
5 influence of intoxicating liquor or
6 any drug, or by the operation or
7 driving of a vehicle in a reckless
8 manner (RCW 46.61.522)
9 Willful Failure to Return from
10 Furlough (RCW 72.66.060)
11 III Abandonment of dependent person 2
12 (RCW 9A.42.070)
13 Assault 3 (Except Assault 3 of a Peace
14 Officer With a Projectile Stun
15 Gun) (RCW 9A.36.031 except
16 subsection (1)(h))
17 Assault of a Child 3 (RCW 9A.36.140)
18 Bail Jumping with class B or C Felony
19 (RCW 9A.76.170(3)(c))
20 Burglary 2 (RCW 9A.52.030)
21 Communication with a Minor for
22 Immoral Purposes (RCW
23 9.68A.090)
24 Criminal Gang Intimidation (RCW
25 9A.46.120)
26 Criminal Mistreatment 2 (RCW
27 9A.42.030)
28 Custodial Assault (RCW 9A.36.100)
29 Cyberstalking (subsequent conviction
30 or threat of death) (RCW
31 9.61.260(3))
32 Escape 2 (RCW 9A.76.120)
33 Extortion 2 (RCW 9A.56.130)
34 Harassment (RCW 9A.46.020)
35 Intimidating a Public Servant (RCW
36 9A.76.180)

1 Introducing Contraband 2 (RCW
2 9A.76.150)
3 Malicious Injury to Railroad Property
4 (RCW 81.60.070)
5 Negligently Causing Substantial Bodily
6 Harm By Use of a Signal
7 Preemption Device (RCW
8 46.37.674)
9 Patronizing a Juvenile Prostitute
10 (RCW 9.68A.100)
11 Perjury 2 (RCW 9A.72.030)
12 Possession of Incendiary Device (RCW
13 9.40.120)
14 Possession of Machine Gun or Short-
15 Barreled Shotgun or Rifle (RCW
16 9.41.190)
17 Promoting Prostitution 2 (RCW
18 9A.88.080)
19 Securities Act violation (RCW
20 21.20.400)
21 Tampering with a Witness (RCW
22 9A.72.120)
23 Telephone Harassment (subsequent
24 conviction or threat of death)
25 (RCW 9.61.230(2))
26 Theft of Livestock 2 (RCW 9A.56.083)
27 Trafficking in Stolen Property 2 (RCW
28 9A.82.055)
29 Unlawful Imprisonment (RCW
30 9A.40.040)
31 Unlawful possession of firearm in the
32 second degree (RCW 9.41.040(2))
33 Vehicular Assault, by the operation or
34 driving of a vehicle with disregard
35 for the safety of others (RCW
36 46.61.522)

1 Willful Failure to Return from Work
2 Release (RCW 72.65.070)
3 II Computer Trespass 1 (RCW
4 9A.52.110)
5 Counterfeiting (RCW 9.16.035(3))
6 Escape from Community Custody
7 (RCW 72.09.310)
8 Health Care False Claims (RCW
9 48.80.030)
10 Identity Theft 2 (RCW 9.35.020(3))
11 Improperly Obtaining Financial
12 Information (RCW 9.35.010)
13 Malicious Mischief 1 (RCW
14 9A.48.070)
15 Possession of Stolen Property 1 (RCW
16 9A.56.150)
17 Theft 1 (RCW 9A.56.030)
18 Theft of Rental, Leased, or Lease-
19 purchased Property (valued at one
20 thousand five hundred dollars or
21 more) (RCW 9A.56.096(5)(a))
22 Trafficking in Insurance Claims (RCW
23 48.30A.015)
24 Unlawful factoring of a credit card or
25 payment card transaction (RCW
26 9A.56.290(4)(a))
27 Unlawful Practice of Law (RCW
28 2.48.180)
29 Unlicensed Practice of a Profession or
30 Business (RCW 18.130.190(7))
31 I Attempting to Elude a Pursuing Police
32 Vehicle (RCW 46.61.024)
33 False Verification for Welfare (RCW
34 74.08.055)
35 Forgery (RCW 9A.60.020)

1 Fraudulent Creation or Revocation of a
2 Mental Health Advance Directive
3 (RCW 9A.60.060)
4 Malicious Mischief 2 (RCW
5 9A.48.080)
6 Mineral Trespass (RCW 78.44.330)
7 Possession of Stolen Property 2 (RCW
8 9A.56.160)
9 Reckless Burning 1 (RCW 9A.48.040)
10 Taking Motor Vehicle Without
11 Permission 2 (RCW 9A.56.075)
12 Theft 2 (RCW 9A.56.040)
13 Theft of Rental, Leased, or Lease-
14 purchased Property (valued at two
15 hundred fifty dollars or more but
16 less than one thousand five
17 hundred dollars) (RCW
18 9A.56.096(5)(b))
19 Transaction of insurance business
20 beyond the scope of licensure
21 (RCW 48.17.063(4))
22 Unlawful Issuance of Checks or Drafts
23 (RCW 9A.56.060)
24 Unlawful Possession of Fictitious
25 Identification (RCW 9A.56.320)
26 Unlawful Possession of Instruments of
27 Financial Fraud (RCW
28 9A.56.320)
29 Unlawful Possession of Payment
30 Instruments (RCW 9A.56.320)
31 Unlawful Possession of a Personal
32 Identification Device (RCW
33 9A.56.320)
34 Unlawful Production of Payment
35 Instruments (RCW 9A.56.320)
36 Unlawful Trafficking in Food Stamps
37 (RCW 9.91.142)

4 **Sec. 4.** RCW 9.94A.712 and 2004 c 176 s 3 are each amended to read
5 as follows:

6 (1) An offender who is not a persistent offender shall be sentenced
7 under this section if the offender:

8 (a) Is convicted of:

9 (i) Rape in the first degree, rape in the second degree, rape of a
10 child in the first degree, child molestation in the first degree, rape
11 of a child in the second degree, or indecent liberties by forcible
12 compulsion;

13 (ii) Any of the following offenses with a finding of sexual
14 motivation: Murder in the first degree, murder in the second degree,
15 homicide by abuse, kidnapping in the first degree, kidnapping in the
16 second degree, assault in the first degree, assault in the second
17 degree, assault of a child in the first degree, or burglary in the
18 first degree; or

19 (iii) An attempt to commit any crime listed in this subsection
20 (1)(a);
21 committed on or after September 1, 2001; or

22 (b) Has a prior conviction for an offense listed in RCW
23 9.94A.030(32)(b), and is convicted of any sex offense which was
24 committed after September 1, 2001.

25 For purposes of this subsection (1)(b), failure to register is not
26 a sex offense.

27 (2) An offender convicted of rape of a child in the first or second
28 degree or child molestation in the first degree who was seventeen years
29 of age or younger at the time of the offense shall not be sentenced
30 under this section.

31 (3) Upon a finding that the offender is subject to sentencing under
32 this section, the court shall impose a sentence to a maximum term
33 consisting of the statutory maximum sentence for the offense and a
34 minimum term either within the standard sentence range for the offense,
35 or outside the standard sentence range pursuant to RCW 9.94A.535, if
36 the offender is otherwise eligible for such a sentence.

1 (4) A person sentenced under subsection (3) of this section shall
2 serve the sentence in a facility or institution operated, or utilized
3 under contract, by the state.

4 (5) When a court sentences a person to the custody of the
5 department under this section, the court shall, in addition to the
6 other terms of the sentence, sentence the offender to community custody
7 under the supervision of the department and the authority of the board
8 for any period of time the person is released from total confinement
9 before the expiration of the maximum sentence.

10 (6)(a) Unless a condition is waived by the court, the conditions of
11 community custody shall include those provided for in RCW 9.94A.700(4).
12 The conditions may also include those provided for in RCW 9.94A.700(5).
13 The court may also order the offender to participate in rehabilitative
14 programs or otherwise perform affirmative conduct reasonably related to
15 the circumstances of the offense, the offender's risk of reoffending,
16 or the safety of the community, and the department and the board shall
17 enforce such conditions pursuant to RCW 9.94A.713, 9.95.425, and
18 9.95.430.

19 (b) The conditions of community custody shall include active
20 electronic monitoring that monitors and identifies the offender's
21 location and timely reports or records the offender's presence near or
22 within a crime scene or in a prohibited area or the offender's
23 departure from specified geographic limitations. This condition shall
24 not be waived by the court.

25 (c) The court may require offenders to pay for active electronic
26 monitoring, dependent upon the offender's ability to pay.

27 (d) As part of any sentence under this section, the court shall
28 also require the offender to comply with any conditions imposed by the
29 board under RCW 9.94A.713 and 9.95.420 through 9.95.435.

30 **Sec. 5.** RCW 9.95.204 and 2005 c 400 s 2 and 2005 c 362 s 3 are
31 each reenacted and amended to read as follows:

32 (1) When a superior court places a defendant convicted of a
33 misdemeanor or gross misdemeanor on probation and orders supervision
34 under RCW 9.92.060 or 9.95.210, the department of corrections has
35 initial responsibility for supervision of that defendant.

36 (2) A county legislative authority may assume responsibility for
37 the supervision of all defendants within its jurisdiction who have been

1 convicted of a misdemeanor or gross misdemeanor and sentenced to
2 probation by a superior court. The assumption of responsibility shall
3 be made by contract with the department of corrections on a biennial
4 basis.

5 (3) If a county assumes supervision responsibility, the county
6 shall supervise all superior court misdemeanant probationers within
7 that county for the duration of the biennium, as set forth in the
8 contract with the department of corrections.

9 (4) A contract between a county legislative authority and the
10 department of corrections for the transfer of supervision
11 responsibility must include, at a minimum, the following provisions:

12 (a) The county's agreement to supervise all misdemeanant
13 probationers who are sentenced by a superior court within that county
14 and who reside within that county;

15 (b) A reciprocal agreement regarding the supervision of superior
16 court misdemeanant probationers sentenced in one county but who reside
17 in another county;

18 (c) The county's agreement to comply with the minimum standards for
19 classification and supervision of offenders as required under RCW
20 9.95.206;

21 (d) The amount of funds available from the department of
22 corrections to the county for supervision of superior court
23 misdemeanant probationers, calculated according to a formula
24 established by the department of corrections;

25 (e) A method for the payment of funds by the department of
26 corrections to the county;

27 (f) The county's agreement that any funds received by the county
28 under the contract will be expended only to cover costs of supervision
29 of superior court misdemeanant probationers;

30 (g) The county's agreement to account to the department of
31 corrections for the expenditure of all funds received under the
32 contract and to submit to audits for compliance with the supervision
33 standards and financial requirements of this section;

34 (h) Provisions regarding rights and remedies in the event of a
35 possible breach of contract or default by either party; and

36 (i) Provisions allowing for voluntary termination of the contract
37 by either party, with good cause, after sixty days' written notice.

1 (5) If the contract between the county and the department of
2 corrections is terminated for any reason, the department of corrections
3 shall reassume responsibility for supervision of superior court
4 misdemeanor probationers within that county. In such an event, the
5 department of corrections retains any and all rights and remedies
6 available by law and under the contract.

7 (6) The state of Washington, the department of corrections and its
8 employees, community corrections officers, and volunteers who assist
9 community corrections officers are not liable for any harm caused by
10 the actions of a superior court misdemeanor probationer who is under
11 the supervision of a county. A county, its probation department and
12 employees, probation officers, and volunteers who assist probation
13 officers are not liable for any harm caused by the actions of a
14 superior court misdemeanor probationer who is under the supervision of
15 the department of corrections. This subsection applies regardless of
16 whether the supervising entity is in compliance with the standards of
17 supervision at the time of the misdemeanor probationer's actions.

18 (7) The state of Washington, the department of corrections and its
19 employees, community corrections officers, any county under contract
20 with the department of corrections pursuant to this section and its
21 employees, probation officers, and volunteers who assist community
22 corrections officers and probation officers in the superior court
23 misdemeanor probation program are not liable for civil damages
24 resulting from any act or omission in the rendering of superior court
25 misdemeanor probation activities unless the act or omission
26 constitutes gross negligence. For purposes of this section,
27 "volunteers" is defined according to RCW 51.12.035.

28 (8) The provisions of RCW 9.94A.501 apply to sentences imposed
29 under this section.

30 (9)(a) If a misdemeanor probationer requests permission to travel
31 or transfer to another state, the assigned probation officer employed
32 or contracted for by the county shall determine whether such request is
33 subject to RCW 9.94A.745, the interstate compact for adult offender
34 supervision. If such request is subject to the compact, the probation
35 officer shall:

36 (i) Notify the department of corrections of the probationer's
37 request;

1 (ii) Provide the department of corrections with the supporting
2 documentation it requests for processing an application for transfer;

3 (iii) Notify the probationer of the fee due to the department of
4 corrections for processing an application under the compact;

5 (iv) Cease supervision of the probationer while another state
6 supervises the probationer pursuant to the compact;

7 (v) Resume supervision if the probationer returns to this state
8 before the term of probation expires.

9 (b) The probationer shall receive credit for time served while
10 being supervised by another state.

11 (10) Whenever the department or a county assumes supervisory
12 responsibility for a misdemeanor probationer, the department or the
13 county shall determine whether or not the probationer is listed in the
14 central registry of sex offenders and kidnapping offenders.

15 **Sec. 6.** RCW 9A.44.130 and 2005 c 380 s 1 are each amended to read
16 as follows:

17 (1)(a) Any adult or juvenile residing whether or not the person has
18 a fixed residence, or who is a student, is employed, or carries on a
19 vocation in this state who has been found to have committed or has been
20 convicted of any sex offense or kidnapping offense, or who has been
21 found not guilty by reason of insanity under chapter 10.77 RCW of
22 committing any sex offense or kidnapping offense, shall register with
23 the county sheriff for the county of the person's residence, or if the
24 person is not a resident of Washington, the county of the person's
25 school, or place of employment or vocation, or as otherwise specified
26 in this section. Where a person required to register under this
27 section is in custody of the state department of corrections, the state
28 department of social and health services, a local division of youth
29 services, or a local jail or juvenile detention facility as a result of
30 a sex offense or kidnapping offense, the person shall also register at
31 the time of release from custody with an official designated by the
32 agency that has jurisdiction over the person.

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

35 (i) Who is attending, or planning to attend, a public or private
36 school regulated under Title 28A RCW or chapter 72.40 RCW shall, within
37 ten days of enrolling or prior to arriving at the school to attend

1 classes, whichever is earlier, notify the sheriff for the county of the
2 person's residence of the person's intent to attend the school, and the
3 sheriff shall promptly notify the principal of the school;

4 (ii) Who is admitted to a public or private institution of higher
5 education shall, within ten days of enrolling or by the first business
6 day after arriving at the institution, whichever is earlier, notify the
7 sheriff for the county of the person's residence of the person's intent
8 to attend the institution;

9 (iii) Who gains employment at a public or private institution of
10 higher education shall, within ten days of accepting employment or by
11 the first business day after commencing work at the institution,
12 whichever is earlier, notify the sheriff for the county of the person's
13 residence of the person's employment by the institution; or

14 (iv) Whose enrollment or employment at a public or private
15 institution of higher education is terminated shall, within ten days of
16 such termination, notify the sheriff for the county of the person's
17 residence of the person's termination of enrollment or employment at
18 the institution.

19 (c) Persons required to register under this section who are
20 enrolled in a public or private institution of higher education on June
21 11, 1998, or a public or private school regulated under Title 28A RCW
22 or chapter 72.40 RCW on September 1, 2006, must notify the county
23 sheriff immediately.

24 (d) The sheriff shall notify the school's principal or
25 institution's department of public safety and shall provide that
26 department with the same information provided to a county sheriff under
27 subsection (3) of this section.

28 (e)(i) A principal receiving notice under this subsection must
29 disclose the information received from the sheriff under (b) of this
30 subsection as follows:

31 (A) If the student who is required to register as a sex offender is
32 classified as a risk level II or III, the principal shall provide the
33 information received to every teacher of any student required to
34 register under (a) of this subsection and to any other personnel who,
35 in the judgment of the principal, supervises the student or for
36 security purposes should be aware of the student's record;

37 (B) If the student who is required to register as a sex offender is
38 classified as a risk level I, the principal shall provide the

1 information received only to personnel who, in the judgment of the
2 principal, for security purposes should be aware of the student's
3 record.

4 (ii) Any information received by a principal or school personnel
5 under this subsection is confidential and may not be further
6 disseminated except as provided in RCW 28A.225.330, other statutes or
7 case law, and the family and educational and privacy rights act of
8 1994, 20 U.S.C. Sec. 1232g et seq.

9 (2) This section may not be construed to confer any powers pursuant
10 to RCW (~~(4.24.500)~~) 4.24.550 upon the public safety department of any
11 public or private school or institution of higher education.

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

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

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

27 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
28 offense on, before, or after February 28, 1990, and who, on or after
29 July 28, 1991, are in custody, as a result of that offense, of the
30 state department of corrections, the state department of social and
31 health services, a local division of youth services, or a local jail or
32 juvenile detention facility, and (B) kidnapping offenders who on or
33 after July 27, 1997, are in custody of the state department of
34 corrections, the state department of social and health services, a
35 local division of youth services, or a local jail or juvenile detention
36 facility, must register at the time of release from custody with an
37 official designated by the agency that has jurisdiction over the
38 offender. The agency shall within three days forward the registration

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

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

21 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
22 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
23 but are under the jurisdiction of the indeterminate sentence review
24 board or under the department of corrections' active supervision, as
25 defined by the department of corrections, the state department of
26 social and health services, or a local division of youth services, for
27 sex offenses committed before, on, or after February 28, 1990, must
28 register within ten days of July 28, 1991. Kidnapping offenders who,
29 on July 27, 1997, are not in custody but are under the jurisdiction of
30 the indeterminate sentence review board or under the department of
31 corrections' active supervision, as defined by the department of
32 corrections, the state department of social and health services, or a
33 local division of youth services, for kidnapping offenses committed
34 before, on, or after July 27, 1997, must register within ten days of
35 July 27, 1997. A change in supervision status of a sex offender who
36 was required to register under this subsection (4)(a)(ii) as of July
37 28, 1991, or a kidnapping offender required to register as of July 27,

1 1997, shall not relieve the offender of the duty to register or to
2 reregister following a change in residence. The obligation to register
3 shall only cease pursuant to RCW 9A.44.140.

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

31 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
32 who are convicted of a sex offense on or after July 28, 1991, for a sex
33 offense that was committed on or after February 28, 1990, and
34 kidnapping offenders who are convicted on or after July 27, 1997, for
35 a kidnapping offense that was committed on or after July 27, 1997, but
36 who are not sentenced to serve a term of confinement immediately upon
37 sentencing, shall report to the county sheriff to register immediately
38 upon completion of being sentenced.

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

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

1 1997, shall be required to register within twenty-four hours of
2 receiving notice of this registration requirement. The state
3 department of social and health services shall make reasonable attempts
4 within available resources to notify sex offenders who were released
5 before July 23, 1995, and kidnapping offenders who were released before
6 July 27, 1997. Failure to register within twenty-four hours of
7 release, or of receiving notice, constitutes a violation of this
8 section and is punishable as provided in subsection (10) of this
9 section.

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

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

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

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

36 (c) An arrest on charges of failure to register, service of an
37 information, or a complaint for a violation of this section, or
38 arraignment on charges for a violation of this section, constitutes

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

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

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

31 (b) It is an affirmative defense to a charge that the person failed
32 to send a notice at least fourteen days in advance of moving as
33 required under (a) of this subsection that the person did not know the
34 location of his or her new residence at least fourteen days before
35 moving. The defendant must establish the defense by a preponderance of
36 the evidence and, to prevail on the defense, must also prove by a
37 preponderance that the defendant sent the required notice within
38 twenty-four hours of determining the new address.

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

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

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

30 (7) A sex offender subject to registration requirements under this
31 section who applies to change his or her name under RCW 4.24.130 or any
32 other law shall submit a copy of the application to the county sheriff
33 of the county of the person's residence and to the state patrol not
34 fewer than five days before the entry of an order granting the name
35 change. No sex offender under the requirement to register under this
36 section at the time of application shall be granted an order changing
37 his or her name if the court finds that doing so will interfere with
38 legitimate law enforcement interests, except that no order shall be

1 denied when the name change is requested for religious or legitimate
2 cultural reasons or in recognition of marriage or dissolution of
3 marriage. A sex offender under the requirement to register under this
4 section who receives an order changing his or her name shall submit a
5 copy of the order to the county sheriff of the county of the person's
6 residence and to the state patrol within five days of the entry of the
7 order.

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

10 (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
11 70.48.470, and 72.09.330:

12 (a) "Sex offense" means:

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

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

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

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

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

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

35 (c) "Employed" or "carries on a vocation" means employment that is
36 full-time or part-time for a period of time exceeding fourteen days, or
37 for an aggregate period of time exceeding thirty days during any

1 calendar year. A person is employed or carries on a vocation whether
2 the person's employment is financially compensated, volunteered, or for
3 the purpose of government or educational benefit.

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

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

16 (b) If the crime for which the individual was convicted was other
17 than a felony or a federal or out-of-state conviction for an offense
18 that under the laws of this state would be other than a felony,
19 violation of this section is a ((~~gross misdemeanor~~)) class C felony.

20 (11)(a) A person who knowingly fails to register or who moves
21 within the state without notifying the county sheriff as required by
22 this section is guilty of a class ((E)) B felony if the crime for which
23 the individual was convicted was a felony kidnapping offense as defined
24 in subsection (9)(b) of this section or a federal or out-of-state
25 conviction for an offense that under the laws of this state would be a
26 felony kidnapping offense as defined in subsection (9)(b) of this
27 section.

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

32 (12) Except as may otherwise be provided by law, nothing in this
33 section shall impose any liability upon a peace officer, including a
34 county sheriff, or law enforcement agency, for failing to release
35 information authorized under this section.

36 NEW SECTION. **Sec. 7.** A new section is added to chapter 9A.76 RCW
37 to read as follows:

1 (1) A person is guilty of rendering assistance to a sex offender if
2 the person knows that a sex offender required to register under RCW
3 9A.44.130 is not complying, or has not complied, with the requirements
4 of RCW 9A.44.130 and, with the intent to assist the sex offender
5 required to register in eluding a law enforcement agency that is
6 seeking to find the sex offender to question the person about, or to
7 arrest the person for, his or her noncompliance with the requirements
8 of RCW 9A.44.130, the person:

9 (a) Withholds information from, or does not notify, the law
10 enforcement agency about the sex offender's noncompliance with the
11 requirements of RCW 9A.44.130 and, if known, the whereabouts of the sex
12 offender;

13 (b) Harbors or attempts to harbor, or assists another person in
14 harboring or attempting to harbor, the sex offender;

15 (c) Hides or attempts to hide, or assists another person in hiding
16 or attempting to hide, the sex offender; or

17 (d) Provides information to the law enforcement agency regarding
18 the sex offender which the person knows to be false information,
19 commits a felony of the third degree. This subsection (1)(d) does not
20 apply if the sex offender is incarcerated in or is in the custody of a
21 state correctional facility, a local jail, or a federal correctional
22 facility.

23 (2) Rendering assistance to a sex offender is a class C felony.

24 **Sec. 8.** RCW 9A.76.050 and 1982 1st ex.s. c 47 s 20 are each
25 amended to read as follows:

26 As used in RCW 9A.76.070, 9A.76.080, and 9A.76.090, a person
27 "renders criminal assistance" if, under circumstances not amounting to
28 a violation of section 7 of this act, with intent to prevent, hinder,
29 or delay the apprehension or prosecution of another person who he or
30 she knows has committed a crime or juvenile offense or is being sought
31 by law enforcement officials for the commission of a crime or juvenile
32 offense or has escaped from a detention facility, he or she:

33 (1) Harbors or conceals such person; or

34 (2) Warns such person of impending discovery or apprehension; or

35 (3) Provides such person with money, transportation, disguise, or
36 other means of avoiding discovery or apprehension; or

1 (4) Prevents or obstructs, by use of force, deception, or threat,
2 anyone from performing an act that might aid in the discovery or
3 apprehension of such person; or

4 (5) Conceals, alters, or destroys any physical evidence that might
5 aid in the discovery or apprehension of such person; or

6 (6) Provides such person with a weapon.

7 NEW SECTION. **Sec. 9.** A new section is added to chapter 9.94A RCW
8 to read as follows:

9 A person who intentionally alters, tampers with, damages, or
10 destroys any electronic monitoring equipment ordered under RCW
11 9.94A.540 or 9.94A.712 is guilty of a class C felony punishable under
12 RCW 9A.20.021, unless such person is the owner of the equipment, or an
13 agent of the owner, performing ordinary maintenance and repairs.

14 NEW SECTION. **Sec. 10.** This act takes effect September 1, 2006.

--- END ---