
HOUSE BILL 2644

State of Washington 60th Legislature 2008 Regular Session

By Representatives Simpson, Williams, Pearson, and Lantz

Read first time 01/15/08. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to prohibiting certain sex offenders on community
2 custody from accessing the internet; and adding new sections to chapter
3 9.94A RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A RCW
6 to read as follows:

7 (1) In a prosecution for a sex offense, the prosecuting attorney
8 shall file a special allegation of internet facilitation whenever
9 sufficient admissible evidence exists, which, when considered with the
10 most plausible, reasonably foreseeable defense that could be raised
11 under the evidence, would justify a finding by a reasonable and
12 objective fact-finder that the defendant used the internet to
13 facilitate the commission of the offense.

14 (2) Once a special allegation has been made under this section, the
15 state has the burden to prove beyond a reasonable doubt that the
16 defendant used the internet to facilitate the commission of the
17 offense. If a jury is had, the jury shall, if it finds the defendant
18 guilty, also find a special verdict as to whether the defendant used
19 the internet to facilitate the commission of the offense. If no jury

1 is had, the court shall make a finding of fact as to whether the
2 defendant used the internet to facilitate the commission of the
3 offense.

4 (3) The prosecuting attorney shall not withdraw a special
5 allegation filed under this section without the approval of the court
6 through an order of dismissal of the allegation. The court may not
7 dismiss the special allegation unless it finds that the order is
8 necessary to correct an error in the initial charging decision or that
9 there are evidentiary problems that make proving the special allegation
10 doubtful.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A RCW
12 to read as follows:

13 When sentencing an offender convicted of a sex offense committed on
14 or after the effective date of this section with a finding of internet
15 facilitation under section 1 of this act, the court, as a condition of
16 any term of community custody imposed under RCW 9.94A.545, 9.94A.670,
17 9.94A.712, or 9.94A.715, shall:

18 (1) Prohibit the offender from accessing or using a computer, or
19 any other device with internet capability, without the prior written
20 approval of the department;

21 (2) Require the offender to submit to unannounced inspections of
22 his or her computer, or any other device with internet capability, by
23 a community corrections officer or a computer or information technology
24 specialist employed by, or under contract with, the department. The
25 inspection may include, but is not limited to, the retrieval and
26 copying of all data from the computer or device and any internal or
27 external peripherals, and removal of the data, computer, device, or
28 peripheral, to conduct a more thorough inspection;

29 (3) Require the offender to submit to the installation on the
30 offender's computer or other device with internet capability, at the
31 offender's expense, one or more hardware or software systems to monitor
32 the offender's internet use; and

33 (4) Require the offender to submit to any other appropriate
34 restrictions, as determined by the department, concerning his or her
35 use or access to a computer or other device with internet capability.

--- END ---