
SUBSTITUTE SENATE BILL 5578

State of Washington 65th Legislature 2017 Regular Session

By Senate Law & Justice (originally sponsored by Senator Pearson)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to sex offender registry information; and
2 amending RCW 4.24.550 and 9A.44.142.

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

4 **Sec. 1.** RCW 4.24.550 and 2015 c 261 s 1 are each amended to read
5 as follows:

6 (1) In addition to the disclosure under subsection (5) of this
7 section, public agencies are authorized to release information to the
8 public regarding sex offenders and kidnapping offenders when the
9 agency determines that disclosure of the information is relevant and
10 necessary to protect the public and counteract the danger created by
11 the particular offender. This authorization applies to information
12 regarding: (a) Any person adjudicated or convicted of a sex offense
13 as defined in RCW 9A.44.128 or a kidnapping offense as defined by RCW
14 9A.44.128; (b) any person under the jurisdiction of the indeterminate
15 sentence review board as the result of a sex offense or kidnapping
16 offense; (c) any person committed as a sexually violent predator
17 under chapter 71.09 RCW or as a sexual psychopath under chapter 71.06
18 RCW; (d) any person found not guilty of a sex offense or kidnapping
19 offense by reason of insanity under chapter 10.77 RCW; and (e) any
20 person found incompetent to stand trial for a sex offense or

1 kidnapping offense and subsequently committed under chapter 71.05 or
2 71.34 RCW.

3 (2) Except for the information specifically required under
4 subsection (5) of this section, the extent of the public disclosure
5 of relevant and necessary information shall be rationally related to:
6 (a) The level of risk posed by the offender to the community; (b) the
7 locations where the offender resides, expects to reside, or is
8 regularly found; and (c) the needs of the affected community members
9 for information to enhance their individual and collective safety.

10 (3) Except for the information specifically required under
11 subsection (5) of this section, local law enforcement agencies shall
12 consider the following guidelines in determining the extent of a
13 public disclosure made under this section: (a) For offenders
14 classified as risk level I, the agency shall share information with
15 other appropriate law enforcement agencies and any individual who
16 requests information and, if the offender is a student, the public or
17 private school regulated under Title 28A RCW or chapter 72.40 RCW
18 which the offender is attending, or planning to attend. The agency
19 may disclose, upon request, relevant, necessary, and accurate
20 information to any victim or witness to the offense((~~τ~~)) and any
21 individual community member who lives near the residence where the
22 offender resides, expects to reside, or is regularly found((~~τ~~ and any
23 individual who requests information regarding a specific offender));
24 (b) for offenders classified as risk level II, the agency may also
25 disclose relevant, necessary, and accurate information to public and
26 private schools, child day care centers, family day care providers,
27 public libraries, businesses and organizations that serve primarily
28 children, women, or vulnerable adults, and neighbors and community
29 groups near the residence where the offender resides, expects to
30 reside, or is regularly found; (c) for offenders classified as risk
31 level III, the agency may also disclose relevant, necessary, and
32 accurate information to the public at large; and (d) because more
33 localized notification is not feasible and homeless and transient
34 offenders may present unique risks to the community, the agency may
35 also disclose relevant, necessary, and accurate information to the
36 public at large for offenders registered as homeless or transient.

37 (4) The county sheriff with whom an offender classified as risk
38 level III is registered shall release a sex offender community
39 notification that conforms to the guidelines established under RCW
40 4.24.5501.

1 (5)(a) When funded by federal grants or other sources, the
2 Washington association of sheriffs and police chiefs shall create and
3 maintain a statewide registered kidnapping and sex offender web site,
4 which shall be available to the public. The web site shall post all
5 level III and level II registered sex offenders, level I registered
6 sex offenders only during the time they are out of compliance with
7 registration requirements under RCW 9A.44.130 or if lacking a fixed
8 residence as provided in RCW 9A.44.130, and all registered kidnapping
9 offenders in the state of Washington.

10 (i) For level III offenders, the web site shall contain, but is
11 not limited to, the registered sex offender's name, relevant criminal
12 convictions, address by hundred block, physical description, and
13 photograph. The web site shall provide mapping capabilities that
14 display the sex offender's address by hundred block on a map. The web
15 site shall allow citizens to search for registered sex offenders
16 within the state of Washington by county, city, zip code, last name,
17 and address by hundred block.

18 (ii) For level II offenders, and level I sex offenders during the
19 time they are out of compliance with registration requirements under
20 RCW 9A.44.130, the web site shall contain, but is not limited to, the
21 same information and functionality as described in (a)(i) of this
22 subsection, provided that it is permissible under state and federal
23 law. If it is not permissible, the web site shall be limited to the
24 information and functionality that is permissible under state and
25 federal law.

26 (iii) For kidnapping offenders, the web site shall contain, but
27 is not limited to, the same information and functionality as
28 described in (a)(i) of this subsection, provided that it is
29 permissible under state and federal law. If it is not permissible,
30 the web site shall be limited to the information and functionality
31 that is permissible under state and federal law.

32 (b) Law enforcement agencies must provide information requested
33 by the Washington association of sheriffs and police chiefs to
34 administer the statewide registered kidnapping and sex offender web
35 site.

36 (c)(i) Within five business days of the Washington association of
37 sheriffs and police chiefs receiving any public record request under
38 chapter 42.56 RCW for sex offender and kidnapping offender
39 information, records or web site data it holds or maintains pursuant
40 to this section or a unified sex offender registry, the Washington

1 association of sheriffs and police chiefs shall refer the requester
2 in writing to the appropriate law enforcement agency or agencies for
3 submission of such a request. The Washington association of sheriffs
4 and police chiefs shall have no further obligation under chapter
5 42.56 RCW for responding to such a request.

6 (ii) This ~~((subparagraph))~~ subsection (5)(c) of this section is
7 remedial and applies retroactively.

8 (6)(a) Law enforcement agencies responsible for the registration
9 and dissemination of information regarding offenders required to
10 register under RCW 9A.44.130 shall assign a risk level classification
11 to all offenders after consideration of: (i) Any available risk level
12 classifications provided by the department of corrections, the
13 department of social and health services, and the indeterminate
14 sentence review board; (ii) the agency's own application of a sex
15 offender risk assessment tool; and (iii) other information and
16 aggravating or mitigating factors known to the agency and deemed
17 rationally related to the risk posed by the offender to the community
18 at large.

19 (b) A sex offender shall be classified as a risk level I if his
20 or her risk assessment and other information or factors deemed
21 relevant by the law enforcement agency indicate he or she is at a low
22 risk to sexually reoffend within the community at large. A sex
23 offender shall be classified as a risk level II if his or her risk
24 assessment and other information or factors deemed relevant by the
25 law enforcement agency indicate he or she is at a moderate risk to
26 sexually reoffend within the community at large. A sex offender shall
27 be classified as a risk level III if his or her risk assessment and
28 other information or factors deemed relevant by the law enforcement
29 agency indicate he or she is at a high risk to sexually reoffend
30 within the community at large.

31 (c) The agency shall make a good faith effort to notify the
32 public and residents within a reasonable period of time after the
33 offender registers with the agency.

34 (d) Agencies may develop a process to allow an offender to
35 petition for review of the offender's assigned risk level
36 classification. The timing, frequency, and process for review are at
37 the sole discretion of the agency.

38 (7) An appointed or elected public official, public employee, or
39 public agency as defined in RCW 4.24.470, or units of local
40 government and its employees, as provided in RCW 36.28A.010, are

1 immune from civil liability for damages for any discretionary risk
2 level classification decisions or release of relevant and necessary
3 information, unless it is shown that the official, employee, or
4 agency acted with gross negligence or in bad faith. The immunity in
5 this section applies to risk level classification decisions and the
6 release of relevant and necessary information regarding any
7 individual for whom disclosure is authorized. The decision of a law
8 enforcement agency or official to classify an offender to a risk
9 level other than the one assigned by the department of corrections,
10 the department of social and health services, or the indeterminate
11 sentence review board, or the release of any relevant and necessary
12 information based on that different classification shall not, by
13 itself, be considered gross negligence or bad faith. The immunity
14 provided under this section applies to the release of relevant and
15 necessary information to other public officials, public employees, or
16 public agencies, and to the general public.

17 (8) Except as may otherwise be provided by law, nothing in this
18 section shall impose any liability upon a public official, public
19 employee, or public agency for failing to release information
20 authorized under this section.

21 (9) Nothing in this section implies that information regarding
22 persons designated in subsection (1) of this section is confidential
23 except as may otherwise be provided by law.

24 (10) When a law enforcement agency or official classifies an
25 offender differently than the offender is classified by the end of
26 sentence review committee at the time of the offender's release from
27 confinement, the law enforcement agency or official shall notify the
28 end of sentence review committee and the Washington state patrol and
29 submit its reasons supporting the change in classification.

30 (11) As used in this section, "law enforcement agency" means a
31 general authority Washington law enforcement agency as defined in RCW
32 10.93.020.

33 **Sec. 2.** RCW 9A.44.142 and 2015 c 261 s 8 are each amended to
34 read as follows:

35 (1) A person who is required to register under RCW 9A.44.130 may
36 petition the superior court to be relieved of the duty to register:

37 (a) If the person has a duty to register for a sex offense or
38 kidnapping offense committed when the offender was a juvenile,

1 regardless of whether the conviction was in this state, as provided
2 in RCW 9A.44.143;

3 (b) If the person is required to register for a conviction in
4 this state, is classified as a risk level I, and is not prohibited
5 from petitioning for relief from registration under subsection (2) of
6 this section, when the person has spent five consecutive years in the
7 community without being convicted of a disqualifying offense during
8 that time period;

9 (c) If the person is required to register for a conviction in
10 this state and is not prohibited from petitioning for relief from
11 registration under subsection (2) of this section, when the person
12 has spent ten consecutive years in the community without being
13 convicted of a disqualifying offense during that time period; or

14 ~~((e))~~ (d) If the person is required to register for a federal,
15 tribal, or out-of-state conviction, when the person has spent fifteen
16 consecutive years in the community without being convicted of a
17 disqualifying offense during that time period.

18 (2)(a) A person may not petition for relief from registration if
19 the person has been:

20 (i) Determined to be a sexually violent predator pursuant to
21 chapter 71.09 RCW; or

22 (ii) Convicted as an adult of a sex offense or kidnapping offense
23 that is a class A felony and that was committed with forcible
24 compulsion on or after June 8, 2000.

25 (b) Any person who may not be relieved of the duty to register
26 may petition the court to be exempted from any community notification
27 requirements that the person may be subject to fifteen years after
28 the later of the entry of the judgment and sentence or the last date
29 of release from confinement, including full-time residential
30 treatment, pursuant to the conviction, if the person has spent the
31 time in the community without being convicted of a disqualifying
32 offense.

33 (3) A petition for relief from registration or exemption from
34 notification under this section shall be made to the court in which
35 the petitioner was convicted of the offense that subjects him or her
36 to the duty to register or, in the case of convictions in other
37 states, a foreign country, or a federal, tribal, or military court,
38 to the court in the county where the person is registered at the time
39 the petition is sought. The prosecuting attorney of the county shall
40 be named and served as the respondent in any such petition.

1 (4)(a) The court may relieve a petitioner of the duty to register
2 only if the petitioner shows by clear and convincing evidence that
3 the petitioner is sufficiently rehabilitated to warrant removal from
4 the central registry of sex offenders and kidnapping offenders.

5 (b) In determining whether the petitioner is sufficiently
6 rehabilitated to warrant removal from the registry, the following
7 factors are provided as guidance to assist the court in making its
8 determination:

9 (i) The nature of the registrable offense committed including the
10 number of victims and the length of the offense history;

11 (ii) Any subsequent criminal history;

12 (iii) The petitioner's compliance with supervision requirements;

13 (iv) The length of time since the charged incident(s) occurred;

14 (v) Any input from community corrections officers, law
15 enforcement, or treatment providers;

16 (vi) Participation in sex offender treatment;

17 (vii) Participation in other treatment and rehabilitative
18 programs;

19 (viii) The offender's stability in employment and housing;

20 (ix) The offender's community and personal support system;

21 (x) Any risk assessments or evaluations prepared by a qualified
22 professional;

23 (xi) Any updated polygraph examination;

24 (xii) Any input of the victim;

25 (xiii) Any other factors the court may consider relevant.

26 (5) If a person is relieved of the duty to register pursuant to
27 this section, the relief of registration does not constitute a
28 certificate of rehabilitation, or the equivalent of a certificate of
29 rehabilitation, for the purposes of restoration of firearm possession
30 under RCW 9.41.040.

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