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**SUBSTITUTE HOUSE BILL 1034**

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**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Moeller, Appleton, Springer, Jenkins, Gregerson, Stanford, S. Hunt, Ormsby, and Walkinshaw)

1       AN ACT Relating to surname changes; amending RCW 9A.44.130;  
2 adding a new section to chapter 26.04 RCW; prescribing penalties; and  
3 providing an effective date.

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

5       NEW SECTION.   **Sec. 1.** A new section is added to chapter 26.04  
6 RCW to read as follows:

7       (1) Any person desiring to change his or her surname at the time  
8 of marriage may so indicate in the space provided on the Washington  
9 state department of health marriage certificate form. A copy of a  
10 marriage certificate, certified by the state registrar or the  
11 recording officer in the county of record and on which a new surname  
12 is entered, shall be accepted at state and local government offices  
13 for purposes of effectuating such a surname change.

14       (2) An offender under the jurisdiction of the department of  
15 corrections who changes his or her name at the time of marriage by so  
16 indicating on the marriage certificate shall submit a copy of the  
17 marriage certificate to the department of corrections within five  
18 days of the solemnization of marriage. Violation of this subsection  
19 is a misdemeanor.

20       (3) A sex offender subject to registration under RCW 9A.44.130  
21 who changes his or her name at the time of marriage by so indicating

1 on the marriage certificate shall follow the procedures set forth in  
2 RCW 9A.44.130(7).

3 **Sec. 2.** RCW 9A.44.130 and 2015 c 261 s 3 are each amended to  
4 read as follows:

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

22 (b) Any adult or juvenile who is required to register under (a)  
23 of this subsection must give notice to the county sheriff of the  
24 county with whom the person is registered within three business days:

25 (i) Prior to arriving at a school or institution of higher  
26 education to attend classes;

27 (ii) Prior to starting work at an institution of higher  
28 education; or

29 (iii) After any termination of enrollment or employment at a  
30 school or institution of higher education.

31 (2)(a) A person required to register under this section must  
32 provide the following information when registering: (i) Name and any  
33 aliases used; (ii) complete and accurate residential address or, if  
34 the person lacks a fixed residence, where he or she plans to stay;  
35 (iii) date and place of birth; (iv) place of employment; (v) crime  
36 for which convicted; (vi) date and place of conviction; (vii) social  
37 security number; (viii) photograph; and (ix) fingerprints.

38 (b) A person may be required to update any of the information  
39 required in this subsection in conjunction with any address

1 verification conducted by the county sheriff or as part of any notice  
2 required by this section.

3 (c) A photograph or copy of an individual's fingerprints may be  
4 taken at any time to update an individual's file.

5 (3) Any person required to register under this section who  
6 intends to travel outside the United States must provide, by  
7 certified mail, with return receipt requested, or in person, signed  
8 written notice of the plan to travel outside the country to the  
9 county sheriff of the county with whom the person is registered at  
10 least twenty-one days prior to travel. The notice shall include the  
11 following information: (a) Name; (b) passport number and country; (c)  
12 destination; (d) itinerary details including departure and return  
13 dates; (e) means of travel; and (f) purpose of travel. If the  
14 offender subsequently cancels or postpones travel outside the United  
15 States, the offender must notify the county sheriff not later than  
16 three days after cancellation or postponement of the intended travel  
17 outside the United States or on the departure date provided in the  
18 notification, whichever is earlier. The county sheriff shall notify  
19 the United States marshals service as soon as practicable after  
20 receipt of the notification. In cases of unexpected travel due to  
21 family or work emergencies, or for offenders who travel routinely  
22 across international borders for work-related purposes, the notice  
23 must be submitted in person at least twenty-four hours prior to  
24 travel to the sheriff of the county where such offenders are  
25 registered with a written explanation of the circumstances that make  
26 compliance with this subsection (3) impracticable.

27 (4)(a) Offenders shall register with the county sheriff within  
28 the following deadlines:

29 (i) OFFENDERS IN CUSTODY. Sex offenders or kidnapping offenders  
30 who are in custody of the state department of corrections, the state  
31 department of social and health services, a local division of youth  
32 services, or a local jail or juvenile detention facility, must  
33 register at the time of release from custody with an official  
34 designated by the agency that has jurisdiction over the offender. The  
35 agency shall within three days forward the registration information  
36 to the county sheriff for the county of the offender's anticipated  
37 residence. The offender must also register within three business days  
38 from the time of release with the county sheriff for the county of  
39 the person's residence, or if the person is not a resident of  
40 Washington, the county of the person's school, or place of employment

1 or vocation. The agency that has jurisdiction over the offender shall  
2 provide notice to the offender of the duty to register.

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

13 When a person required to register under this section is in the  
14 custody of the state department of corrections or a local corrections  
15 or probations agency and has been approved for partial confinement as  
16 defined in RCW 9.94A.030, the person must register at the time of  
17 transfer to partial confinement with the official designated by the  
18 agency that has jurisdiction over the offender. The agency shall  
19 within three days forward the registration information to the county  
20 sheriff for the county in which the offender is in partial  
21 confinement. The offender must also register within three business  
22 days from the time of the termination of partial confinement or  
23 release from confinement with the county sheriff for the county of  
24 the person's residence. The agency that has jurisdiction over the  
25 offender shall provide notice to the offender of the duty to  
26 register.

27 (ii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders or  
28 kidnapping offenders who are in the custody of the United States  
29 bureau of prisons or other federal or military correctional agency  
30 must register within three business days from the time of release  
31 with the county sheriff for the county of the person's residence, or  
32 if the person is not a resident of Washington, the county of the  
33 person's school, or place of employment or vocation.

34 (iii) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders  
35 who are convicted of a sex offense and kidnapping offenders who are  
36 convicted for a kidnapping offense but who are not sentenced to serve  
37 a term of confinement immediately upon sentencing shall report to the  
38 county sheriff to register within three business days of being  
39 sentenced.

1 (iv) OFFENDERS WHO ARE NEW RESIDENTS, TEMPORARY RESIDENTS, OR  
2 RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping  
3 offenders who move to Washington state from another state or a  
4 foreign country must register within three business days of  
5 establishing residence or reestablishing residence if the person is a  
6 former Washington resident. If the offender is under the jurisdiction  
7 of an agency of this state when the offender moves to Washington, the  
8 agency shall provide notice to the offender of the duty to register.

9 Sex offenders and kidnapping offenders who are visiting  
10 Washington state and intend to reside or be present in the state for  
11 ten days or more shall register his or her temporary address or where  
12 he or she plans to stay with the county sheriff of each county where  
13 the offender will be staying within three business days of arrival.  
14 Registration for temporary residents shall include the information  
15 required by subsection (2)(a) of this section, except the photograph  
16 and fingerprints.

17 (v) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult  
18 or juvenile who has been found not guilty by reason of insanity under  
19 chapter 10.77 RCW of committing a sex offense or a kidnapping offense  
20 and who is in custody, as a result of that finding, of the state  
21 department of social and health services, must register within three  
22 business days from the time of release with the county sheriff for  
23 the county of the person's residence. The state department of social  
24 and health services shall provide notice to the adult or juvenile in  
25 its custody of the duty to register.

26 (vi) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks a  
27 fixed residence and leaves the county in which he or she is  
28 registered and enters and remains within a new county for twenty-four  
29 hours is required to register with the county sheriff not more than  
30 three business days after entering the county and provide the  
31 information required in subsection (2)(a) of this section.

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

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

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

8 (b) The county sheriff shall not be required to determine whether  
9 the person is living within the county.

10 (c) An arrest on charges of failure to register, service of an  
11 information, or a complaint for a violation of RCW 9A.44.132, or  
12 arraignment on charges for a violation of RCW 9A.44.132, constitutes  
13 actual notice of the duty to register. Any person charged with the  
14 crime of failure to register under RCW 9A.44.132 who asserts as a  
15 defense the lack of notice of the duty to register shall register  
16 within three business days following actual notice of the duty  
17 through arrest, service, or arraignment. Failure to register as  
18 required under this subsection (4)(c) constitutes grounds for filing  
19 another charge of failing to register. Registering following arrest,  
20 service, or arraignment on charges shall not relieve the offender  
21 from criminal liability for failure to register prior to the filing  
22 of the original charge.

23 (5)(a) If any person required to register pursuant to this  
24 section changes his or her residence address within the same county,  
25 the person must provide, by certified mail, with return receipt  
26 requested or in person, signed written notice of the change of  
27 address to the county sheriff within three business days of moving.

28 (b) If any person required to register pursuant to this section  
29 moves to a new county, within three business days of moving the  
30 person must register with the county sheriff of the county into which  
31 the person has moved and provide, by certified mail, with return  
32 receipt requested or in person, signed written notice of the change  
33 of address to the county sheriff with whom the person last  
34 registered. The county sheriff with whom the person last registered  
35 is responsible for address verification pursuant to RCW 9A.44.135  
36 until the person completes registration of his or her new residence  
37 address.

38 (6)(a) Any person required to register under this section who  
39 lacks a fixed residence shall provide signed written notice to the  
40 sheriff of the county where he or she last registered within three

1 business days after ceasing to have a fixed residence. The notice  
2 shall include the information required by subsection (2)(a) of this  
3 section, except the photograph and fingerprints. The county sheriff  
4 may, for reasonable cause, require the offender to provide a  
5 photograph and fingerprints. The sheriff shall forward this  
6 information to the sheriff of the county in which the person intends  
7 to reside, if the person intends to reside in another county.

8 (b) A person who lacks a fixed residence must report weekly, in  
9 person, to the sheriff of the county where he or she is registered.  
10 The weekly report shall be on a day specified by the county sheriff's  
11 office, and shall occur during normal business hours. The person must  
12 keep an accurate accounting of where he or she stays during the week  
13 and provide it to the county sheriff upon request. The lack of a  
14 fixed residence is a factor that may be considered in determining an  
15 offender's risk level and shall make the offender subject to  
16 disclosure of information to the public at large pursuant to RCW  
17 4.24.550.

18 (c) If any person required to register pursuant to this section  
19 does not have a fixed residence, it is an affirmative defense to the  
20 charge of failure to register, that he or she provided written notice  
21 to the sheriff of the county where he or she last registered within  
22 three business days of ceasing to have a fixed residence and has  
23 subsequently complied with the requirements of subsections (4)(a)  
24 (vi) or (vii) and (6) of this section. To prevail, the person must  
25 prove the defense by a preponderance of the evidence.

26 (7) A sex offender subject to registration requirements under  
27 this section who applies to change his or her name under RCW 4.24.130  
28 or section 1 of this act or any other law shall submit a copy of the  
29 application to the county sheriff of the county of the person's  
30 residence and to the state patrol not fewer than five days before the  
31 entry of an order granting the name change. No sex offender under the  
32 requirement to register under this section at the time of application  
33 shall be granted an order changing his or her name if the court finds  
34 that doing so will interfere with legitimate law enforcement  
35 interests, except that no order shall be denied when the name change  
36 is requested for religious or legitimate cultural reasons or in  
37 recognition of marriage or dissolution of marriage. A sex offender  
38 under the requirement to register under this section who receives an  
39 order or a marriage certificate changing his or her name shall submit  
40 a copy of the order or marriage certificate to the county sheriff of

1 the county of the person's residence and to the state patrol within  
2 three business days of the entry of the order.

3 (8) Except as may otherwise be provided by law, nothing in this  
4 section shall impose any liability upon a peace officer, including a  
5 county sheriff, or law enforcement agency, for failing to release  
6 information authorized under this section.

7 NEW SECTION. **Sec. 3.** This act takes effect January 1, 2017.

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