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**SUBSTITUTE SENATE BILL 5154**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

**State of Washington                      64th Legislature                      2015 Regular Session**

**By Senate Ways & Means (originally sponsored by Senator Hargrove)**

READ FIRST TIME 02/27/15.

1            AN ACT Relating to registered sex or kidnapping offenders;  
2 amending RCW 4.24.550, 9A.44.128, 9A.44.130, 9A.44.132, 9A.44.140,  
3 9A.44.141, 9A.44.142, 9A.44.143, 43.43.754, 9.94A.030, 28A.300.147,  
4 and 72.09.345; reenacting and amending RCW 9.94A.515 and 42.56.240;  
5 adding a new section to chapter 9A.44 RCW; creating new sections; and  
6 prescribing penalties.

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

8            **Sec. 1.** RCW 4.24.550 and 2011 c 337 s 1 are each amended to read  
9 as follows:

10            (1) In addition to the disclosure under subsection (5) of this  
11 section, public agencies are authorized to release information to the  
12 public regarding sex offenders and kidnapping offenders when the  
13 agency determines that disclosure of the information is relevant and  
14 necessary to protect the public and counteract the danger created by  
15 the particular offender. This authorization applies to information  
16 regarding: (a) Any person adjudicated or convicted of a sex offense  
17 as defined in RCW 9A.44.128 or a kidnapping offense as defined by RCW  
18 9A.44.128; (b) any person under the jurisdiction of the indeterminate  
19 sentence review board as the result of a sex offense or kidnapping  
20 offense; (c) any person committed as a sexually violent predator  
21 under chapter 71.09 RCW or as a sexual psychopath under chapter 71.06

1 RCW; (d) any person found not guilty of a sex offense or kidnapping  
2 offense by reason of insanity under chapter 10.77 RCW; and (e) any  
3 person found incompetent to stand trial for a sex offense or  
4 kidnapping offense and subsequently committed under chapter 71.05 or  
5 71.34 RCW.

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

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

1 (4) The county sheriff with whom an offender classified as risk  
2 level III is registered shall ~~((cause to be published by legal  
3 notice, advertising, or news release a sex offender community  
4 notification that conforms to the guidelines established under RCW  
5 4.24.5501 in at least one legal newspaper with general circulation in  
6 the area of the sex offender's registered address or location. Unless  
7 the information is posted on the web site described in subsection (5)  
8 of this section, this list shall be maintained by the county sheriff  
9 on a publicly accessible web site and shall be updated at least once  
10 per month))~~ release a sex offender community notification that  
11 conforms to the guidelines established under RCW 4.24.5501.

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

21 (i) For level III offenders, the web site shall contain, but is  
22 not limited to, the registered sex offender's name, relevant criminal  
23 convictions, address by hundred block, physical description, and  
24 photograph. The web site shall provide mapping capabilities that  
25 display the sex offender's address by hundred block on a map. The web  
26 site shall allow citizens to search for registered sex offenders  
27 within the state of Washington by county, city, zip code, last name,  
28 and address by hundred block.

29 (ii) For level II offenders, and level I sex offenders during the  
30 time they are out of compliance with registration requirements under  
31 RCW 9A.44.130, the web site shall contain, but is not limited to, the  
32 same information and functionality as described in (a)(i) of this  
33 subsection, provided that it is permissible under state and federal  
34 law. If it is not permissible, the web site shall be limited to the  
35 information and functionality that is permissible under state and  
36 federal law.

37 (iii) For kidnapping offenders, the web site shall contain, but  
38 is not limited to, the same information and functionality as  
39 described in (a)(i) of this subsection, provided that it is  
40 permissible under state and federal law. If it is not permissible,

1 the web site shall be limited to the information and functionality  
2 that is permissible under state and federal law.

3 ~~(b) ((Until the implementation of (a) of this subsection, the~~  
4 ~~Washington association of sheriffs and police chiefs shall create a~~  
5 ~~web site available to the public that provides electronic links to~~  
6 ~~county-operated web sites that offer sex offender registration~~  
7 ~~information.))~~ Law enforcement agencies must provide information  
8 requested by the Washington association of sheriffs and police chiefs  
9 to administer the statewide registered kidnapping and sex offender  
10 web site.

11 (c)(i) Within five business days of the Washington association of  
12 sheriffs and police chiefs receiving any public record request under  
13 chapter 42.56 RCW for sex offender and kidnapping offender  
14 information, records or web site data it holds or maintains pursuant  
15 to this section or a unified sex offender registry, the Washington  
16 association of sheriffs and police chiefs shall refer the requester  
17 in writing to the appropriate law enforcement agency or agencies for  
18 submission of such a request. The Washington association of sheriffs  
19 and police chiefs shall have no further obligation under chapter  
20 42.56 RCW for responding to such a request.

21 (ii) This subparagraph (c) of this section is remedial and  
22 applies retroactively.

23 ~~(6) ((Local)) (a) Law enforcement agencies ((that disseminate~~  
24 ~~information pursuant to this section))~~ responsible for the  
25 registration and dissemination of information regarding offenders  
26 required to register under RCW 9A.44.130 shall assign a risk level  
27 classification to all offenders after consideration of: ((a)  
28 Review)) (i) Any available risk level classifications ((made))  
29 provided by the department of corrections, the department of social  
30 and health services, and the indeterminate sentence review board;  
31 ~~((b) assign risk level classifications to all offenders about whom~~  
32 ~~information will be disseminated))~~ (ii) the agency's own application  
33 of a sex offender risk assessment tool; and (iii) other information  
34 and aggravating or mitigating factors known to the agency and deemed  
35 rationally related to the risk posed by the offender to the community  
36 at large.

37 (b) A sex offender shall be classified as a risk level I if his  
38 or her risk assessment and other information or factors deemed  
39 relevant by the law enforcement agency indicate he or she is at a low  
40 risk to sexually reoffend within the community at large. A sex

1 offender shall be classified as a risk level II if his or her risk  
2 assessment and other information or factors deemed relevant by the  
3 law enforcement agency indicate he or she is at a moderate risk to  
4 sexually reoffend within the community at large. A sex offender shall  
5 be classified as a risk level III if his or her risk assessment and  
6 other information or factors deemed relevant by the law enforcement  
7 agency indicate he or she is at a high risk to sexually reoffend  
8 within the community at large.

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

12 (~~The juvenile court shall provide local law enforcement~~  
13 ~~officials with all relevant information on offenders allowed to~~  
14 ~~remain in the community in a timely manner.)) (d) Agencies may  
15 develop a process to allow an offender to petition for review of the  
16 offender's assigned risk level classification. The timing, frequency,  
17 and process for review are at the sole discretion of the agency.~~

18 (7) An appointed or elected public official, public employee, or  
19 public agency as defined in RCW 4.24.470, or units of local  
20 government and its employees, as provided in RCW 36.28A.010, are  
21 immune from civil liability for damages for any discretionary risk  
22 level classification decisions or release of relevant and necessary  
23 information, unless it is shown that the official, employee, or  
24 agency acted with gross negligence or in bad faith. The immunity in  
25 this section applies to risk level classification decisions and the  
26 release of relevant and necessary information regarding any  
27 individual for whom disclosure is authorized. The decision of a  
28 (~~local~~) law enforcement agency or official to classify an offender  
29 to a risk level other than the one assigned by the department of  
30 corrections, the department of social and health services, or the  
31 indeterminate sentence review board, or the release of any relevant  
32 and necessary information based on that different classification  
33 shall not, by itself, be considered gross negligence or bad faith.  
34 The immunity provided under this section applies to the release of  
35 relevant and necessary information to other public officials, public  
36 employees, or public agencies, and to the general public.

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

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

4 (10) When a (~~local~~) law enforcement agency or official  
5 classifies an offender differently than the offender is classified by  
6 the end of sentence review committee (~~or the department of social  
7 and health services~~) at the time of the offender's release from  
8 confinement, the law enforcement agency or official shall notify the  
9 end of sentence review committee (~~or the department of social and  
10 health services~~) and the Washington state patrol and submit its  
11 reasons supporting the change in classification.

12 (11) As used in this section, "law enforcement agency" means a  
13 general authority Washington law enforcement agency as defined in RCW  
14 10.93.020.

15 **Sec. 2.** RCW 9A.44.128 and 2014 c 188 s 2 are each amended to  
16 read as follows:

17 For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200,  
18 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

19 (1) "Business day" means any day other than Saturday, Sunday, or  
20 a legal local, state, or federal holiday.

21 (2) "Conviction" means any adult conviction or juvenile  
22 adjudication for a sex offense or kidnapping offense.

23 (3) "Disqualifying offense" means a conviction for: Any offense  
24 that is a felony; a sex offense as defined in this section; a crime  
25 against children or persons as defined in RCW 43.43.830(7) and  
26 9.94A.411(2)(a); an offense with a domestic violence designation as  
27 provided in RCW 10.99.020; permitting the commercial sexual abuse of  
28 a minor as defined in RCW 9.68A.103; or any violation of chapter  
29 9A.88 RCW.

30 (4) "Employed" or "carries on a vocation" means employment that  
31 is full time or part time for a period of time exceeding fourteen  
32 days, or for an aggregate period of time exceeding thirty days during  
33 any calendar year. A person is employed or carries on a vocation  
34 whether the person's employment is financially compensated,  
35 volunteered, or for the purpose of government or educational benefit.

36 (5) "Fixed residence" means a building that a person lawfully and  
37 habitually uses as living quarters a majority of the week. Uses as  
38 living quarters means to conduct activities consistent with the  
39 common understanding of residing, such as sleeping; eating; keeping

1 personal belongings; receiving mail; and paying utilities, rent, or  
2 mortgage. A nonpermanent structure including, but not limited to, a  
3 motor home, travel trailer, camper, or boat may qualify as a  
4 residence provided it is lawfully and habitually used as living  
5 quarters a majority of the week, primarily kept at one location with  
6 a physical address, and the location it is kept at is either owned or  
7 rented by the person or used by the person with the permission of the  
8 owner or renter. A shelter program may qualify as a residence  
9 provided it is a shelter program designed to provide temporary living  
10 accommodations for the homeless, provides an offender with a  
11 personally assigned living space, and the offender is permitted to  
12 store belongings in the living space.

13 (6) "In the community" means residing outside of confinement or  
14 incarceration for a disqualifying offense.

15 (7) "Institution of higher education" means any public or private  
16 institution dedicated to postsecondary education, including any  
17 college, university, community college, trade, or professional  
18 school.

19 (8) "Kidnapping offense" means:

20 (a) The crimes of kidnapping in the first degree, kidnapping in  
21 the second degree, and unlawful imprisonment, as defined in chapter  
22 9A.40 RCW, where the victim is a minor and the offender is not the  
23 minor's parent;

24 (b) Any offense that is, under chapter 9A.28 RCW, a criminal  
25 attempt, criminal solicitation, or criminal conspiracy to commit an  
26 offense that is classified as a kidnapping offense under this  
27 subsection; ~~((and))~~

28 (c) Any federal or out-of-state conviction for: An offense for  
29 which the person would be required to register as a kidnapping  
30 offender if residing in the state of conviction; or, if not required  
31 to register in the state of conviction, an offense that under the  
32 laws of this state would be classified as a kidnapping offense under  
33 this subsection; and

34 (d) Any tribal conviction for an offense for which the person  
35 would be required to register as a kidnapping offender while residing  
36 in the reservation of conviction; or, if not required to register in  
37 the reservation of conviction, an offense that under the laws of this  
38 state would be classified as a kidnapping offense under this  
39 subsection.

1 (9) "Lacks a fixed residence" means the person does not have a  
2 living situation that meets the definition of a fixed residence and  
3 includes, but is not limited to, a shelter program designed to  
4 provide temporary living accommodations for the homeless, an outdoor  
5 sleeping location, or locations where the person does not have  
6 permission to stay.

7 (10) "Sex offense" means:

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

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

11 (c) Any violation under RCW 9A.40.100(1)(b)(ii) (trafficking);

12 (d) Any violation under RCW 9.68A.090 (communication with a minor  
13 for immoral purposes);

14 (e) A violation under RCW 9A.88.070 (promoting prostitution in  
15 the first degree) or RCW 9A.88.080 (promoting prostitution in the  
16 second degree) if the person has a prior conviction for one of these  
17 offenses;

18 (f) Any violation under RCW 9A.40.100(1)(a)(i)(A) (III) or (IV)  
19 or (a)(i)(B);

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

24 (h) Any out-of-state conviction for an offense for which the  
25 person would be required to register as a sex offender while residing  
26 in the state of conviction; or, if not required to register in the  
27 state of conviction, an offense that under the laws of this state  
28 would be classified as a sex offense under this subsection;

29 (i) Any federal conviction classified as a sex offense under 42  
30 U.S.C. Sec. 16911 (SORNA);

31 (j) Any military conviction for a sex offense. This includes sex  
32 offenses under the uniform code of military justice, as specified by  
33 the United States secretary of defense;

34 (k) Any conviction in a foreign country for a sex offense if it  
35 was obtained with sufficient safeguards for fundamental fairness and  
36 due process for the accused under guidelines or regulations  
37 established pursuant to 42 U.S.C. Sec. 16912;

38 (l) Any tribal conviction for an offense for which the person  
39 would be required to register as a sex offender while residing in the  
40 reservation of conviction; or, if not required to register in the



1 reservation of conviction, an offense that under the laws of this  
2 state would be classified as a sex offense under this subsection.

3 (11) "School" means a public or private school regulated under  
4 Title 28A RCW or chapter 72.40 RCW.

5 (12) "Student" means a person who is enrolled, on a full-time or  
6 part-time basis, in any school or institution of higher education.

7 **Sec. 3.** RCW 9A.44.130 and 2011 c 337 s 3 are each amended to  
8 read as follows:

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

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

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

31 (ii) Prior to starting work at an institution of higher  
32 education; or

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

35 (2)(a) A person required to register under this section must  
36 provide the following information when registering: (i) Name and any  
37 aliases used; (ii) complete and accurate residential address or, if  
38 the person lacks a fixed residence, where he or she plans to stay;  
39 (iii) date and place of birth; (iv) place of employment; (v) crime

1 for which convicted; (vi) date and place of conviction; (vii) social  
2 security number; (viii) photograph; and (ix) fingerprints.

3 (b) A person may be required to update any of the information  
4 required in this subsection in conjunction with any address  
5 verification conducted by the county sheriff or as part of any notice  
6 required by this section.

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

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

31 (4)(a) Offenders shall register with the county sheriff within  
32 the following deadlines:

33 (i) OFFENDERS IN CUSTODY. ((+A)) Sex offenders ((~~who committed a~~  
34 ~~sex offense on, before, or after February 28, 1990, and who, on or~~  
35 ~~after July 28, 1991, are in custody, as a result of that offense, of~~  
36 ~~the state department of corrections, the state department of social~~  
37 ~~and health services, a local division of youth services, or a local~~  
38 ~~jail or juvenile detention facility, and (B)) or kidnapping  
39 offenders who ((~~on or after July 27, 1997,~~)) are in custody of the  
40 state department of corrections, the state department of social and~~

1 health services, a local division of youth services, or a local jail  
2 or juvenile detention facility, must register at the time of release  
3 from custody with an official designated by the agency that has  
4 jurisdiction over the offender. The agency shall within three days  
5 forward the registration information to the county sheriff for the  
6 county of the offender's anticipated residence. The offender must  
7 also register within three business days from the time of release  
8 with the county sheriff for the county of the person's residence, or  
9 if the person is not a resident of Washington, the county of the  
10 person's school, or place of employment or vocation. The agency that  
11 has jurisdiction over the offender shall provide notice to the  
12 offender of the duty to register.

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

23 When a person required to register under this section is in the  
24 custody of the state department of corrections or a local corrections  
25 or probations agency and has been approved for partial confinement as  
26 defined in RCW 9.94A.030, the person must register at the time of  
27 transfer to partial confinement with the official designated by the  
28 agency that has jurisdiction over the offender. The agency shall  
29 within three days forward the registration information to the county  
30 sheriff for the county in which the offender is in partial  
31 confinement. The offender must also register within three business  
32 days from the time of the termination of partial confinement or  
33 release from confinement with the county sheriff for the county of  
34 the person's residence. The agency that has jurisdiction over the  
35 offender shall provide notice to the offender of the duty to  
36 register.

37 ~~(ii) ((OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL~~  
38 ~~JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody~~  
39 ~~but are under the jurisdiction of the indeterminate sentence review~~  
40 ~~board or under the department of corrections' active supervision, as~~

1 defined by the department of corrections, the state department of  
2 social and health services, or a local division of youth services,  
3 for sex offenses committed before, on, or after February 28, 1990,  
4 must register within ten days of July 28, 1991. Kidnapping offenders  
5 who, on July 27, 1997, are not in custody but are under the  
6 jurisdiction of the indeterminate sentence review board or under the  
7 department of corrections' active supervision, as defined by the  
8 department of corrections, the state department of social and health  
9 services, or a local division of youth services, for kidnapping  
10 offenses committed before, on, or after July 27, 1997, must register  
11 within ten days of July 27, 1997. A change in supervision status of a  
12 sex offender who was required to register under this subsection  
13 (3)(a)(ii) as of July 28, 1991, or a kidnapping offender required to  
14 register as of July 27, 1997, shall not relieve the offender of the  
15 duty to register or to reregister following a change in residence.

16 (iii)) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders  
17 ((who, on or after July 23, 1995, and)) or kidnapping offenders  
18 who((, on or after July 27, 1997, as a result of that offense)) are  
19 in the custody of the United States bureau of prisons or other  
20 federal or military correctional agency ((for sex offenses committed  
21 before, on, or after February 28, 1990, or kidnapping offenses  
22 committed on, before, or after July 27, 1997,)) must register within  
23 three business days from the time of release with the county sheriff  
24 for the county of the person's residence, or if the person is not a  
25 resident of Washington, the county of the person's school, or place  
26 of employment or vocation. ((Sex offenders who, on July 23, 1995, are  
27 not in custody but are under the jurisdiction of the United States  
28 bureau of prisons, United States courts, United States parole  
29 commission, or military parole board for sex offenses committed  
30 before, on, or after February 28, 1990, must register within ten days  
31 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not  
32 in custody but are under the jurisdiction of the United States bureau  
33 of prisons, United States courts, United States parole commission, or  
34 military parole board for kidnapping offenses committed before, on,  
35 or after July 27, 1997, must register within ten days of July 27,  
36 1997. A change in supervision status of a sex offender who was  
37 required to register under this subsection (3)(a)(iii) as of July 23,  
38 1995, or a kidnapping offender required to register as of July 27,  
39 1997 shall not relieve the offender of the duty to register or to  
40 reregister following a change in residence, or if the person is not a

1 ~~resident of Washington, the county of the person's school, or place~~  
2 ~~of employment or vocation.~~

3 ~~(iv)) (iii) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex~~  
4 ~~offenders who are convicted of a sex offense ((on or after July 28,~~  
5 ~~1991, for a sex offense that was committed on or after February 28,~~  
6 ~~1990,)) and kidnapping offenders who are convicted ((on or after July~~  
7 ~~27, 1997,)) for a kidnapping offense ((that was committed on or after~~  
8 ~~July 27, 1997,)) but who are not sentenced to serve a term of~~  
9 ~~confinement immediately upon sentencing((7)) shall report to the~~  
10 ~~county sheriff to register within three business days of being~~  
11 ~~sentenced.~~

12 ~~((v)) (iv) OFFENDERS WHO ARE NEW RESIDENTS, TEMPORARY~~  
13 ~~RESIDENTS, OR RETURNING WASHINGTON RESIDENTS. Sex offenders and~~  
14 ~~kidnapping offenders who move to Washington state from another state~~  
15 ~~or a foreign country ((that are not under the jurisdiction of the~~  
16 ~~state department of corrections, the indeterminate sentence review~~  
17 ~~board, or the state department of social and health services at the~~  
18 ~~time of moving to Washington,)) must register within three business~~  
19 ~~days of establishing residence or reestablishing residence if the~~  
20 ~~person is a former Washington resident. ((The duty to register under~~  
21 ~~this subsection applies to sex offenders convicted under the laws of~~  
22 ~~another state or a foreign country, federal or military statutes for~~  
23 ~~offenses committed before, on, or after February 28, 1990, or~~  
24 ~~Washington state for offenses committed before, on, or after February~~  
25 ~~28, 1990, and to kidnapping offenders convicted under the laws of~~  
26 ~~another state or a foreign country, federal or military statutes, or~~  
27 ~~Washington state for offenses committed before, on, or after July 27,~~  
28 ~~1997. Sex offenders and kidnapping offenders from other states or a~~  
29 ~~foreign country who, when they move to Washington, are under the~~  
30 ~~jurisdiction of the department of corrections, the indeterminate~~  
31 ~~sentence review board, or the department of social and health~~  
32 ~~services must register within three business days of moving to~~  
33 ~~Washington. The agency that has jurisdiction over the offender shall~~  
34 ~~notify the offender of the registration requirements before the~~  
35 ~~offender moves to Washington.~~

36 ~~(vi)) If the offender is under the jurisdiction of an agency of~~  
37 ~~this state when the offender moves to Washington, the agency shall~~  
38 ~~provide notice to the offender of the duty to register.~~

39 ~~Sex offenders and kidnapping offenders who are visiting~~  
40 ~~Washington state and intend to reside or be present in the state for~~

1 ten days or more shall register his or her temporary address or where  
2 he or she plans to stay with the county sheriff of each county where  
3 the offender will be staying within three business days of arrival.  
4 Registration for temporary residents shall include the information  
5 required by subsection (2)(a) of this section, except the photograph  
6 and fingerprints.

7 (v) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult  
8 or juvenile who has been found not guilty by reason of insanity under  
9 chapter 10.77 RCW of ~~((A))~~ committing a sex offense ~~((on, before,~~  
10 ~~or after February 28, 1990, and who, on or after July 23, 1995, is in~~  
11 ~~custody, as a result of that finding, of the state department of~~  
12 ~~social and health services,))~~ or ~~((B) committing))~~ a kidnapping  
13 offense ~~((on, before, or after July 27, 1997,))~~ and who ~~((on or after~~  
14 ~~July 27, 1997,))~~ is in custody, as a result of that finding, of the  
15 state department of social and health services, must register within  
16 three business days from the time of release with the county sheriff  
17 for the county of the person's residence. The state department of  
18 social and health services shall provide notice to the adult or  
19 juvenile in its custody of the duty to register. ~~((Any adult or~~  
20 ~~juvenile who has been found not guilty by reason of insanity of~~  
21 ~~committing a sex offense on, before, or after February 28, 1990, but~~  
22 ~~who was released before July 23, 1995, or any adult or juvenile who~~  
23 ~~has been found not guilty by reason of insanity of committing a~~  
24 ~~kidnapping offense but who was released before July 27, 1997, shall~~  
25 ~~be required to register within three business days of receiving~~  
26 ~~notice of this registration requirement.~~

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

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

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

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

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

11 (c) An arrest on charges of failure to register, service of an  
12 information, or a complaint for a violation of RCW 9A.44.132, or  
13 arraignment on charges for a violation of RCW 9A.44.132, constitutes  
14 actual notice of the duty to register. Any person charged with the  
15 crime of failure to register under RCW 9A.44.132 who asserts as a  
16 defense the lack of notice of the duty to register shall register  
17 within three business days following actual notice of the duty  
18 through arrest, service, or arraignment. Failure to register as  
19 required under this subsection (~~((3))~~) (4)(c) constitutes grounds for  
20 filing another charge of failing to register. Registering following  
21 arrest, service, or arraignment on charges shall not relieve the  
22 offender from criminal liability for failure to register prior to the  
23 filing of the original charge.

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

27 ~~(4))~~ (5)(a) If any person required to register pursuant to this  
28 section changes his or her residence address within the same county,  
29 the person must provide, by certified mail, with return receipt  
30 requested or in person, signed written notice of the change of  
31 address to the county sheriff within three business days of moving.

32 (b) If any person required to register pursuant to this section  
33 moves to a new county, within three business days of moving the  
34 person must register with ~~((that))~~ the county sheriff ~~((within three  
35 business days of moving. Within three business days, the person must  
36 also))~~ of the county into which the person has moved and provide, by  
37 certified mail, with return receipt requested or in person, signed  
38 written notice of the change of address ~~((in the new county))~~ to the  
39 county sheriff with whom the person last registered. The county  
40 sheriff with whom the person last registered ~~((shall promptly forward~~

1 ~~the information concerning the change of address to the county~~  
2 ~~sheriff for the county of the person's new residence. Upon receipt of~~  
3 ~~notice of change of address to a new state, the county sheriff shall~~  
4 ~~promptly forward the information regarding the change of address to~~  
5 ~~the agency designated by the new state as the state's offender~~  
6 ~~registration agency)) is responsible for address verification~~  
7 ~~pursuant to RCW 9A.44.135 until the person completes registration of~~  
8 ~~his or her new residence address.~~

9 ((+5)) (6)(a) Any person required to register under this section  
10 who lacks a fixed residence shall provide signed written notice to  
11 the sheriff of the county where he or she last registered within  
12 three business days after ceasing to have a fixed residence. The  
13 notice shall include the information required by subsection (2)(a) of  
14 this section, except the photograph and fingerprints. The county  
15 sheriff may, for reasonable cause, require the offender to provide a  
16 photograph and fingerprints. The sheriff shall forward this  
17 information to the sheriff of the county in which the person intends  
18 to reside, if the person intends to reside in another county.

19 (b) A person who lacks a fixed residence must report weekly, in  
20 person, to the sheriff of the county where he or she is registered.  
21 The weekly report shall be on a day specified by the county sheriff's  
22 office, and shall occur during normal business hours. The person must  
23 keep an accurate accounting of where he or she stays during the week  
24 and provide it to the county sheriff upon request. The lack of a  
25 fixed residence is a factor that may be considered in determining an  
26 offender's risk level and shall make the offender subject to  
27 disclosure of information to the public at large pursuant to RCW  
28 4.24.550.

29 (c) If any person required to register pursuant to this section  
30 does not have a fixed residence, it is an affirmative defense to the  
31 charge of failure to register, that he or she provided written notice  
32 to the sheriff of the county where he or she last registered within  
33 three business days of ceasing to have a fixed residence and has  
34 subsequently complied with the requirements of subsections ((+3))  
35 (4)(a)((+vii)) (vi) or ((+viii)) (vii) and ((+5)) (6) of this  
36 section. To prevail, the person must prove the defense by a  
37 preponderance of the evidence.

38 ((+6)) (7) A sex offender subject to registration requirements  
39 under this section who applies to change his or her name under RCW  
40 4.24.130 or any other law shall submit a copy of the application to



1 the county sheriff of the county of the person's residence and to the  
2 state patrol not fewer than five days before the entry of an order  
3 granting the name change. No sex offender under the requirement to  
4 register under this section at the time of application shall be  
5 granted an order changing his or her name if the court finds that  
6 doing so will interfere with legitimate law enforcement interests,  
7 except that no order shall be denied when the name change is  
8 requested for religious or legitimate cultural reasons or in  
9 recognition of marriage or dissolution of marriage. A sex offender  
10 under the requirement to register under this section who receives an  
11 order changing his or her name shall submit a copy of the order to  
12 the county sheriff of the county of the person's residence and to the  
13 state patrol within three business days of the entry of the order.

14 ~~((7))~~ (8) Except as may otherwise be provided by law, nothing  
15 in this section shall impose any liability upon a peace officer,  
16 including a county sheriff, or law enforcement agency, for failing to  
17 release information authorized under this section.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 9A.44  
19 RCW to read as follows:

20 (1) RCW 9A.44.128 through 9A.44.145 apply to offenders who  
21 committed their crimes and were adjudicated within the following time  
22 frames:

23 (a) Sex offenders convicted of a sex offense on or after July 28,  
24 1991, for a sex offense committed on or after February 28, 1990;

25 (b) Kidnapping offenders convicted of a kidnapping offense on or  
26 after July 27, 1997, for a kidnapping offense committed on or after  
27 July 27, 1997;

28 (c) Sex offenders who, on or after July 28, 1991, were in the  
29 custody or under the jurisdiction of the department of corrections,  
30 the department of social and health services, a local division of  
31 youth services, or a local jail or juvenile detention facility as the  
32 result of a sex offense, regardless of when the sex offense was  
33 committed;

34 (d) Kidnapping offenders who, on or after July 27, 1997, were in  
35 the custody or under the jurisdiction of the department of  
36 corrections, the department of social and health services, a local  
37 division of youth services, or a local jail or juvenile detention  
38 facility as the result of a kidnapping offense, regardless of when  
39 the kidnapping offense was committed;

1 (e) Any person who is or has been determined to be a sexually  
2 violent predator pursuant to chapter 71.09 RCW;

3 (f) Sex offenders who, on or after July 23, 1995, were in the  
4 custody or under the jurisdiction of the United States bureau of  
5 prisons, United States courts, United States parole commission, or  
6 military parole board as the result of a sex offense, regardless of  
7 when the sex offense was committed;

8 (g) Kidnapping offenders who, on or after July 27, 1997, were in  
9 the custody or under the jurisdiction of the United States bureau of  
10 prisons, United States courts, United States parole commission, or  
11 military parole board as the result of a kidnapping offense,  
12 regardless of when the kidnapping offense was committed;

13 (h) Sex offenders who move to Washington state from another  
14 state, tribe, or a foreign country and who were convicted of a sex  
15 offense under the laws of this state, another state, a foreign  
16 country, tribe, or other federal or military tribunal, regardless of  
17 when the sex offense was committed or the conviction occurred;

18 (i) Kidnapping offenders who move to Washington state from  
19 another state, tribe, or a foreign country and who were convicted of  
20 a kidnapping offense under the laws of this state, another state, a  
21 foreign country, tribe, or other federal or military tribunal,  
22 regardless of when the kidnapping offense was committed or the  
23 conviction occurred;

24 (j) Any adult or juvenile found not guilty by reason of insanity  
25 under chapter 10.77 RCW of committing a sex offense or of committing  
26 a kidnapping offense, regardless of when the offense was committed.

27 (2) The provisions of this section do not relieve any sex  
28 offender of the duty to register under the law as it existed prior to  
29 July 28, 1991.

30 **Sec. 5.** RCW 9A.44.132 and 2011 c 337 s 5 are each amended to  
31 read as follows:

32 (1) A person commits the crime of failure to register as a sex  
33 offender if the person has a duty to register under RCW 9A.44.130 for  
34 a felony sex offense and knowingly fails to comply with any of the  
35 requirements of RCW 9A.44.130.

36 (a) The failure to register as a sex offender pursuant to this  
37 subsection is a class C felony if:

38 (i) It is the person's first conviction for a felony failure to  
39 register; or

1 (ii) The person has previously been convicted of a felony failure  
2 to register as a sex offender in this state or pursuant to the laws  
3 of another state, or pursuant to federal law.

4 (b) If a person has been convicted of a felony failure to  
5 register as a sex offender in this state or pursuant to the laws of  
6 another state, or pursuant to federal law, on two or more prior  
7 occasions, the failure to register under this subsection is a class B  
8 felony.

9 (2) A person is guilty of failure to register as a sex offender  
10 if the person has a duty to register under RCW 9A.44.130 for a sex  
11 offense other than a felony and knowingly fails to comply with any of  
12 the requirements of RCW 9A.44.130. The failure to register as a sex  
13 offender under this subsection is a gross misdemeanor.

14 (3) A person commits the crime of failure to register as a  
15 kidnapping offender if the person has a duty to register under RCW  
16 9A.44.130 for a kidnapping offense and knowingly fails to comply with  
17 any of the requirements of RCW 9A.44.130.

18 (a) If the person has a duty to register for a felony kidnapping  
19 offense, the failure to register as a kidnapping offender is a class  
20 C felony.

21 (b) If the person has a duty to register for a kidnapping offense  
22 other than a felony, the failure to register as a kidnapping offender  
23 is a gross misdemeanor.

24 (4) A person commits the crime of refusal to provide DNA if the  
25 person has a duty to register under RCW 9A.44.130 and the person  
26 willfully refuses to comply with a legal request for a DNA sample as  
27 required under RCW 43.43.754(1)(b). The refusal to provide DNA is a  
28 gross misdemeanor.

29 (5) Unless relieved of the duty to register pursuant to RCW  
30 9A.44.141 and 9A.44.142, a violation of this section is an ongoing  
31 offense for purposes of the statute of limitations under RCW  
32 9A.04.080.

33 **Sec. 6.** RCW 9A.44.140 and 2010 c 267 s 4 are each amended to  
34 read as follows:

35 The duty to register under RCW 9A.44.130 shall continue for the  
36 duration provided in this section.

37 (1) For a person convicted in this state of a class A felony (~~or~~  
38 ~~an offense listed in RCW 9A.44.142(5))~~), or a person convicted (~~in~~  
39 ~~this state~~)) of any sex offense or kidnapping offense who has one or

1 more prior convictions for a sex offense or kidnapping offense, the  
2 duty to register shall continue indefinitely.

3 (2) For a person convicted in this state of a class B felony who  
4 does not have one or more prior convictions for a sex offense or  
5 kidnapping offense (~~((and whose current offense is not listed in RCW  
6 9A.44.142(5)))~~), the duty to register shall end fifteen years after  
7 the last date of release from confinement, if any, (including full-  
8 time residential treatment) pursuant to the conviction, or entry of  
9 the judgment and sentence, if the person has spent fifteen  
10 consecutive years in the community without being convicted of a  
11 disqualifying offense during that time period.

12 (3) For a person convicted in this state of a class C felony, a  
13 violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation,  
14 or conspiracy to commit a class C felony, and the person does not  
15 have one or more prior convictions for a sex offense or kidnapping  
16 offense (~~((and the person's current offense is not listed in RCW  
17 9A.44.142(5)))~~), the duty to register shall end ten years after the  
18 last date of release from confinement, if any, (including full-time  
19 residential treatment) pursuant to the conviction, or entry of the  
20 judgment and sentence, if the person has spent ten consecutive years  
21 in the community without being convicted of a disqualifying offense  
22 during that time period.

23 (4) Except as provided in RCW 9A.44.142, for a person required to  
24 register for a federal, tribal, or out-of-state conviction, the duty  
25 to register shall continue indefinitely.

26 (5) For a person who is or has been determined to be a sexually  
27 violent predator pursuant to chapter 71.09 RCW, the duty to register  
28 shall continue for the person's lifetime.

29 (6) Nothing in this section prevents a person from being relieved  
30 of the duty to register under RCW 9A.44.142 and 9A.44.143.

31 ~~((+6))~~ (7) Nothing in RCW 9.94A.637 relating to discharge of an  
32 offender shall be construed as operating to relieve the offender of  
33 his or her duty to register pursuant to RCW 9A.44.130.

34 ~~((+7))~~ (8) For purposes of determining whether a person has been  
35 convicted of more than one sex offense, failure to register as a sex  
36 offender or kidnapping offender is not a sex or kidnapping offense.

37 ~~((+8))~~ (9) The provisions of this section and RCW 9A.44.141  
38 through 9A.44.143 apply equally to a person who has been found not  
39 guilty by reason of insanity under chapter 10.77 RCW of a sex offense  
40 or kidnapping offense.

1       **Sec. 7.** RCW 9A.44.141 and 2011 c 337 s 6 are each amended to  
2 read as follows:

3       (1) Upon the request of a person who is listed in the Washington  
4 state patrol central registry of sex offenders and kidnapping  
5 offenders, the county sheriff shall investigate whether a person's  
6 duty to register has ended by operation of law pursuant to RCW  
7 9A.44.140.

8       (a) Using available records, the county sheriff shall verify that  
9 the offender has spent the requisite time in the community and has  
10 not been convicted of a disqualifying offense.

11       (b) If the county sheriff determines the person's duty to  
12 register has ended by operation of law, the county sheriff shall  
13 request the Washington state patrol remove the person's name from the  
14 central registry.

15       (2) Nothing in this subsection prevents a county sheriff from  
16 investigating, upon his or her own initiative, whether a person's  
17 duty to register has ended by operation of law pursuant to RCW  
18 9A.44.140.

19       (3)(a) A person who is listed in the central registry as the  
20 result of a federal, tribal, or out-of-state conviction may request  
21 the county sheriff to investigate whether the person should be  
22 removed from the registry if:

23       (i) A court or other administrative authority in the person's  
24 state of conviction has made an individualized determination that the  
25 person (~~should~~) is not (~~be~~) required to register; and

26       (ii) The person provides proof of relief from registration to the  
27 county sheriff.

28       (b) If the county sheriff determines the person has been relieved  
29 of the duty to register in his or her state of conviction, the county  
30 sheriff shall request the Washington state patrol remove the person's  
31 name from the central registry.

32       (4) An appointed or elected public official, public employee, or  
33 public agency as defined in RCW 4.24.470, or units of local  
34 government and its employees, as provided in RCW 36.28A.010, are  
35 immune from civil liability for damages for removing or requesting  
36 the removal of a person from the central registry of sex offenders  
37 and kidnapping offenders or the failure to remove or request removal  
38 of a person within the time frames provided in RCW 9A.44.140.

1       **Sec. 8.** RCW 9A.44.142 and 2011 c 337 s 7 are each amended to  
2 read as follows:

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

5       (a) If the person has a duty to register for a sex offense or  
6 kidnapping offense committed when the offender was a juvenile,  
7 regardless of whether the conviction was in this state, as provided  
8 in RCW 9A.44.143;

9       (b) 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       (c) If the person is required to register for a federal, tribal,  
15 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 (~~as defined in~~  
21 ~~RCW 71.09.020~~) pursuant to 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(~~or~~

25 ~~(iii) Until July 1, 2012, convicted of one aggravated offense or~~  
26 ~~more than one sexually violent offense, as defined in subsection (5)~~  
27 ~~of this section, and the offense or offenses were committed on or~~  
28 ~~after March 12, 2002. After July 1, 2012, this subsection (2)(a)(iii)~~  
29 ~~shall have no further force and effect)).~~

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

38       (3) A petition for relief from registration or exemption from  
39 notification under this section shall be made to the court in which  
40 the petitioner was convicted of the offense that subjects him or her

1 to the duty to register or, in the case of convictions in other  
2 states, a foreign country, or a federal, tribal, or military court,  
3 to the court in the county where the person is registered at the time  
4 the petition is sought. The prosecuting attorney of the county shall  
5 be named and served as the respondent in any such petition.

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

10 (b) In determining whether the petitioner is sufficiently  
11 rehabilitated to warrant removal from the registry, the following  
12 factors are provided as guidance to assist the court in making its  
13 determination:

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

16 (ii) Any subsequent criminal history;

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

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

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

21 (vi) Participation in sex offender treatment;

22 (vii) Participation in other treatment and rehabilitative  
23 programs;

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

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

26 (x) Any risk assessments or evaluations prepared by a qualified  
27 professional;

28 (xi) Any updated polygraph examination;

29 (xii) Any input of the victim;

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

31 ~~(5)((a) A person who has been convicted of an aggravated~~  
32 ~~offense, or has been convicted of one or more prior sexually violent~~  
33 ~~offenses or criminal offenses against a victim who is a minor, as~~  
34 ~~defined in (b) of this subsection:~~

35 ~~(i) Until July 1, 2012, may not be relieved of the duty to~~  
36 ~~register;~~

37 ~~(ii) After July 1, 2012, may petition the court to be relieved of~~  
38 ~~the duty to register as provided in this section;~~

39 ~~(iii) This provision shall apply to convictions for crimes~~  
40 ~~committed on or after July 22, 2001.~~

1       ~~(b) Unless the context clearly requires otherwise, the following~~  
2 ~~definitions apply only to the federal lifetime registration~~  
3 ~~requirements under this subsection:~~

4       ~~(i) "Aggravated offense" means an adult conviction that meets the~~  
5 ~~definition of 18 U.S.C. Sec. 2241, which is limited to the following:~~

6       ~~(A) Any sex offense involving sexual intercourse or sexual~~  
7 ~~contact where the victim is under twelve years of age;~~

8       ~~(B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape~~  
9 ~~of a child in the first degree), or RCW 9A.44.083 (child molestation~~  
10 ~~in the first degree);~~

11       ~~(C) Any of the following offenses when committed by forcible~~  
12 ~~compulsion or by the offender administering, by threat or force or~~  
13 ~~without the knowledge or permission of that person, a drug,~~  
14 ~~intoxicant, or other similar substance that substantially impairs the~~  
15 ~~ability of that person to appraise or control conduct: RCW 9A.44.050~~  
16 ~~(rape in the second degree), RCW 9A.44.100 (indecent liberties), RCW~~  
17 ~~9A.44.160 (custodial sexual misconduct in the first degree), RCW~~  
18 ~~9A.64.020 (incest), or RCW 9.68A.040 (sexual exploitation of a~~  
19 ~~minor);~~

20       ~~(D) Any of the following offenses when committed by forcible~~  
21 ~~compulsion or by the offender administering, by threat or force or~~  
22 ~~without the knowledge or permission of that person, a drug,~~  
23 ~~intoxicant, or other similar substance that substantially impairs the~~  
24 ~~ability of that person to appraise or control conduct, if the victim~~  
25 ~~is twelve years of age or over but under sixteen years of age and the~~  
26 ~~offender is eighteen years of age or over and is more than forty-~~  
27 ~~eight months older than the victim: RCW 9A.44.076 (rape of a child in~~  
28 ~~the second degree), RCW 9A.44.079 (rape of a child in the third~~  
29 ~~degree), RCW 9A.44.086 (child molestation in the second degree), or~~  
30 ~~RCW 9A.44.089 (child molestation in the third degree);~~

31       ~~(E) A felony with a finding of sexual motivation under RCW~~  
32 ~~9.94A.835 where the victim is under twelve years of age or that is~~  
33 ~~committed by forcible compulsion or by the offender administering, by~~  
34 ~~threat or force or without the knowledge or permission of that~~  
35 ~~person, a drug, intoxicant, or other similar substance that~~  
36 ~~substantially impairs the ability of that person to appraise or~~  
37 ~~control conduct;~~

38       ~~(F) An offense that is, under chapter 9A.28 RCW, an attempt or~~  
39 ~~solicitation to commit such an offense; or~~



1 ~~(G) An offense defined by federal law or the laws of another~~  
2 ~~state that is equivalent to the offenses listed in (b)(i)(A) through~~  
3 ~~(F) of this subsection.~~

4 ~~(ii) "Sexually violent offense" means an adult conviction that~~  
5 ~~meets the definition of 42 U.S.C. Sec. 14071(a)(1)(A), which is~~  
6 ~~limited to the following:~~

7 ~~(A) An aggravated offense;~~

8 ~~(B) An offense that is not an aggravated offense but meets the~~  
9 ~~definition of 18 U.S.C. Sec. 2242, which is limited to RCW~~  
10 ~~9A.44.050(1) (b) through (f) (rape in the second degree) and RCW~~  
11 ~~9A.44.100(1) (b) through (f) (indecent liberties);~~

12 ~~(C) A felony with a finding of sexual motivation under RCW~~  
13 ~~9.94A.835 where the victim is incapable of appraising the nature of~~  
14 ~~the conduct or physically incapable of declining participation in, or~~  
15 ~~communicating unwillingness to engage in, the conduct;~~

16 ~~(D) An offense that is, under chapter 9A.28 RCW, an attempt or~~  
17 ~~solicitation to commit such an offense; or~~

18 ~~(E) An offense defined by federal law or the laws of another~~  
19 ~~state that is equivalent to the offenses listed in (b)(ii)(A) through~~  
20 ~~(D) of this subsection.~~

21 ~~(iii) "Criminal offense against a victim who is a minor" means,~~  
22 ~~in addition to any aggravated offense or sexually violent offense~~  
23 ~~where the victim was under eighteen years of age, an adult conviction~~  
24 ~~for the following offenses where the victim is under eighteen years~~  
25 ~~of age:~~

26 ~~(A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape~~  
27 ~~of a child in the second degree), RCW 9A.44.079 (rape of a child in~~  
28 ~~the third degree), RCW 9A.44.086 (child molestation in the second~~  
29 ~~degree), RCW 9A.44.089 (child molestation in the third degree), RCW~~  
30 ~~9A.44.093 (sexual misconduct with a minor in the first degree), RCW~~  
31 ~~9A.44.096 (sexual misconduct with a minor in the second degree), RCW~~  
32 ~~9A.44.160 (custodial sexual misconduct in the first degree), RCW~~  
33 ~~9A.64.020 (incest), RCW 9.68A.040 (sexual exploitation of a minor),~~  
34 ~~RCW 9.68A.090 (communication with a minor for immoral purposes), or~~  
35 ~~RCW 9.68A.100 (commercial sexual abuse of a minor);~~

36 ~~(B) RCW 9A.40.020 (kidnapping in the first degree), RCW 9A.40.030~~  
37 ~~(kidnapping in the second degree), or RCW 9A.40.040 (unlawful~~  
38 ~~imprisonment), where the victim is a minor and the offender is not~~  
39 ~~the minor's parent;~~

1 ~~(C) A felony with a finding of sexual motivation under RCW~~  
2 ~~9.94A.835 where the victim is a minor;~~

3 ~~(D) An offense that is, under chapter 9A.28 RCW, an attempt or~~  
4 ~~solicitation to commit such an offense; or~~

5 ~~(E) An offense defined by federal law or the laws of another~~  
6 ~~state that is equivalent to the offenses listed in (b)(iii)(A)~~  
7 ~~through (D) of this subsection)) If a person is relieved of the duty~~  
8 ~~to register pursuant to this section, the relief of registration does~~  
9 ~~not constitute a certificate of rehabilitation, or the equivalent of~~  
10 ~~a certificate of rehabilitation, for the purposes of restoration of~~  
11 ~~firearm possession under RCW 9.41.040.~~

12 **Sec. 9.** RCW 9A.44.143 and 2011 c 338 s 1 are each amended to  
13 read as follows:

14 (1) An offender having a duty to register under RCW 9A.44.130 for  
15 a sex offense or kidnapping offense committed when the offender was a  
16 juvenile, and who has not been determined to be a sexually violent  
17 predator pursuant to chapter 71.09 RCW may petition the superior  
18 court to be relieved of that duty as provided in this section.

19 (2) For class A sex offenses or kidnapping offenses committed  
20 when the petitioner was fifteen years of age or older, the court may  
21 relieve the petitioner of the duty to register if:

22 (a) At least sixty months have passed since the petitioner's  
23 adjudication and completion of any term of confinement for the  
24 offense giving rise to the duty to register and the petitioner has  
25 not been adjudicated or convicted of any additional sex offenses or  
26 kidnapping offenses within the sixty months before the petition;

27 (b) The petitioner has not been adjudicated or convicted of a  
28 violation of RCW 9A.44.132 (failure to register) during the sixty  
29 months prior to filing the petition; and

30 (c) The petitioner shows by a preponderance of the evidence that  
31 the petitioner is sufficiently rehabilitated to warrant removal from  
32 the central registry of sex offenders and kidnapping offenders.

33 (3) For all other sex offenses or kidnapping offenses committed  
34 by a juvenile not included in subsection (2) of this section, the  
35 court may relieve the petitioner of the duty to register if:

36 (a) At least twenty-four months have passed since the  
37 petitioner's adjudication and completion of any term of confinement  
38 for the offense giving rise to the duty to register and the  
39 petitioner has not been adjudicated or convicted of any additional

1 sex offenses or kidnapping offenses within the twenty-four months  
2 before the petition;

3 (b) The petitioner has not been adjudicated or convicted of a  
4 violation of RCW 9A.44.132 (failure to register) during the twenty-  
5 four months prior to filing the petition; and

6 (c) The petitioner shows by a preponderance of the evidence that  
7 the petitioner is sufficiently rehabilitated to warrant removal from  
8 the central registry of sex offenders and kidnapping offenders.

9 (4) A petition for relief from registration under this section  
10 shall be made to the court in which the petitioner was convicted of  
11 the offense that subjects him or her to the duty to register or, in  
12 the case of convictions in other states, a foreign country, or a  
13 federal or military court, to the court in ((Thurston)) the county in  
14 which the juvenile is registered at the time a petition is sought.  
15 The prosecuting attorney of the county shall be named and served as  
16 the respondent in any such petition.

17 (5) In determining whether the petitioner is sufficiently  
18 rehabilitated to warrant removal from the central registry of sex  
19 offenders and kidnapping offenders, the following factors are  
20 provided as guidance to assist the court in making its determination,  
21 to the extent the factors are applicable considering the age and  
22 circumstances of the petitioner:

23 (a) The nature of the registrable offense committed including the  
24 number of victims and the length of the offense history;

25 (b) Any subsequent criminal history;

26 (c) The petitioner's compliance with supervision requirements;

27 (d) The length of time since the charged incident(s) occurred;

28 (e) Any input from community corrections officers, juvenile  
29 parole or probation officers, law enforcement, or treatment  
30 providers;

31 (f) Participation in sex offender treatment;

32 (g) Participation in other treatment and rehabilitative programs;

33 (h) The offender's stability in employment and housing;

34 (i) The offender's community and personal support system;

35 (j) Any risk assessments or evaluations prepared by a qualified  
36 professional;

37 (k) Any updated polygraph examination;

38 (l) Any input of the victim;

39 (m) Any other factors the court may consider relevant.

1       (6) If a person is relieved of the duty to register pursuant to  
2 this section, the relief of registration does not constitute a  
3 certificate of rehabilitation, or the equivalent of a certificate of  
4 rehabilitation, for the purposes of restoration of firearm possession  
5 under RCW 9.41.040.

6       (7) A juvenile prosecuted and convicted of a sex offense or  
7 kidnapping offense as an adult pursuant to RCW 13.40.110 or 13.04.030  
8 may not petition to the superior court under this section and must  
9 follow the provisions of RCW 9A.44.142.

10       (8) An adult prosecuted for an offense committed as a juvenile  
11 once the juvenile court has lost jurisdiction due to the passage of  
12 time between the date of the offense and the date of filing of  
13 charges may petition the superior court under the provisions of this  
14 section.

15       **Sec. 10.** RCW 43.43.754 and 2008 c 97 s 2 are each amended to  
16 read as follows:

17       (1) A biological sample must be collected for purposes of DNA  
18 identification analysis from:

19       (a) Every adult or juvenile individual convicted of a felony, or  
20 any of the following crimes (or equivalent juvenile offenses):

21       Assault in the fourth degree with sexual motivation (RCW  
22 9A.36.041, 9.94A.835)

23       Communication with a minor for immoral purposes (RCW 9.68A.090)

24       Custodial sexual misconduct in the second degree (RCW 9A.44.170)

25       Failure to register (RCW 9A.44.130 for persons convicted on or  
26 before June 10, 2010, and RCW 9A.44.132 for persons convicted after  
27 June 10, 2010)

28       Harassment (RCW 9A.46.020)

29       Patronizing a prostitute (RCW 9A.88.110)

30       Sexual misconduct with a minor in the second degree (RCW  
31 9A.44.096)

32       Stalking (RCW 9A.46.110)

33       Violation of a sexual assault protection order granted under  
34 chapter 7.90 RCW; and

35       (b) Every adult or juvenile individual who is required to  
36 register under RCW 9A.44.130.

37       (2) If the Washington state patrol crime laboratory already has a  
38 DNA sample from an individual for a qualifying offense, a subsequent  
39 submission is not required to be submitted.

1 (3) Biological samples shall be collected in the following  
2 manner:

3 (a) For persons convicted of any offense listed in subsection  
4 (1)(a) of this section or adjudicated guilty of an equivalent  
5 juvenile offense who do not serve a term of confinement in a  
6 department of corrections facility, and do serve a term of  
7 confinement in a city or county jail facility, the city or county  
8 shall be responsible for obtaining the biological samples.

9 (b) The local police department or sheriff's office shall be  
10 responsible for obtaining the biological samples for:

11 (i) Persons convicted of any offense listed in subsection (1)(a)  
12 of this section or adjudicated guilty of an equivalent juvenile  
13 offense who do not serve a term of confinement in a department of  
14 corrections facility, and do not serve a term of confinement in a  
15 city or county jail facility; and

16 (ii) Persons who are required to register under RCW (~~9A.44.030~~)  
17 9A.44.130.

18 (c) For persons convicted of any offense listed in subsection  
19 (1)(a) of this section or adjudicated guilty of an equivalent  
20 juvenile offense, who are serving or who are to serve a term of  
21 confinement in a department of corrections facility or a department  
22 of social and health services facility, the facility holding the  
23 person shall be responsible for obtaining the biological samples. For  
24 those persons incarcerated before June 12, 2008, who have not yet had  
25 a biological sample collected, priority shall be given to those  
26 persons who will be released the soonest.

27 (4) Any biological sample taken pursuant to RCW 43.43.752 through  
28 43.43.758 may be retained by the forensic laboratory services bureau,  
29 and shall be used solely for the purpose of providing DNA or other  
30 tests for identification analysis and prosecution of a criminal  
31 offense or for the identification of human remains or missing  
32 persons. Nothing in this section prohibits the submission of results  
33 derived from the biological samples to the federal bureau of  
34 investigation combined DNA index system.

35 (5) The forensic laboratory services bureau of the Washington  
36 state patrol is responsible for testing performed on all biological  
37 samples that are collected under subsection (1) of this section, to  
38 the extent allowed by funding available for this purpose. The  
39 director shall give priority to testing on samples collected from  
40 those adults or juveniles convicted of a felony or adjudicated guilty

1 of an equivalent juvenile offense that is defined as a sex offense or  
2 a violent offense in RCW 9.94A.030. Known duplicate samples may be  
3 excluded from testing unless testing is deemed necessary or advisable  
4 by the director.

5 (6) This section applies to:

6 (a) All adults and juveniles to whom this section applied prior  
7 to June 12, 2008;

8 (b) All adults and juveniles to whom this section did not apply  
9 prior to June 12, 2008, who:

10 (i) Are convicted on or after June 12, 2008, of an offense listed  
11 in subsection (1)(a) of this section; or

12 (ii) Were convicted prior to June 12, 2008, of an offense listed  
13 in subsection (1)(a) of this section and are still incarcerated on or  
14 after June 12, 2008; and

15 (c) All adults and juveniles who are required to register under  
16 RCW 9A.44.130 on or after June 12, 2008, whether convicted before,  
17 on, or after June 12, 2008.

18 (7) This section creates no rights in a third person. No cause of  
19 action may be brought based upon the noncollection or nonanalysis or  
20 the delayed collection or analysis of a biological sample authorized  
21 to be taken under RCW 43.43.752 through 43.43.758.

22 (8) The detention, arrest, or conviction of a person based upon a  
23 database match or database information is not invalidated if it is  
24 determined that the sample was obtained or placed in the database by  
25 mistake, or if the conviction or juvenile adjudication that resulted  
26 in the collection of the biological sample was subsequently vacated  
27 or otherwise altered in any future proceeding including but not  
28 limited to posttrial or postfact-finding motions, appeals, or  
29 collateral attacks.

30 (9) A person commits the crime of refusal to provide DNA if the  
31 person has a duty to register under RCW 9A.44.130 and the person  
32 willfully refuses to comply with a legal request for a DNA sample as  
33 required under this section. The refusal to provide DNA is a gross  
34 misdemeanor.

35 **Sec. 11.** RCW 9.94A.515 and 2013 c 322 s 26, 2013 c 290 s 8, 2013  
36 c 267 s 2, and 2013 c 153 s 2 are each reenacted and amended to read  
37 as follows:

CRIMES INCLUDED WITHIN  
EACH SERIOUSNESS LEVEL

- 1  
2  
3 XVI Aggravated Murder 1 (RCW  
4 10.95.020)
- 5 XV Homicide by abuse (RCW 9A.32.055)  
6 Malicious explosion 1 (RCW  
7 70.74.280(1))  
8 Murder 1 (RCW 9A.32.030)
- 9 XIV Murder 2 (RCW 9A.32.050)  
10 Trafficking 1 (RCW 9A.40.100(1))
- 11 XIII Malicious explosion 2 (RCW  
12 70.74.280(2))  
13 Malicious placement of an explosive 1  
14 (RCW 70.74.270(1))
- 15 XII Assault 1 (RCW 9A.36.011)  
16 Assault of a Child 1 (RCW 9A.36.120)  
17 Malicious placement of an imitation  
18 device 1 (RCW 70.74.272(1)(a))  
19 Promoting Commercial Sexual Abuse  
20 of a Minor (RCW 9.68A.101)  
21 Rape 1 (RCW 9A.44.040)  
22 Rape of a Child 1 (RCW 9A.44.073)  
23 Trafficking 2 (RCW 9A.40.100((2)))  
24 (3)
- 25 XI Manslaughter 1 (RCW 9A.32.060)  
26 Rape 2 (RCW 9A.44.050)  
27 Rape of a Child 2 (RCW 9A.44.076)  
28 Vehicular Homicide, by being under  
29 the influence of intoxicating liquor  
30 or any drug (RCW 46.61.520)
- 31 X Child Molestation 1 (RCW 9A.44.083)  
32 Criminal Mistreatment 1 (RCW  
33 9A.42.020)

1 Indecent Liberties (with forcible  
2 compulsion) (RCW  
3 9A.44.100(1)(a))  
4 Kidnapping 1 (RCW 9A.40.020)  
5 Leading Organized Crime (RCW  
6 9A.82.060(1)(a))  
7 Malicious explosion 3 (RCW  
8 70.74.280(3))  
9 Sexually Violent Predator Escape  
10 (RCW 9A.76.115)  
11 IX Abandonment of Dependent Person 1  
12 (RCW 9A.42.060)  
13 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 VIII Arson 1 (RCW 9A.48.020)  
29 Commercial Sexual Abuse of a Minor  
30 (RCW 9.68A.100)  
31 Homicide by Watercraft, by the  
32 operation of any vessel in a  
33 reckless manner (RCW  
34 79A.60.050)  
35 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 engaged  
12 in sexually explicit conduct 1  
13 (RCW 9.68A.050(1))  
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 a  
26 Signal Preemption Device (RCW  
27 46.37.675)  
28 Sending, bringing into state depictions  
29 of minor engaged in sexually  
30 explicit conduct 1 (RCW  
31 9.68A.060(1))  
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 9A.72.160)

9 Intimidating a Juror/Witness (RCW  
10 9A.72.110, 9A.72.130)

11 Malicious placement of an imitation  
12 device 2 (RCW 70.74.272(1)(b))

13 Possession of Depictions of a Minor  
14 Engaged in Sexually Explicit  
15 Conduct 1 (RCW 9.68A.070(1))

16 Rape of a Child 3 (RCW 9A.44.079)

17 Theft of a Firearm (RCW 9A.56.300)

18 Unlawful Storage of Ammonia (RCW  
19 69.55.020)

20 V Abandonment of Dependent Person 2  
21 (RCW 9A.42.070)

22 Advancing money or property for  
23 extortionate extension of credit  
24 (RCW 9A.82.030)

25 Bail Jumping with class A Felony  
26 (RCW 9A.76.170(3)(b))

27 Child Molestation 3 (RCW 9A.44.089)

28 Criminal Mistreatment 2 (RCW  
29 9A.42.030)

30 Custodial Sexual Misconduct 1 (RCW  
31 9A.44.160)

32 Dealing in Depictions of Minor  
33 Engaged in Sexually Explicit  
34 Conduct 2 (RCW 9.68A.050(2))

1 Domestic Violence Court Order  
2 Violation (RCW 10.99.040,  
3 10.99.050, 26.09.300, 26.10.220,  
4 26.26.138, 26.50.110, 26.52.070,  
5 or 74.34.145)  
6 Driving While Under the Influence  
7 (RCW 46.61.502(6))  
8 Extortion 1 (RCW 9A.56.120)  
9 Extortionate Extension of Credit (RCW  
10 9A.82.020)  
11 Extortionate Means to Collect  
12 Extensions of Credit (RCW  
13 9A.82.040)  
14 Incest 2 (RCW 9A.64.020(2))  
15 Kidnapping 2 (RCW 9A.40.030)  
16 Perjury 1 (RCW 9A.72.020)  
17 Persistent prison misbehavior (RCW  
18 9.94.070)  
19 Physical Control of a Vehicle While  
20 Under the Influence (RCW  
21 46.61.504(6))  
22 Possession of a Stolen Firearm (RCW  
23 9A.56.310)  
24 Rape 3 (RCW 9A.44.060)  
25 Rendering Criminal Assistance 1  
26 (RCW 9A.76.070)  
27 Sending, Bringing into State  
28 Depictions of Minor Engaged in  
29 Sexually Explicit Conduct 2  
30 (RCW 9.68A.060(2))  
31 Sexual Misconduct with a Minor 1  
32 (RCW 9A.44.093)  
33 Sexually Violating Human Remains  
34 (RCW 9A.44.105)  
35 Stalking (RCW 9A.46.110)

1 Taking Motor Vehicle Without  
2 Permission 1 (RCW 9A.56.070)  
3 IV Arson 2 (RCW 9A.48.030)  
4 Assault 2 (RCW 9A.36.021)  
5 Assault 3 (of a Peace Officer with a  
6 Projectile Stun Gun) (RCW  
7 9A.36.031(1)(h))  
8 Assault by Watercraft (RCW  
9 79A.60.060)  
10 Bribing a Witness/Bribe Received by  
11 Witness (RCW 9A.72.090,  
12 9A.72.100)  
13 Cheating 1 (RCW 9.46.1961)  
14 Commercial Bribery (RCW  
15 9A.68.060)  
16 Counterfeiting (RCW 9.16.035(4))  
17 Endangerment with a Controlled  
18 Substance (RCW 9A.42.100)  
19 Escape 1 (RCW 9A.76.110)  
20 Hit and Run—Injury (RCW  
21 46.52.020(4)(b))  
22 Hit and Run with Vessel—Injury  
23 Accident (RCW 79A.60.200(3))  
24 Identity Theft 1 (RCW 9.35.020(2))  
25 Indecent Exposure to Person Under  
26 Age Fourteen (subsequent sex  
27 offense) (RCW 9A.88.010)  
28 Influencing Outcome of Sporting Event  
29 (RCW 9A.82.070)  
30 Malicious Harassment (RCW  
31 9A.36.080)  
32 Possession of Depictions of a Minor  
33 Engaged in Sexually Explicit  
34 Conduct 2 (RCW 9.68A.070(2))

1 Residential Burglary (RCW  
2 9A.52.025)  
3 Robbery 2 (RCW 9A.56.210)  
4 Theft of Livestock 1 (RCW 9A.56.080)  
5 Threats to Bomb (RCW 9.61.160)  
6 Trafficking in Stolen Property 1 (RCW  
7 9A.82.050)  
8 Unlawful factoring of a credit card or  
9 payment card transaction (RCW  
10 9A.56.290(4)(b))  
11 Unlawful transaction of health  
12 coverage as a health care service  
13 contractor (RCW 48.44.016(3))  
14 Unlawful transaction of health  
15 coverage as a health maintenance  
16 organization (RCW 48.46.033(3))  
17 Unlawful transaction of insurance  
18 business (RCW 48.15.023(3))  
19 Unlicensed practice as an insurance  
20 professional (RCW 48.17.063(2))  
21 Use of Proceeds of Criminal  
22 Profiteering (RCW 9A.82.080 (1)  
23 and (2))  
24 Vehicle Prowling 2 (third or  
25 subsequent offense) (RCW  
26 9A.52.100(3))  
27 Vehicular Assault, by being under the  
28 influence of intoxicating liquor or  
29 any drug, or by the operation or  
30 driving of a vehicle in a reckless  
31 manner (RCW 46.61.522)  
32 Viewing of Depictions of a Minor  
33 Engaged in Sexually Explicit  
34 Conduct 1 (RCW 9.68A.075(1))  
35 Willful Failure to Return from  
36 Furlough (RCW 72.66.060)

1 III Animal Cruelty 1 (Sexual Conduct or  
2 Contact) (RCW 16.52.205(3))  
3 Assault 3 (Except Assault 3 of a Peace  
4 Officer With a Projectile Stun  
5 Gun) (RCW 9A.36.031 except  
6 subsection (1)(h))  
7 Assault of a Child 3 (RCW 9A.36.140)  
8 Bail Jumping with class B or C Felony  
9 (RCW 9A.76.170(3)(c))  
10 Burglary 2 (RCW 9A.52.030)  
11 Communication with a Minor for  
12 Immoral Purposes (RCW  
13 9.68A.090)  
14 Criminal Gang Intimidation (RCW  
15 9A.46.120)  
16 Custodial Assault (RCW 9A.36.100)  
17 Cyberstalking (subsequent conviction  
18 or threat of death) (RCW  
19 9.61.260(3))  
20 Escape 2 (RCW 9A.76.120)  
21 Extortion 2 (RCW 9A.56.130)  
22 Harassment (RCW 9A.46.020)  
23 Intimidating a Public Servant (RCW  
24 9A.76.180)  
25 Introducing Contraband 2 (RCW  
26 9A.76.150)  
27 Malicious Injury to Railroad Property  
28 (RCW 81.60.070)  
29 Mortgage Fraud (RCW 19.144.080)  
30 Negligently Causing Substantial  
31 Bodily Harm By Use of a Signal  
32 Preemption Device (RCW  
33 46.37.674)  
34 Organized Retail Theft 1 (RCW  
35 9A.56.350(2))

1 Perjury 2 (RCW 9A.72.030)  
2 Possession of Incendiary Device (RCW  
3 9.40.120)  
4 Possession of Machine Gun or Short-  
5 Barreled Shotgun or Rifle (RCW  
6 9.41.190)  
7 Promoting Prostitution 2 (RCW  
8 9A.88.080)  
9 Retail Theft with Special  
10 Circumstances 1 (RCW  
11 9A.56.360(2))  
12 Securities Act violation (RCW  
13 21.20.400)  
14 Tampering with a Witness (RCW  
15 9A.72.120)  
16 Telephone Harassment (subsequent  
17 conviction or threat of death)  
18 (RCW 9.61.230(2))  
19 Theft of Livestock 2 (RCW 9A.56.083)  
20 Theft with the Intent to Resell 1 (RCW  
21 9A.56.340(2))  
22 Trafficking in Stolen Property 2 (RCW  
23 9A.82.055)  
24 Unlawful Hunting of Big Game 1  
25 (RCW 77.15.410(3)(b))  
26 Unlawful Imprisonment (RCW  
27 9A.40.040)  
28 Unlawful Misbranding of Food Fish or  
29 Shellfish 1 (RCW 69.04.938(3))  
30 Unlawful possession of firearm in the  
31 second degree (RCW 9.41.040(2))  
32 Unlawful Taking of Endangered Fish  
33 or Wildlife 1 (RCW  
34 77.15.120(3)(b))

1 Unlawful Trafficking in Fish, Shellfish,  
2 or Wildlife 1 (RCW  
3 77.15.260(3)(b))  
4 Unlawful Use of a Nondesignated  
5 Vessel (RCW 77.15.530(4))  
6 Vehicular Assault, by the operation or  
7 driving of a vehicle with disregard  
8 for the safety of others (RCW  
9 46.61.522)  
10 Willful Failure to Return from Work  
11 Release (RCW 72.65.070)  
12 II Commercial Fishing Without a License  
13 1 (RCW 77.15.500(3)(b))  
14 Computer Trespass 1 (RCW  
15 9A.52.110)  
16 Counterfeiting (RCW 9.16.035(3))  
17 Engaging in Fish Dealing Activity  
18 Unlicensed 1 (RCW 77.15.620(3))  
19 Escape from Community Custody  
20 (RCW 72.09.310)  
21 Failure to Register as a Sex Offender  
22 (second or subsequent offense)  
23 (RCW 9A.44.130 prior to June 10,  
24 2010, and RCW 9A.44.132)  
25 Health Care False Claims (RCW  
26 48.80.030)  
27 Identity Theft 2 (RCW 9.35.020(3))  
28 Improperly Obtaining Financial  
29 Information (RCW 9.35.010)  
30 Malicious Mischief 1 (RCW  
31 9A.48.070)  
32 Organized Retail Theft 2 (RCW  
33 9A.56.350(3))  
34 Possession of Stolen Property 1 (RCW  
35 9A.56.150)



1 Possession of a Stolen Vehicle (RCW  
2 9A.56.068)  
3 Retail Theft with Special  
4 Circumstances 2 (RCW  
5 9A.56.360(3))  
6 Scrap Processing, Recycling, or  
7 Supplying Without a License  
8 (second or subsequent offense)  
9 (RCW 19.290.100)  
10 Theft 1 (RCW 9A.56.030)  
11 Theft of a Motor Vehicle (RCW  
12 9A.56.065)  
13 Theft of Rental, Leased, or Lease-  
14 purchased Property (valued at one  
15 thousand five hundred dollars or  
16 more) (RCW 9A.56.096(5)(a))  
17 Theft with the Intent to Resell 2 (RCW  
18 9A.56.340(3))  
19 Trafficking in Insurance Claims (RCW  
20 48.30A.015)  
21 Unlawful factoring of a credit card or  
22 payment card transaction (RCW  
23 9A.56.290(4)(a))  
24 Unlawful Participation of Non-Indians  
25 in Indian Fishery (RCW  
26 77.15.570(2))  
27 Unlawful Practice of Law (RCW  
28 2.48.180)  
29 Unlawful Purchase or Use of a License  
30 (RCW 77.15.650(3)(b))  
31 Unlawful Trafficking in Fish, Shellfish,  
32 or Wildlife 2 (RCW  
33 77.15.260(3)(a))  
34 Unlicensed Practice of a Profession or  
35 Business (RCW 18.130.190(7))  
36 Voyeurism (RCW 9A.44.115)

1 I Attempting to Elude a Pursuing Police  
2 Vehicle (RCW 46.61.024)  
3 False Verification for Welfare (RCW  
4 74.08.055)  
5 Forgery (RCW 9A.60.020)  
6 Fraudulent Creation or Revocation of a  
7 Mental Health Advance Directive  
8 (RCW 9A.60.060)  
9 Malicious Mischief 2 (RCW  
10 9A.48.080)  
11 Mineral Trespass (RCW 78.44.330)  
12 Possession of Stolen Property 2 (RCW  
13 9A.56.160)  
14 Reckless Burning 1 (RCW 9A.48.040)  
15 Spotlighting Big Game 1 (RCW  
16 77.15.450(3)(b))  
17 Suspension of Department Privileges 1  
18 (RCW 77.15.670(3)(b))  
19 Taking Motor Vehicle Without  
20 Permission 2 (RCW 9A.56.075)  
21 Theft 2 (RCW 9A.56.040)  
22 Theft of Rental, Leased, or Lease-  
23 purchased Property (valued at two  
24 hundred fifty dollars or more but  
25 less than one thousand five  
26 hundred dollars) (RCW  
27 9A.56.096(5)(b))  
28 Transaction of insurance business  
29 beyond the scope of licensure  
30 (RCW 48.17.063)  
31 Unlawful Fish and Shellfish Catch  
32 Accounting (RCW  
33 77.15.630(3)(b))  
34 Unlawful Issuance of Checks or Drafts  
35 (RCW 9A.56.060)

1 Unlawful Possession of Fictitious  
2 Identification (RCW 9A.56.320)  
3 Unlawful Possession of Instruments of  
4 Financial Fraud (RCW 9A.56.320)  
5 Unlawful Possession of Payment  
6 Instruments (RCW 9A.56.320)  
7 Unlawful Possession of a Personal  
8 Identification Device (RCW  
9 9A.56.320)  
10 Unlawful Production of Payment  
11 Instruments (RCW 9A.56.320)  
12 Unlawful ~~((Release of))~~ Releasing,  
13 planting, possessing, or placing  
14 Deleterious Exotic Wildlife (RCW  
15 77.15.250(2)(b))  
16 Unlawful Trafficking in Food Stamps  
17 (RCW 9.91.142)  
18 Unlawful Use of Food Stamps (RCW  
19 9.91.144)  
20 Unlawful Use of Net to Take Fish 1  
21 (RCW 77.15.580(3)(b))  
22 Unlawful Use of Prohibited Aquatic  
23 Animal Species (RCW  
24 77.15.253(3))  
25 Vehicle Prowl 1 (RCW 9A.52.095)  
26 Violating Commercial Fishing Area or  
27 Time 1 (RCW 77.15.550(3)(b))

28 **Sec. 12.** RCW 9.94A.030 and 2012 c 143 s 1 are each amended to  
29 read as follows:

30 Unless the context clearly requires otherwise, the definitions in  
31 this section apply throughout this chapter.

32 (1) "Board" means the indeterminate sentence review board created  
33 under chapter 9.95 RCW.

34 (2) "Collect," or any derivative thereof, "collect and remit," or  
35 "collect and deliver," when used with reference to the department,  
36 means that the department, either directly or through a collection

1 agreement authorized by RCW 9.94A.760, is responsible for monitoring  
2 and enforcing the offender's sentence with regard to the legal  
3 financial obligation, receiving payment thereof from the offender,  
4 and, consistent with current law, delivering daily the entire payment  
5 to the superior court clerk without depositing it in a departmental  
6 account.

7 (3) "Commission" means the sentencing guidelines commission.

8 (4) "Community corrections officer" means an employee of the  
9 department who is responsible for carrying out specific duties in  
10 supervision of sentenced offenders and monitoring of sentence  
11 conditions.

12 (5) "Community custody" means that portion of an offender's  
13 sentence of confinement in lieu of earned release time or imposed as  
14 part of a sentence under this chapter and served in the community  
15 subject to controls placed on the offender's movement and activities  
16 by the department.

17 (6) "Community protection zone" means the area within eight  
18 hundred eighty feet of the facilities and grounds of a public or  
19 private school.

20 (7) "Community restitution" means compulsory service, without  
21 compensation, performed for the benefit of the community by the  
22 offender.

23 (8) "Confinement" means total or partial confinement.

24 (9) "Conviction" means an adjudication of guilt pursuant to Title  
25 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,  
26 and acceptance of a plea of guilty.

27 (10) "Crime-related prohibition" means an order of a court  
28 prohibiting conduct that directly relates to the circumstances of the  
29 crime for which the offender has been convicted, and shall not be  
30 construed to mean orders directing an offender affirmatively to  
31 participate in rehabilitative programs or to otherwise perform  
32 affirmative conduct. However, affirmative acts necessary to monitor  
33 compliance with the order of a court may be required by the  
34 department.

35 (11) "Criminal history" means the list of a defendant's prior  
36 convictions and juvenile adjudications, whether in this state, in  
37 federal court, or elsewhere.

38 (a) The history shall include, where known, for each conviction  
39 (i) whether the defendant has been placed on probation and the length

1 and terms thereof; and (ii) whether the defendant has been  
2 incarcerated and the length of incarceration.

3 (b) A conviction may be removed from a defendant's criminal  
4 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,  
5 9.95.240, or a similar out-of-state statute, or if the conviction has  
6 been vacated pursuant to a governor's pardon.

7 (c) The determination of a defendant's criminal history is  
8 distinct from the determination of an offender score. A prior  
9 conviction that was not included in an offender score calculated  
10 pursuant to a former version of the sentencing reform act remains  
11 part of the defendant's criminal history.

12 (12) "Criminal street gang" means any ongoing organization,  
13 association, or group of three or more persons, whether formal or  
14 informal, having a common name or common identifying sign or symbol,  
15 having as one of its primary activities the commission of criminal  
16 acts, and whose members or associates individually or collectively  
17 engage in or have engaged in a pattern of criminal street gang  
18 activity. This definition does not apply to employees engaged in  
19 concerted activities for their mutual aid and protection, or to the  
20 activities of labor and bona fide nonprofit organizations or their  
21 members or agents.

22 (13) "Criminal street gang associate or member" means any person  
23 who actively participates in any criminal street gang and who  
24 intentionally promotes, furthers, or assists in any criminal act by  
25 the criminal street gang.

26 (14) "Criminal street gang-related offense" means any felony or  
27 misdemeanor offense, whether in this state or elsewhere, that is  
28 committed for the benefit of, at the direction of, or in association  
29 with any criminal street gang, or is committed with the intent to  
30 promote, further, or assist in any criminal conduct by the gang, or  
31 is committed for one or more of the following reasons:

32 (a) To gain admission, prestige, or promotion within the gang;

33 (b) To increase or maintain the gang's size, membership,  
34 prestige, dominance, or control in any geographical area;

35 (c) To exact revenge or retribution for the gang or any member of  
36 the gang;

37 (d) To obstruct justice, or intimidate or eliminate any witness  
38 against the gang or any member of the gang;

1 (e) To directly or indirectly cause any benefit, aggrandizement,  
2 gain, profit, or other advantage for the gang, its reputation,  
3 influence, or membership; or

4 (f) To provide the gang with any advantage in, or any control or  
5 dominance over any criminal market sector, including, but not limited  
6 to, manufacturing, delivering, or selling any controlled substance  
7 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen  
8 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88  
9 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual  
10 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter  
11 9.68 RCW).

12 (15) "Day fine" means a fine imposed by the sentencing court that  
13 equals the difference between the offender's net daily income and the  
14 reasonable obligations that the offender has for the support of the  
15 offender and any dependents.

16 (16) "Day reporting" means a program of enhanced supervision  
17 designed to monitor the offender's daily activities and compliance  
18 with sentence conditions, and in which the offender is required to  
19 report daily to a specific location designated by the department or  
20 the sentencing court.

21 (17) "Department" means the department of corrections.

22 (18) "Determinate sentence" means a sentence that states with  
23 exactitude the number of actual years, months, or days of total  
24 confinement, of partial confinement, of community custody, the number  
25 of actual hours or days of community restitution work, or dollars or  
26 terms of a legal financial obligation. The fact that an offender  
27 through earned release can reduce the actual period of confinement  
28 shall not affect the classification of the sentence as a determinate  
29 sentence.

30 (19) "Disposable earnings" means that part of the earnings of an  
31 offender remaining after the deduction from those earnings of any  
32 amount required by law to be withheld. For the purposes of this  
33 definition, "earnings" means compensation paid or payable for  
34 personal services, whether denominated as wages, salary, commission,  
35 bonuses, or otherwise, and, notwithstanding any other provision of  
36 law making the payments exempt from garnishment, attachment, or other  
37 process to satisfy a court-ordered legal financial obligation,  
38 specifically includes periodic payments pursuant to pension or  
39 retirement programs, or insurance policies of any type, but does not

1 include payments made under Title 50 RCW, except as provided in RCW  
2 50.40.020 and 50.40.050, or Title 74 RCW.

3 (20) "Domestic violence" has the same meaning as defined in RCW  
4 10.99.020 and 26.50.010.

5 (21) "Drug offender sentencing alternative" is a sentencing  
6 option available to persons convicted of a felony offense other than  
7 a violent offense or a sex offense and who are eligible for the  
8 option under RCW 9.94A.660.

9 (22) "Drug offense" means:

10 (a) Any felony violation of chapter 69.50 RCW except possession  
11 of a controlled substance (RCW 69.50.4013) or forged prescription for  
12 a controlled substance (RCW 69.50.403);

13 (b) Any offense defined as a felony under federal law that  
14 relates to the possession, manufacture, distribution, or  
15 transportation of a controlled substance; or

16 (c) Any out-of-state conviction for an offense that under the  
17 laws of this state would be a felony classified as a drug offense  
18 under (a) of this subsection.

19 (23) "Earned release" means earned release from confinement as  
20 provided in RCW 9.94A.728.

21 (24) "Escape" means:

22 (a) Sexually violent predator escape (RCW 9A.76.115), escape in  
23 the first degree (RCW 9A.76.110), escape in the second degree (RCW  
24 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
25 willful failure to return from work release (RCW 72.65.070), or  
26 willful failure to be available for supervision by the department  
27 while in community custody (RCW 72.09.310); or

28 (b) Any federal or out-of-state conviction for an offense that  
29 under the laws of this state would be a felony classified as an  
30 escape under (a) of this subsection.

31 (25) "Felony traffic offense" means:

32 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
33 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-  
34 run injury-accident (RCW 46.52.020(4)), felony driving while under  
35 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),  
36 or felony physical control of a vehicle while under the influence of  
37 intoxicating liquor or any drug (RCW 46.61.504(6)); or

38 (b) Any federal or out-of-state conviction for an offense that  
39 under the laws of this state would be a felony classified as a felony  
40 traffic offense under (a) of this subsection.

1 (26) "Fine" means a specific sum of money ordered by the  
2 sentencing court to be paid by the offender to the court over a  
3 specific period of time.

4 (27) "First-time offender" means any person who has no prior  
5 convictions for a felony and is eligible for the first-time offender  
6 waiver under RCW 9.94A.650.

7 (28) "Home detention" means a program of partial confinement  
8 available to offenders wherein the offender is confined in a private  
9 residence subject to electronic surveillance.

10 (29) "Homelessness" or "homeless" means a condition where an  
11 individual lacks a fixed, regular, and adequate nighttime residence  
12 and who has a primary nighttime residence that is:

13 (a) A supervised, publicly or privately operated shelter designed  
14 to provide temporary living accommodations;

15 (b) A public or private place not designed for, or ordinarily  
16 used as, a regular sleeping accommodation for human beings; or

17 (c) A private residence where the individual stays as a transient  
18 invitee.

19 (30) "Legal financial obligation" means a sum of money that is  
20 ordered by a superior court of the state of Washington for legal  
21 financial obligations which may include restitution to the victim,  
22 statutorily imposed crime victims' compensation fees as assessed  
23 pursuant to RCW 7.68.035, court costs, county or interlocal drug  
24 funds, court-appointed attorneys' fees, and costs of defense, fines,  
25 and any other financial obligation that is assessed to the offender  
26 as a result of a felony conviction. Upon conviction for vehicular  
27 assault while under the influence of intoxicating liquor or any drug,  
28 RCW 46.61.522(1)(b), or vehicular homicide while under the influence  
29 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal  
30 financial obligations may also include payment to a public agency of  
31 the expense of an emergency response to the incident resulting in the  
32 conviction, subject to RCW 38.52.430.

33 (31) "Minor child" means a biological or adopted child of the  
34 offender who is under age eighteen at the time of the offender's  
35 current offense.

36 (32) "Most serious offense" means any of the following felonies  
37 or a felony attempt to commit any of the following felonies:

38 (a) Any felony defined under any law as a class A felony or  
39 criminal solicitation of or criminal conspiracy to commit a class A  
40 felony;



- 1 (b) Assault in the second degree;
- 2 (c) Assault of a child in the second degree;
- 3 (d) Child molestation in the second degree;
- 4 (e) Controlled substance homicide;
- 5 (f) Extortion in the first degree;
- 6 (g) Incest when committed against a child under age fourteen;
- 7 (h) Indecent liberties;
- 8 (i) Kidnapping in the second degree;
- 9 (j) Leading organized crime;
- 10 (k) Manslaughter in the first degree;
- 11 (l) Manslaughter in the second degree;
- 12 (m) Promoting prostitution in the first degree;
- 13 (n) Rape in the third degree;
- 14 (o) Robbery in the second degree;
- 15 (p) Sexual exploitation;
- 16 (q) Vehicular assault, when caused by the operation or driving of
- 17 a vehicle by a person while under the influence of intoxicating
- 18 liquor or any drug or by the operation or driving of a vehicle in a
- 19 reckless manner;
- 20 (r) Vehicular homicide, when proximately caused by the driving of
- 21 any vehicle by any person while under the influence of intoxicating
- 22 liquor or any drug as defined by RCW 46.61.502, or by the operation
- 23 of any vehicle in a reckless manner;
- 24 (s) Any other class B felony offense with a finding of sexual
- 25 motivation;
- 26 (t) Any other felony with a deadly weapon verdict under RCW
- 27 9.94A.825;
- 28 (u) Any felony offense in effect at any time prior to December 2,
- 29 1993, that is comparable to a most serious offense under this
- 30 subsection, or any federal or out-of-state conviction for an offense
- 31 that under the laws of this state would be a felony classified as a
- 32 most serious offense under this subsection;
- 33 (v)(i) A prior conviction for indecent liberties under RCW
- 34 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
- 35 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
- 36 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
- 37 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
- 38 until July 1, 1988;
- 39 (ii) A prior conviction for indecent liberties under RCW
- 40 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,

1 if: (A) The crime was committed against a child under the age of  
2 fourteen; or (B) the relationship between the victim and perpetrator  
3 is included in the definition of indecent liberties under RCW  
4 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,  
5 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,  
6 1993, through July 27, 1997;

7 (w) Any out-of-state conviction for a felony offense with a  
8 finding of sexual motivation if the minimum sentence imposed was ten  
9 years or more; provided that the out-of-state felony offense must be  
10 comparable to a felony offense under this title and Title 9A RCW and  
11 the out-of-state definition of sexual motivation must be comparable  
12 to the definition of sexual motivation contained in this section.

13 (33) "Nonviolent offense" means an offense which is not a violent  
14 offense.

15 (34) "Offender" means a person who has committed a felony  
16 established by state law and is eighteen years of age or older or is  
17 less than eighteen years of age but whose case is under superior  
18 court jurisdiction under RCW 13.04.030 or has been transferred by the  
19 appropriate juvenile court to a criminal court pursuant to RCW  
20 13.40.110. In addition, for the purpose of community custody  
21 requirements under this chapter, "offender" also means a misdemeanor  
22 or gross misdemeanor probationer ordered by a superior court to  
23 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and  
24 supervised by the department pursuant to RCW 9.94A.501 and  
25 9.94A.5011. Throughout this chapter, the terms "offender" and  
26 "defendant" are used interchangeably.

27 (35) "Partial confinement" means confinement for no more than one  
28 year in a facility or institution operated or utilized under contract  
29 by the state or any other unit of government, or, if home detention  
30 or work crew has been ordered by the court or home detention has been  
31 ordered by the department as part of the parenting program, in an  
32 approved residence, for a substantial portion of each day with the  
33 balance of the day spent in the community. Partial confinement  
34 includes work release, home detention, work crew, and a combination  
35 of work crew and home detention.

36 (36) "Pattern of criminal street gang activity" means:

37 (a) The commission, attempt, conspiracy, or solicitation of, or  
38 any prior juvenile adjudication of or adult conviction of, two or  
39 more of the following criminal street gang-related offenses:

1 (i) Any "serious violent" felony offense as defined in this  
2 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a  
3 Child 1 (RCW 9A.36.120);  
4 (ii) Any "violent" offense as defined by this section, excluding  
5 Assault of a Child 2 (RCW 9A.36.130);  
6 (iii) Deliver or Possession with Intent to Deliver a Controlled  
7 Substance (chapter 69.50 RCW);  
8 (iv) Any violation of the firearms and dangerous weapon act  
9 (chapter 9.41 RCW);  
10 (v) Theft of a Firearm (RCW 9A.56.300);  
11 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);  
12 (vii) Malicious Harassment (RCW 9A.36.080);  
13 (viii) Harassment where a subsequent violation or deadly threat  
14 is made (RCW 9A.46.020(2)(b));  
15 (ix) Criminal Gang Intimidation (RCW 9A.46.120);  
16 (x) Any felony conviction by a person eighteen years of age or  
17 older with a special finding of involving a juvenile in a felony  
18 offense under RCW 9.94A.833;  
19 (xi) Residential Burglary (RCW 9A.52.025);  
20 (xii) Burglary 2 (RCW 9A.52.030);  
21 (xiii) Malicious Mischief 1 (RCW 9A.48.070);  
22 (xiv) Malicious Mischief 2 (RCW 9A.48.080);  
23 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);  
24 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);  
25 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW  
26 9A.56.070);  
27 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW  
28 9A.56.075);  
29 (xix) Extortion 1 (RCW 9A.56.120);  
30 (xx) Extortion 2 (RCW 9A.56.130);  
31 (xxi) Intimidating a Witness (RCW 9A.72.110);  
32 (xxii) Tampering with a Witness (RCW 9A.72.120);  
33 (xxiii) Reckless Endangerment (RCW 9A.36.050);  
34 (xxiv) Coercion (RCW 9A.36.070);  
35 (xxv) Harassment (RCW 9A.46.020); or  
36 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);  
37 (b) That at least one of the offenses listed in (a) of this  
38 subsection shall have occurred after July 1, 2008;

1 (c) That the most recent committed offense listed in (a) of this  
2 subsection occurred within three years of a prior offense listed in  
3 (a) of this subsection; and

4 (d) Of the offenses that were committed in (a) of this  
5 subsection, the offenses occurred on separate occasions or were  
6 committed by two or more persons.

7 (37) "Persistent offender" is an offender who:

8 (a)(i) Has been convicted in this state of any felony considered  
9 a most serious offense; and

10 (ii) Has, before the commission of the offense under (a) of this  
11 subsection, been convicted as an offender on at least two separate  
12 occasions, whether in this state or elsewhere, of felonies that under  
13 the laws of this state would be considered most serious offenses and  
14 would be included in the offender score under RCW 9.94A.525; provided  
15 that of the two or more previous convictions, at least one conviction  
16 must have occurred before the commission of any of the other most  
17 serious offenses for which the offender was previously convicted; or

18 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
19 of a child in the first degree, child molestation in the first  
20 degree, rape in the second degree, rape of a child in the second  
21 degree, or indecent liberties by forcible compulsion; (B) any of the  
22 following offenses with a finding of sexual motivation: Murder in the  
23 first degree, murder in the second degree, homicide by abuse,  
24 kidnapping in the first degree, kidnapping in the second degree,  
25 assault in the first degree, assault in the second degree, assault of  
26 a child in the first degree, assault of a child in the second degree,  
27 or burglary in the first degree; or (C) an attempt to commit any  
28 crime listed in this subsection (37)(b)(i); and

29 (ii) Has, before the commission of the offense under (b)(i) of  
30 this subsection, been convicted as an offender on at least one  
31 occasion, whether in this state or elsewhere, of an offense listed in  
32 (b)(i) of this subsection or any federal or out-of-state offense or  
33 offense under prior Washington law that is comparable to the offenses  
34 listed in (b)(i) of this subsection. A conviction for rape of a child  
35 in the first degree constitutes a conviction under (b)(i) of this  
36 subsection only when the offender was sixteen years of age or older  
37 when the offender committed the offense. A conviction for rape of a  
38 child in the second degree constitutes a conviction under (b)(i) of  
39 this subsection only when the offender was eighteen years of age or  
40 older when the offender committed the offense.

1 (38) "Predatory" means: (a) The perpetrator of the crime was a  
2 stranger to the victim, as defined in this section; (b) the  
3 perpetrator established or promoted a relationship with the victim  
4 prior to the offense and the victimization of the victim was a  
5 significant reason the perpetrator established or promoted the  
6 relationship; or (c) the perpetrator was: (i) A teacher, counselor,  
7 volunteer, or other person in authority in any public or private  
8 school and the victim was a student of the school under his or her  
9 authority or supervision. For purposes of this subsection, "school"  
10 does not include home-based instruction as defined in RCW  
11 28A.225.010; (ii) a coach, trainer, volunteer, or other person in  
12 authority in any recreational activity and the victim was a  
13 participant in the activity under his or her authority or  
14 supervision; (iii) a pastor, elder, volunteer, or other person in  
15 authority in any church or religious organization, and the victim was  
16 a member or participant of the organization under his or her  
17 authority; or (iv) a teacher, counselor, volunteer, or other person  
18 in authority providing home-based instruction and the victim was a  
19 student receiving home-based instruction while under his or her  
20 authority or supervision. For purposes of this subsection: (A) "Home-  
21 based instruction" has the same meaning as defined in RCW  
22 28A.225.010; and (B) "teacher, counselor, volunteer, or other person  
23 in authority" does not include the parent or legal guardian of the  
24 victim.

25 (39) "Private school" means a school regulated under chapter  
26 28A.195 or 28A.205 RCW.

27 (40) "Public school" has the same meaning as in RCW 28A.150.010.

28 (41) "Repetitive domestic violence offense" means any:

29 (a)(i) Domestic violence assault that is not a felony offense  
30 under RCW 9A.36.041;

31 (ii) Domestic violence violation of a no-contact order under  
32 chapter 10.99 RCW that is not a felony offense;

33 (iii) Domestic violence violation of a protection order under  
34 chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony  
35 offense;

36 (iv) Domestic violence harassment offense under RCW 9A.46.020  
37 that is not a felony offense; or

38 (v) Domestic violence stalking offense under RCW 9A.46.110 that  
39 is not a felony offense; or

1 (b) Any federal, out-of-state, tribal court, military, county, or  
2 municipal conviction for an offense that under the laws of this state  
3 would be classified as a repetitive domestic violence offense under  
4 (a) of this subsection.

5 (42) "Restitution" means a specific sum of money ordered by the  
6 sentencing court to be paid by the offender to the court over a  
7 specified period of time as payment of damages. The sum may include  
8 both public and private costs.

9 (43) "Risk assessment" means the application of the risk  
10 instrument recommended to the department by the Washington state  
11 institute for public policy as having the highest degree of  
12 predictive accuracy for assessing an offender's risk of reoffense.

13 (44) "Serious traffic offense" means:

14 (a) Nonfelony driving while under the influence of intoxicating  
15 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
16 while under the influence of intoxicating liquor or any drug (RCW  
17 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
18 attended vehicle (RCW 46.52.020(5)); or

19 (b) Any federal, out-of-state, county, or municipal conviction  
20 for an offense that under the laws of this state would be classified  
21 as a serious traffic offense under (a) of this subsection.

22 (45) "Serious violent offense" is a subcategory of violent  
23 offense and means:

24 (a)(i) Murder in the first degree;

25 (ii) Homicide by abuse;

26 (iii) Murder in the second degree;

27 (iv) Manslaughter in the first degree;

28 (v) Assault in the first degree;

29 (vi) Kidnapping in the first degree;

30 (vii) Rape in the first degree;

31 (viii) Assault of a child in the first degree; or

32 (ix) An attempt, criminal solicitation, or criminal conspiracy to  
33 commit one of these felonies; or

34 (b) Any federal or out-of-state conviction for an offense that  
35 under the laws of this state would be a felony classified as a  
36 serious violent offense under (a) of this subsection.

37 (46) "Sex offense" means:

38 (a)(i) A felony that is a violation of chapter 9A.44 RCW other  
39 than RCW 9A.44.132;

40 (ii) A violation of RCW 9A.64.020;

1 (iii) A felony that is a violation of chapter 9.68A RCW other  
2 than RCW 9.68A.080;

3 (iv) A felony that is, under chapter 9A.28 RCW, a criminal  
4 attempt, criminal solicitation, or criminal conspiracy to commit such  
5 crimes; or

6 (v) A felony violation of RCW 9A.44.132(1) (failure to register  
7 as a sex offender) if the person has been convicted of violating RCW  
8 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130  
9 prior to June 10, 2010, on at least one prior occasion;

10 (b) Any conviction for a felony offense in effect at any time  
11 prior to July 1, 1976, that is comparable to a felony classified as a  
12 sex offense in (a) of this subsection;

13 (c) A felony with a finding of sexual motivation under RCW  
14 9.94A.835 or 13.40.135; or

15 (d) Any federal or out-of-state conviction for an offense that  
16 under the laws of this state would be a felony classified as a sex  
17 offense under (a) of this subsection.

18 (47) "Sexual motivation" means that one of the purposes for which  
19 the defendant committed the crime was for the purpose of his or her  
20 sexual gratification.

21 (48) "Standard sentence range" means the sentencing court's  
22 discretionary range in imposing a nonappealable sentence.

23 (49) "Statutory maximum sentence" means the maximum length of  
24 time for which an offender may be confined as punishment for a crime  
25 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute  
26 defining the crime, or other statute defining the maximum penalty for  
27 a crime.

28 (50) "Stranger" means that the victim did not know the offender  
29 twenty-four hours before the offense.

30 (51) "Total confinement" means confinement inside the physical  
31 boundaries of a facility or institution operated or utilized under  
32 contract by the state or any other unit of government for twenty-four  
33 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

34 (52) "Transition training" means written and verbal instructions  
35 and assistance provided by the department to the offender during the  
36 two weeks prior to the offender's successful completion of the work  
37 ethic camp program. The transition training shall include  
38 instructions in the offender's requirements and obligations during  
39 the offender's period of community custody.

1 (53) "Victim" means any person who has sustained emotional,  
2 psychological, physical, or financial injury to person or property as  
3 a direct result of the crime charged.

4 (54) "Violent offense" means:

5 (a) Any of the following felonies:

6 (i) Any felony defined under any law as a class A felony or an  
7 attempt to commit a class A felony;

8 (ii) Criminal solicitation of or criminal conspiracy to commit a  
9 class A felony;

10 (iii) Manslaughter in the first degree;

11 (iv) Manslaughter in the second degree;

12 (v) Indecent liberties if committed by forcible compulsion;

13 (vi) Kidnapping in the second degree;

14 (vii) Arson in the second degree;

15 (viii) Assault in the second degree;

16 (ix) Assault of a child in the second degree;

17 (x) Extortion in the first degree;

18 (xi) Robbery in the second degree;

19 (xii) Drive-by shooting;

20 (xiii) Vehicular assault, when caused by the operation or driving  
21 of a vehicle by a person while under the influence of intoxicating  
22 liquor or any drug or by the operation or driving of a vehicle in a  
23 reckless manner; and

24 (xiv) Vehicular homicide, when proximately caused by the driving  
25 of any vehicle by any person while under the influence of  
26 intoxicating liquor or any drug as defined by RCW 46.61.502, or by  
27 the operation of any vehicle in a reckless manner;

28 (b) Any conviction for a felony offense in effect at any time  
29 prior to July 1, 1976, that is comparable to a felony classified as a  
30 violent offense in (a) of this subsection; and

31 (c) Any federal or out-of-state conviction for an offense that  
32 under the laws of this state would be a felony classified as a  
33 violent offense under (a) or (b) of this subsection.

34 (55) "Work crew" means a program of partial confinement  
35 consisting of civic improvement tasks for the benefit of the  
36 community that complies with RCW 9.94A.725.

37 (56) "Work ethic camp" means an alternative incarceration program  
38 as provided in RCW 9.94A.690 designed to reduce recidivism and lower  
39 the cost of corrections by requiring offenders to complete a  
40 comprehensive array of real-world job and vocational experiences,



1 character-building work ethics training, life management skills  
2 development, substance abuse rehabilitation, counseling, literacy  
3 training, and basic adult education.

4 (57) "Work release" means a program of partial confinement  
5 available to offenders who are employed or engaged as a student in a  
6 regular course of study at school.

7 **Sec. 13.** RCW 28A.300.147 and 2011 c 338 s 6 are each amended to  
8 read as follows:

9 The superintendent of public instruction shall publish on its web  
10 site, with a link to the safety center web page((τ)):

11 (1) A revised and updated sample policy for schools to follow  
12 regarding students required to register as sex or kidnapping  
13 offenders; and

14 (2) Educational materials developed pursuant to RCW 28A.300.145.

15 **Sec. 14.** RCW 72.09.345 and 2011 c 338 s 5 are each amended to  
16 read as follows:

17 (1) In addition to any other information required to be released  
18 under this chapter, the department is authorized, pursuant to RCW  
19 4.24.550, to release relevant information that is necessary to  
20 protect the public concerning offenders convicted of sex offenses.

21 (2) In order for ((public)) law enforcement agencies to have the  
22 information necessary to notify the public as authorized in RCW  
23 4.24.550, the secretary shall establish and administer an end-of-  
24 sentence review committee for the purposes of assigning risk levels,  
25 reviewing available release plans, and making appropriate referrals  
26 for sex offenders.

27 (3) The committee shall assess, on a case-by-case basis, the  
28 public risk posed by:

29 (a) Offenders preparing for release from confinement for a sex  
30 offense or sexually violent offense committed on or after July 1,  
31 1984;

32 (b) Sex offenders accepted from another state under a reciprocal  
33 agreement under the interstate corrections compact authorized in  
34 chapter 72.74 RCW;

35 (c) Juveniles preparing for release from confinement for a sex  
36 offense and releasing from the department of social and health  
37 services juvenile rehabilitation administration;

1 (d) Juveniles, following disposition, under the jurisdiction of a  
2 county juvenile court for a registerable sex offense; and

3 (e) Juveniles found to have committed a sex offense and accepted  
4 from another state under a reciprocal agreement under the interstate  
5 compact for juveniles authorized in chapter 13.24 RCW.

6 (4) Notwithstanding any other provision of law, the committee  
7 shall have access to all relevant records and information in the  
8 possession of public agencies relating to the offenders under review,  
9 including police reports; prosecutors' statements of probable cause;  
10 presentence investigations and reports; complete judgments and  
11 sentences; current classification referrals; criminal history  
12 summaries; violation and disciplinary reports; all psychological  
13 evaluations and psychiatric hospital reports; sex offender treatment  
14 program reports; and juvenile records. Records and information  
15 obtained under this subsection shall not be disclosed outside the  
16 committee unless otherwise authorized by law.

17 (5) The committee shall review each sex offender under its  
18 authority before the offender's release from confinement or start of  
19 the offender's term of community custody in order to: (a) Classify  
20 the offender into a risk level for the purposes of public  
21 notification under RCW 4.24.550; (b) where available, review the  
22 offender's proposed release plan in accordance with the requirements  
23 of RCW 72.09.340; and (c) make appropriate referrals.

24 (6) The committee shall classify as risk level I those sex  
25 offenders whose risk assessments indicate ((a)) they are at a low  
26 risk ((of reoffense)) to sexually reoffend within the community at  
27 large. The committee shall classify as risk level II those offenders  
28 whose risk assessments indicate ((a)) they are at a moderate risk  
29 ((of reoffense)) to sexually reoffend within the community at large.  
30 The committee shall classify as risk level III those offenders whose  
31 risk assessments indicate ((a)) they are at a high risk ((of  
32 reoffense)) to sexually reoffend within the community at large.

33 (7) The committee shall issue to appropriate law enforcement  
34 agencies, for their use in making public notifications under RCW  
35 4.24.550, narrative notices regarding the pending release of sex  
36 offenders from the department's facilities. The narrative notices  
37 shall, at a minimum, describe the identity and criminal history  
38 behavior of the offender and shall include the department's risk  
39 level classification for the offender. For sex offenders classified

1 as either risk level II or III, the narrative notices shall also  
2 include the reasons underlying the classification.

3 NEW SECTION. **Sec. 15.** The attorney general shall evaluate the  
4 availability of data to determine the comparability of sex and  
5 kidnapping offenses among the states, federal government, and other  
6 jurisdictions as needed to facilitate the implementation of RCW  
7 9A.44.128. The attorney general shall recommend whether the creation  
8 of such a database is advisable. The attorney general shall report  
9 his or her findings to the appropriate policy committees of the  
10 legislature by December 1, 2015.

11 NEW SECTION. **Sec. 16.** (1) The sex offender policy board must  
12 review and make findings and recommendations regarding the following:

13 (a) Disclosure to the public of information compiled and  
14 submitted for the purposes of sex offender and kidnapping offender  
15 registries that is currently held by public agencies, including the  
16 relationship between chapter 42.56 RCW and RCW 4.24.550;

17 (b) Any other best practices adopted by or under consideration in  
18 other states regarding public disclosure of information compiled and  
19 submitted for the purposes of sex offender and kidnapping offender  
20 registries;

21 (c) Ability of registered sex offenders and kidnapping offenders  
22 to petition for review of their assigned risk level classification  
23 and whether such a review process should be conducted according to a  
24 uniform statewide standard; and

25 (d) The guidelines established under RCW 4.24.5501 addressing sex  
26 offender community notification, including whether and how public  
27 access to the guidelines can be improved.

28 (2) The sex offender policy board must report its findings and  
29 recommendations pursuant to this section to the governor and to the  
30 appropriate committees of the legislature on or before December 1,  
31 2015.

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