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SECOND SUBSTITUTE HOUSE BILL 1214

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State of Washington

54th Legislature

1995 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Mitchell, Carrell, Lambert, Sheahan, McMahan, Huff, Buck, Hickel, Padden, Elliot, Delvin, Kremen, Johnson, Casada, Thompson, Backlund, Honeyford, Mulliken, Boldt and Van Luven)

Read first time 03/06/95.

1 AN ACT Relating to registration of sex offenders; amending RCW  
2 9A.44.130 and 9A.44.140; adding a new section to chapter 9A.44 RCW; and  
3 prescribing penalties.

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

5 **Sec. 1.** RCW 9A.44.130 and 1994 c 84 s 2 are each amended to read  
6 as follows:

7 (1) Any adult or juvenile residing in this state who has been found  
8 to have committed or has been convicted of any sex offense, or who has  
9 been found not guilty by reason of insanity under chapter 10.77 RCW of  
10 committing any sex offense, shall register with the county sheriff for  
11 the county of the person's residence.

12 (2) The person shall provide the county sheriff with the following  
13 information when registering: (a) Name; (b) address; (c) date and  
14 place of birth; (d) place of employment; (e) crime for which convicted;  
15 (f) date and place of conviction; (g) aliases used; and (h) social  
16 security number.

17 (3)(a) Sex offenders shall register within the following deadlines.  
18 For purposes of this section the term "conviction" refers to adult  
19 convictions and juvenile adjudications for sex offenses:

1 (i) SEX OFFENDERS IN CUSTODY. Sex offenders who committed a sex  
2 offense on, before, or after February 28, 1990, and who, on or after  
3 July 28, 1991, are in custody, as a result of that offense, of the  
4 state department of corrections, the state department of social and  
5 health services, a local division of youth services, or a local jail or  
6 juvenile detention facility, must register within twenty-four hours  
7 from the time of release with the county sheriff for the county of the  
8 person's residence. The agency that has jurisdiction over the offender  
9 shall provide notice to the sex offender of the duty to register.  
10 Failure to register within twenty-four hours of release constitutes a  
11 violation of this section and is punishable as provided in subsection  
12 (7) of this section.

13 (ii) SEX OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL  
14 JURISDICTION. Sex offenders, who, on July 28, 1991, are not in custody  
15 but are under the jurisdiction of the indeterminate sentence review  
16 board or under the department of correction's active supervision, as  
17 defined by the department of corrections, the state department of  
18 social and health services, or a local division of youth services, for  
19 sex offenses committed before, on, or after February 28, 1990, must  
20 register within ten days of July 28, 1991. A change in supervision  
21 status of a sex offender who was required to register under this  
22 subsection (3)(a)(ii) as of July 28, 1991, shall not relieve the  
23 offender of the duty to register or to reregister following a change in  
24 residence. The obligation to register shall only cease pursuant to RCW  
25 9A.44.140.

26 (iii) SEX OFFENDERS NOT IN CUSTODY BUT UNDER FEDERAL JURISDICTION.  
27 Sex offenders who, on July 23, 1995, are not in custody but are under  
28 the jurisdiction of the United States probation service's active  
29 supervision, as defined by the United States probation service, for sex  
30 offenses committed before, on, or after February 28, 1990, must  
31 register within ten days of July 23, 1995. A change in supervision  
32 status of a sex offender who was required to register under this  
33 subsection (3)(a)(iii) as of July 23, 1995, shall not relieve the  
34 offender of the duty to register or to reregister following a change in  
35 residence. The obligation to register shall only cease pursuant to RCW  
36 9A.44.140.

37 (iv) SEX OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex  
38 offenders who are convicted of a sex offense on or after July 28, 1991,  
39 for a sex offense that was committed on or after February 28, 1990, but

1 who are not sentenced to serve a term of confinement immediately upon  
2 sentencing, shall report to the county sheriff to register immediately  
3 upon completion of being sentenced.

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

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

1 receiving notice, constitutes a violation of this section and is  
2 punishable as provided in subsection (7) of this section.

3 (b) Failure to register within the time required under this section  
4 constitutes a per se violation of this section and is punishable as  
5 provided in subsection (7) of this section. The county sheriff shall  
6 not be required to determine whether the person is living within the  
7 county.

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

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

23 (4) If any person required to register pursuant to this section  
24 changes his or her residence address within the same county, the person  
25 must send written notice of the change of address to the county sheriff  
26 within ten days of (~~establishing the new residence~~) moving. If any  
27 person required to register pursuant to this section moves to a new  
28 county, the person must register with the county sheriff in the new  
29 county within ten days of (~~establishing the new residence~~) moving.  
30 The person must also send written notice within ten days of the change  
31 of address in the new county to the county sheriff with whom the person  
32 last registered. If any person required to register pursuant to this  
33 section moves out of Washington state, the person must also send  
34 written notice within ten days of moving to the new state or a foreign  
35 country to the county sheriff with whom the person last registered in  
36 Washington state.

37 (5) The county sheriff shall obtain a photograph of the individual  
38 and shall obtain a copy of the individual's fingerprints.

1 (6) "Sex offense" for the purpose of RCW 9A.44.130, 10.01.200,  
2 43.43.540, 70.48.470, and 72.09.330 means any offense defined as a sex  
3 offense by RCW 9.94A.030.

4 (7) A person who knowingly fails to register or who moves without  
5 notifying the county sheriff as required by this section is guilty of  
6 a class C felony (~~((if the crime for which the individual was convicted~~  
7 ~~was a class A felony or a federal or out-of-state conviction for an~~  
8 ~~offense that under the laws of this state would be a class A felony.~~  
9 ~~If the crime was other than a class A felony or a federal or out-of-~~  
10 ~~state conviction for an offense that under the laws of this state would~~  
11 ~~be a class A felony, violation of this section is a gross~~  
12 ~~misdemeanor))).~~

13 **Sec. 2.** RCW 9A.44.140 and 1991 c 274 s 3 are each amended to read  
14 as follows:

15 (1) The duty to register under RCW 9A.44.130 shall end:

16 (a) For a person convicted of a class A felony: Such person may  
17 only be relieved of the duty to register under subsection (2) or (3) of  
18 this section.

19 (b) For a person convicted of a class B felony: Fifteen years  
20 after the last date of release from confinement, if any, (including  
21 full-time residential treatment) pursuant to the conviction, or entry  
22 of the judgment and sentence, if the person has spent fifteen  
23 consecutive years in the community without being convicted of any new  
24 offenses.

25 (c) For a person convicted of a class C felony: Ten years after  
26 the last date of release from confinement, if any, (including full-time  
27 residential treatment) pursuant to the conviction, or entry of the  
28 judgment and sentence, if the person has spent ten consecutive years in  
29 the community without being convicted of any new offenses.

30 (d) The provisions of this subsection (1) shall apply equally to a  
31 person who has been found not guilty by reason of insanity under  
32 chapter 10.77 RCW of a sex offense.

33 (2) Any person having a duty to register under RCW 9A.44.130 may  
34 petition the superior court to be relieved of that duty. The petition  
35 shall be made to the court in which the petitioner was convicted of the  
36 offense that subjects him or her to the duty to register, or, in the  
37 case of convictions in other states or a foreign country, to the court  
38 in Thurston county. The prosecuting attorney of the county shall be

1 named and served as the respondent in any such petition. The court  
2 shall consider the nature of the registrable offense committed, and the  
3 criminal and relevant noncriminal behavior of the petitioner both  
4 before and after conviction, and may consider other factors. Except as  
5 provided in subsection (3) of this section, the court may relieve the  
6 petitioner of the duty to register only if the petitioner shows, with  
7 clear and convincing evidence, that future registration of the  
8 petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,  
9 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

10 (3) An offender having a duty to register under RCW 9A.44.130 for  
11 a sex offense committed when the offender was a juvenile may petition  
12 the superior court to be relieved of that duty. The court shall  
13 consider the nature of the registrable offense committed, and the  
14 criminal and relevant noncriminal behavior of the petitioner both  
15 before and after adjudication, and may consider other factors. The  
16 court may relieve the petitioner of the duty to register for a sex  
17 offense that was committed while the petitioner was fifteen years of  
18 age or older only if the petitioner shows, with clear and convincing  
19 evidence, that future registration of the petitioner will not serve the  
20 purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470,  
21 and 72.09.330. The court may relieve the petitioner of the duty to  
22 register for a sex offense that was committed while the petitioner was  
23 under the age of fifteen if the petitioner (a) has not been adjudicated  
24 of any additional sex offenses during the twenty-four months following  
25 the adjudication for the sex offense giving rise to the duty to  
26 register, and (b) the petitioner proves by a preponderance of the  
27 evidence that future registration of the petitioner will not serve the  
28 purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470,  
29 and 72.09.330.

30 (4) Unless relieved of the duty to register pursuant to this  
31 section, a violation of RCW 9A.44.130 is an ongoing offense for  
32 purposes of the statute of limitations under RCW 9A.04.080.

33 (5) Nothing in RCW 9.94A.220 relating to discharge of an offender  
34 shall be construed as operating to relieve the offender of his or her  
35 duty to register pursuant to RCW 9A.44.130.

36 NEW SECTION. **Sec. 3.** A new section is added to chapter 9A.44 RCW  
37 to read as follows:

1           When a sex offender registers with the county sheriff pursuant to  
2 RCW 9A.44.130, the county sheriff shall make reasonable attempts to  
3 verify that the sex offender is residing at the registered address.  
4 Reasonable attempts at verifying an address shall include at a minimum  
5 sending certified mail, with return receipt requested, to the sex  
6 offender at the registered address, and if the return receipt is not  
7 signed by the sex offender, talking in person with the residents living  
8 at the address. The sheriff shall make reasonable attempts to locate  
9 any sex offender who cannot be located at the registered address.

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