

---

HOUSE BILL 2764

---

State of Washington

55th Legislature

1998 Regular Session

By Representatives Ballasiotes, Koster, Quall, Conway, Tokuda and Costa; by request of Attorney General

Read first time 01/20/98. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to registration of individuals who have committed  
2 sex or kidnapping offenses; amending RCW 9A.44.135, 9A.44.140, and  
3 43.43.540; reenacting and amending RCW 9A.44.130; and declaring an  
4 emergency.

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

6 **Sec. 1.** RCW 9A.44.130 and 1997 c 340 s 3 and 1997 c 113 s 3 are  
7 each reenacted and amended to read as follows:

8 (1) Any adult or juvenile residing in this state who has been found  
9 to have committed or has been convicted of any sex offense or  
10 kidnapping offense, or who has been found not guilty by reason of  
11 insanity under chapter 10.77 RCW of committing any sex offense or  
12 kidnapping offense, shall register with the county sheriff for the  
13 county of the person's residence. Where a person required to register  
14 under this section is in custody of the state department of  
15 corrections, the state department of social and health services, a  
16 local division of youth services, or a local jail or juvenile detention  
17 facility as a result of a sex offense or kidnapping offense, the person  
18 shall also register at the time of release from custody with an

1 official designated by the agency that has jurisdiction over the  
2 person.

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

8 (3)(a) Offenders shall register within the following deadlines.  
9 For purposes of this section the term "conviction" refers to adult  
10 convictions and juvenile adjudications for sex offenses or kidnapping  
11 offenses:

12 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex  
13 offense on, before, or after February 28, 1990, and who, on or after  
14 July 28, 1991, are in custody, as a result of that offense, of the  
15 state department of corrections, the state department of social and  
16 health services, a local division of youth services, or a local jail or  
17 juvenile detention facility, and (B) kidnapping offenders who on or  
18 after July 27, 1997, are in custody of the state department of  
19 corrections, the state department of social and health services, a  
20 local division of youth services, or a local jail or juvenile detention  
21 facility, must register at the time of release from custody with an  
22 official designated by the agency that has jurisdiction over the  
23 offender. The agency shall within three days forward the registration  
24 information to the county sheriff for the county of the offender's  
25 anticipated residence. The offender must also register within twenty-  
26 four hours from the time of release with the county sheriff for the  
27 county of the person's residence. The agency that has jurisdiction  
28 over the offender shall provide notice to the offender of the duty to  
29 register. Failure to register at the time of release and within  
30 twenty-four hours of release constitutes a violation of this section  
31 and is punishable as provided in subsection (7) of this section.

32 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL  
33 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody  
34 but are under the jurisdiction of the indeterminate sentence review  
35 board or under the department of correction's active supervision, as  
36 defined by the department of corrections, the state department of  
37 social and health services, or a local division of youth services, for  
38 sex offenses committed before, on, or after February 28, 1990, must  
39 register within ten days of July 28, 1991. Kidnapping offenders who,

1 on July 27, 1997, are not in custody but are under the jurisdiction of  
2 the indeterminate sentence review board or under the department of  
3 correction's active supervision, as defined by the department of  
4 corrections, the state department of social and health services, or a  
5 local division of youth services, for kidnapping offenses committed  
6 before, on, or after July 27, 1997, must register within ten days of  
7 July 27, 1997. A change in supervision status of a sex offender who  
8 was required to register under this subsection (3)(a)(ii) as of July  
9 28, 1991, or a kidnapping offender required to register as of July 27,  
10 1997, shall not relieve the offender of the duty to register or to  
11 reregister following a change in residence. The obligation to register  
12 shall only cease pursuant to RCW 9A.44.140.

13 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on  
14 or after July 23, 1995, and kidnapping offenders who, on or after July  
15 27, 1997, as a result of that offense are in the custody of the United  
16 States bureau of prisons or other federal or military correctional  
17 agency for sex offenses committed before, on, or after February 28,  
18 1990, or kidnapping offenses committed on, before, or after July 27,  
19 1997, must register within twenty-four hours from the time of release  
20 with the county sheriff for the county of the person's residence. Sex  
21 offenders who, on July 23, 1995, are not in custody but are under the  
22 jurisdiction of the United States bureau of prisons, United States  
23 courts, United States parole commission, or military parole board for  
24 sex offenses committed before, on, or after February 28, 1990, must  
25 register within ten days of July 23, 1995. Kidnapping offenders who,  
26 on July 27, 1997, are not in custody but are under the jurisdiction of  
27 the United States bureau of prisons, United States courts, United  
28 States parole commission, or military parole board for kidnapping  
29 offenses committed before, on, or after July 27, 1997, must register  
30 within ten days of July 27, 1997. A change in supervision status of a  
31 sex offender who was required to register under this subsection  
32 (3)(a)(iii) as of July 23, 1995, or a kidnapping offender required to  
33 register as of July 27, 1997 shall not relieve the offender of the duty  
34 to register or to reregister following a change in residence. The  
35 obligation to register shall only cease pursuant to RCW 9A.44.140.

36 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders  
37 who are convicted of a sex offense on or after July 28, 1991, for a sex  
38 offense that was committed on or after February 28, 1990, and  
39 kidnapping offenders who are convicted on or after July 27, 1997, for

1 a kidnapping offense that was committed on or after July 27, 1997, but  
2 who are not sentenced to serve a term of confinement immediately upon  
3 sentencing, shall report to the county sheriff to register immediately  
4 upon completion of being sentenced.

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

26 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult  
27 or juvenile who has been found not guilty by reason of insanity under  
28 chapter 10.77 RCW of (A) committing a sex offense on, before, or after  
29 February 28, 1990, and who, on or after July 23, 1995, is in custody,  
30 as a result of that finding, of the state department of social and  
31 health services, or (B) committing a kidnapping offense on, before, or  
32 after July 27, 1997, and who on or after July 27, 1997, is in custody,  
33 as a result of that finding, of the state department of social and  
34 health services, must register within twenty-four hours from the time  
35 of release with the county sheriff for the county of the person's  
36 residence. The state department of social and health services shall  
37 provide notice to the adult or juvenile in its custody of the duty to  
38 register. Any adult or juvenile who has been found not guilty by  
39 reason of insanity of committing a sex offense on, before, or after

1 February 28, 1990, but who was released before July 23, 1995, or any  
2 adult or juvenile who has been found not guilty by reason of insanity  
3 of committing a kidnapping offense but who was released before July 27,  
4 1997, shall be required to register within twenty-four hours of  
5 receiving notice of this registration requirement. The state  
6 department of social and health services shall make reasonable attempts  
7 within available resources to notify sex offenders who were released  
8 before July 23, 1995, and kidnapping offenders who were released before  
9 July 27, 1997. Failure to register within twenty-four hours of  
10 release, or of receiving notice, constitutes a violation of this  
11 section and is punishable as provided in subsection (7) of this  
12 section.

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

18 (c) An arrest on charges of failure to register, service of an  
19 information, or a complaint for a violation of this section, or  
20 arraignment on charges for a violation of this section, constitutes  
21 actual notice of the duty to register. Any person charged with the  
22 crime of failure to register under this section who asserts as a  
23 defense the lack of notice of the duty to register shall register  
24 immediately following actual notice of the duty through arrest,  
25 service, or arraignment. Failure to register as required under this  
26 subsection (c) constitutes grounds for filing another charge of failing  
27 to register. Registering following arrest, service, or arraignment on  
28 charges shall not relieve the offender from criminal liability for  
29 failure to register prior to the filing of the original charge.

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

33 (4)(a) If any person required to register pursuant to this section  
34 changes his or her residence address within the same county, the person  
35 must send written notice of the change of address to the county sheriff  
36 at least fourteen days before moving. If any person required to  
37 register pursuant to this section moves to a new county, the person  
38 must send written notice of the change of address at least fourteen  
39 days before moving to the county sheriff in the new county of residence

1 and must register with that county sheriff within twenty-four hours of  
2 moving. The person must also send written notice within ten days of  
3 the change of address in the new county to the county sheriff with whom  
4 the person last registered. The county sheriff with whom the person  
5 last registered shall promptly forward the information concerning the  
6 change of address to the county sheriff for the county of the person's  
7 new residence. If any person required to register pursuant to this  
8 section moves out of Washington state, the person must also send  
9 written notice within ten days of moving to the new state or a foreign  
10 country to the county sheriff with whom the person last registered in  
11 Washington state. Within ten days of receipt of notice of change of  
12 address to a new state, the county sheriff shall forward the  
13 information regarding the change of address to the agency designated by  
14 the new state as the state's offender registration agency.

15 (b) It is an affirmative defense to a charge that the person failed  
16 to send a notice at least fourteen days in advance of moving as  
17 required under (a) of this subsection that the person did not know the  
18 location of his or her new residence at least fourteen days before  
19 moving. The defendant must establish the defense by a preponderance of  
20 the evidence and, to prevail on the defense, must also prove by a  
21 preponderance that the defendant sent the required notice within  
22 twenty-four hours of determining the new address.

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

25 (6) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,  
26 70.48.470, and 72.09.330:

27 (a) "Sex offense" means any offense defined as a sex offense by RCW  
28 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation of a  
29 minor), 9.68A.050 (dealing in depictions of minor engaged in sexually  
30 explicit conduct), 9.68A.060 (sending, bringing into state depictions  
31 of minor engaged in sexually explicit conduct), 9.68A.070 (possession  
32 of depictions of minor engaged in sexually explicit conduct), 9.68A.090  
33 (communication with minor for immoral purposes), 9.68A.100 (patronizing  
34 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in  
35 the second degree), as well as any gross misdemeanor that is, under  
36 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or  
37 criminal conspiracy to commit an offense that is classified as a sex  
38 offense under RCW 9.94A.030.

1 (b) "Kidnapping offense" means the crimes of kidnapping in the  
2 first degree, kidnapping in the second degree, and unlawful  
3 imprisonment as defined in chapter 9A.40 RCW, where the victim is a  
4 minor and the offender is not the minor's parent.

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

13 **Sec. 2.** RCW 9A.44.135 and 1995 c 248 s 3 are each amended to read  
14 as follows:

15 (1) When ((a-sex)) an offender registers with the county sheriff  
16 pursuant to RCW 9A.44.130, the county sheriff shall make reasonable  
17 attempts to verify that the ((sex)) offender is residing at the  
18 registered address. Reasonable attempts at verifying an address shall  
19 include at a minimum ((sending certified mail, with return receipt  
20 requested, to the sex offender at the registered address, and if the  
21 return receipt is not signed by the sex offender, talking in person  
22 with the residents living at the address))):

23 (a) Each year the county sheriff shall send by certified mail, with  
24 return receipt requested, a nonforwardable verification form to the  
25 offender at the offender's last registered address.

26 (b) The offender must sign the verification form, state on the form  
27 whether he or she still resides at the last registered address, and  
28 return the form to the county sheriff within ten days after receipt of  
29 the form. When returning the form, the offender shall appear at the  
30 office of the county sheriff to provide a copy of his or her  
31 fingerprints and a current photograph.

32 (2) The sheriff shall make reasonable attempts to locate any sex  
33 offender who fails to return the verification form or who cannot be  
34 located at the registered address. If the offender fails to return the  
35 verification form or the offender is not at the last registered  
36 address, the county sheriff shall promptly forward this information to  
37 the Washington state patrol for inclusion in the central registry of  
38 sex offenders.

1       **Sec. 3.** RCW 9A.44.140 and 1997 c 113 s 4 are each amended to read  
2 as follows:

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

4       (a) For a person convicted of a class A felony, or a person  
5 convicted of any sex offense or kidnapping offense who has one or more  
6 prior conviction for a sex offense or kidnapping offense: Such person  
7 may only be relieved of the duty to register under subsection (3) or  
8 (4) of this section.

9       (b) For a person convicted of a class B felony, and the person does  
10 not have one or more prior conviction for a sex offense or kidnapping  
11 offense: Fifteen years after the last date of release from  
12 confinement, if any, (including full-time residential treatment)  
13 pursuant to the conviction, or entry of the judgment and sentence, if  
14 the person has spent fifteen consecutive years in the community without  
15 being convicted of any new offenses.

16       (c) For a person convicted of a class C felony, a violation of RCW  
17 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to  
18 commit a class C felony, and the person does not have one or more prior  
19 conviction for a sex offense or kidnapping offense: Ten years after  
20 the last date of release from confinement, if any, (including full-time  
21 residential treatment) pursuant to the conviction, or entry of the  
22 judgment and sentence, if the person has spent ten consecutive years in  
23 the community without being convicted of any new offenses.

24       (2) The provisions of subsection (1) of this section shall apply  
25 equally to a person who has been found not guilty by reason of insanity  
26 under chapter 10.77 RCW of a sex offense or kidnapping offense.

27       (3) Any person having a duty to register under RCW 9A.44.130 may  
28 petition the superior court to be relieved of that duty, if the person  
29 has spent ten consecutive years in the community without being  
30 convicted of any new offenses. The petition shall be made to the court  
31 in which the petitioner was convicted of the offense that subjects him  
32 or her to the duty to register, or, in the case of convictions in other  
33 states, a foreign country, or a federal or military court, to the court  
34 in Thurston county. The prosecuting attorney of the county shall be  
35 named and served as the respondent in any such petition. The court  
36 shall consider the nature of the registrable offense committed, and the  
37 criminal and relevant noncriminal behavior of the petitioner both  
38 before and after conviction, and may consider other factors. Except as  
39 provided in subsection (4) of this section, the court may relieve the

1 petitioner of the duty to register only if the petitioner shows, with  
2 clear and convincing evidence, that future registration of the  
3 petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,  
4 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

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

26 (5) Unless relieved of the duty to register pursuant to this  
27 section, a violation of RCW 9A.44.130 is an ongoing offense for  
28 purposes of the statute of limitations under RCW 9A.04.080.

29 (6) Nothing in RCW 9.94A.220 relating to discharge of an offender  
30 shall be construed as operating to relieve the offender of his or her  
31 duty to register pursuant to RCW 9A.44.130.

32 **Sec. 4.** RCW 43.43.540 and 1997 c 113 s 6 are each amended to read  
33 as follows:

34 The county sheriff shall forward the information, photographs, and  
35 fingerprints obtained pursuant to RCW 9A.44.130, including any notice  
36 of change of address, to the Washington state patrol within ((five))  
37 three working days. The state patrol shall maintain a central registry  
38 of sex offenders and kidnapping offenders required to register under

1 RCW 9A.44.130 and shall adopt rules consistent with chapters 10.97,  
2 10.98, and 43.43 RCW as are necessary to carry out the purposes of RCW  
3 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and  
4 72.09.330. The Washington state patrol shall reimburse the counties  
5 for the costs of processing the offender registration, including taking  
6 the fingerprints and the photographs.

7 NEW SECTION. **Sec. 5.** If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected.

11 NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
12 preservation of the public peace, health, or safety, or support of the  
13 state government and its existing public institutions, and takes effect  
14 immediately.

--- END ---