

HB 1836 - S COMM AMD

By Committee on Human Services & Corrections

1 Strike everything after the enacting clause and insert the
2 following:

3 "**Sec. 1.** RCW 9A.44.130 and 2006 c 129 s 2, 2006 c 128 s 2, 2006 c
4 127 s 2, and 2006 c 126 s 2 are each reenacted and amended to read as
5 follows:

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

22 (b) Any adult or juvenile who is required to register under (a) of
23 this subsection:

24 (i) Who is attending, or planning to attend, a public or private
25 school regulated under Title 28A RCW or chapter 72.40 RCW shall, within
26 ten days of enrolling or prior to arriving at the school to attend
27 classes, whichever is earlier, notify the sheriff for the county of the
28 person's residence of the person's intent to attend the school, and the
29 sheriff shall promptly notify the principal of the school;

1 (ii) Who is admitted to a public or private institution of higher
2 education shall, within ten days of enrolling or by the first business
3 day after arriving at the institution, whichever is earlier, notify the
4 sheriff for the county of the person's residence of the person's intent
5 to attend the institution;

6 (iii) Who gains employment at a public or private institution of
7 higher education shall, within ten days of accepting employment or by
8 the first business day after commencing work at the institution,
9 whichever is earlier, notify the sheriff for the county of the person's
10 residence of the person's employment by the institution; or

11 (iv) Whose enrollment or employment at a public or private
12 institution of higher education is terminated shall, within ten days of
13 such termination, notify the sheriff for the county of the person's
14 residence of the person's termination of enrollment or employment at
15 the institution.

16 (c) Persons required to register under this section who are
17 enrolled in a public or private institution of higher education on June
18 11, 1998, or a public or private school regulated under Title 28A RCW
19 or chapter 72.40 RCW on September 1, 2006, must notify the county
20 sheriff immediately.

21 (d) The sheriff shall notify the school's principal or
22 institution's department of public safety and shall provide that
23 department with the same information provided to a county sheriff under
24 subsection (3) of this section.

25 (e)(i) A principal receiving notice under this subsection must
26 disclose the information received from the sheriff under (b) of this
27 subsection as follows:

28 (A) If the student who is required to register as a sex offender is
29 classified as a risk level II or III, the principal shall provide the
30 information received to every teacher of any student required to
31 register under (a) of this subsection and to any other personnel who,
32 in the judgment of the principal, supervises the student or for
33 security purposes should be aware of the student's record;

34 (B) If the student who is required to register as a sex offender is
35 classified as a risk level I, the principal shall provide the
36 information received only to personnel who, in the judgment of the
37 principal, for security purposes should be aware of the student's
38 record.

1 (ii) Any information received by a principal or school personnel
2 under this subsection is confidential and may not be further
3 disseminated except as provided in RCW 28A.225.330, other statutes or
4 case law, and the family and educational and privacy rights act of
5 1994, 20 U.S.C. Sec. 1232g et seq.

6 (2) This section may not be construed to confer any powers pursuant
7 to RCW 4.24.550 upon the public safety department of any public or
8 private school or institution of higher education.

9 (3)(a) The person shall provide the following information when
10 registering: (i) Name; (ii) complete residential address; (iii) date
11 and place of birth; (iv) place of employment; (v) crime for which
12 convicted; (vi) date and place of conviction; (vii) aliases used;
13 (viii) social security number; (ix) photograph; and (x) fingerprints.

14 (b) Any person who lacks a fixed residence shall provide the
15 following information when registering: (i) Name; (ii) date and place
16 of birth; (iii) place of employment; (iv) crime for which convicted;
17 (v) date and place of conviction; (vi) aliases used; (vii) social
18 security number; (viii) photograph; (ix) fingerprints; and (x) where he
19 or she plans to stay.

20 (4)(a) Offenders shall register with the county sheriff within the
21 following deadlines. For purposes of this section the term
22 "conviction" refers to adult convictions and juvenile adjudications for
23 sex offenses or kidnapping offenses:

24 (i) OFFENDERS IN CUSTODY. (A)(I) Sex offenders who committed a sex
25 offense on, before, or after February 28, 1990, and who, on or after
26 July 28, 1991, are in the custody(~~(, as a result of that offense,)~~) of
27 the state department of corrections, the state department of social and
28 health services, a local division of youth services, or a local jail or
29 juvenile detention facility, and ((+B+)) (II) kidnapping offenders who
30 on or after July 27, 1997, are in custody of the state department of
31 corrections, the state department of social and health services, a
32 local division of youth services, or a local jail or juvenile detention
33 facility, must register at the time of release from custody with an
34 official designated by the agency that has jurisdiction over the
35 offender. The agency shall within three days forward the registration
36 information to the county sheriff for the county of the offender's
37 anticipated residence. The offender must also register within twenty-
38 four hours from the time of release with the county sheriff for the

1 county of the person's residence, or if the person is not a resident of
2 Washington, the county of the person's school, or place of employment
3 or vocation. The agency that has jurisdiction over the offender shall
4 provide notice to the offender of the duty to register. Failure to
5 register at the time of release and within twenty-four hours of release
6 constitutes a violation of this section and is punishable as provided
7 in subsection (11) of this section.

8 (B) The requirements of this subsection (4)(a)(i) apply any time a
9 sex or kidnapping offender who is required to register under this
10 section is released from custody, regardless of whether the offender is
11 in custody for the offense that created the duty to register, an
12 offense that is not a sex or kidnapping offense, or a sanction
13 resulting from a violation of community custody.

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

24 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
25 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
26 but are under the jurisdiction of the indeterminate sentence review
27 board or under the department of corrections' active supervision, as
28 defined by the department of corrections, the state department of
29 social and health services, or a local division of youth services, for
30 sex offenses committed before, on, or after February 28, 1990, must
31 register within ten days of July 28, 1991. Kidnapping offenders who,
32 on July 27, 1997, are not in custody but are under the jurisdiction of
33 the indeterminate sentence review board or under the department of
34 corrections' active supervision, as defined by the department of
35 corrections, the state department of social and health services, or a
36 local division of youth services, for kidnapping offenses committed
37 before, on, or after July 27, 1997, must register within ten days of
38 July 27, 1997. A change in supervision status of a sex offender who

1 was required to register under this subsection (4)(a)(ii) as of July
2 28, 1991, or a kidnapping offender required to register as of July 27,
3 1997, shall not relieve the offender of the duty to register or to
4 reregister following a change in residence. The obligation to register
5 shall only cease pursuant to RCW 9A.44.140.

6 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
7 or after July 23, 1995, and kidnapping offenders who, on or after July
8 27, 1997, as a result of that offense are in the custody of the United
9 States bureau of prisons or other federal or military correctional
10 agency for sex offenses committed before, on, or after February 28,
11 1990, or kidnapping offenses committed on, before, or after July 27,
12 1997, must register within twenty-four hours from the time of release
13 with the county sheriff for the county of the person's residence, or if
14 the person is not a resident of Washington, the county of the person's
15 school, or place of employment or vocation. Sex offenders who, on July
16 23, 1995, are not in custody but are under the jurisdiction of the
17 United States bureau of prisons, United States courts, United States
18 parole commission, or military parole board for sex offenses committed
19 before, on, or after February 28, 1990, must register within ten days
20 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not
21 in custody but are under the jurisdiction of the United States bureau
22 of prisons, United States courts, United States parole commission, or
23 military parole board for kidnapping offenses committed before, on, or
24 after July 27, 1997, must register within ten days of July 27, 1997.
25 A change in supervision status of a sex offender who was required to
26 register under this subsection (4)(a)(iii) as of July 23, 1995, or a
27 kidnapping offender required to register as of July 27, 1997 shall not
28 relieve the offender of the duty to register or to reregister following
29 a change in residence, or if the person is not a resident of
30 Washington, the county of the person's school, or place of employment
31 or vocation. The obligation to register shall only cease pursuant to
32 RCW 9A.44.140.

33 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
34 who are convicted of a sex offense on or after July 28, 1991, for a sex
35 offense that was committed on or after February 28, 1990, and
36 kidnapping offenders who are convicted on or after July 27, 1997, for
37 a kidnapping offense that was committed on or after July 27, 1997, 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 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
5 RESIDENTS. Sex offenders and kidnapping offenders who move to
6 Washington state from another state or a foreign country that are not
7 under the jurisdiction of the state department of corrections, the
8 indeterminate sentence review board, or the state department of social
9 and health services at the time of moving to Washington, must register
10 within three business 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 or military
14 statutes for offenses committed before, on, or after February 28, 1990,
15 or Washington state for offenses committed before, 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 before, on, or after July 27,
19 1997. Sex offenders and kidnapping offenders from other states or a
20 foreign country who, when they move to Washington, are under the
21 jurisdiction of the department of corrections, the indeterminate
22 sentence review board, or the department of social and health services
23 must register within twenty-four hours of moving to Washington. The
24 agency that has jurisdiction over the offender shall notify the
25 offender of the registration requirements before the offender moves to
26 Washington.

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

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

15 (vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks
16 a fixed residence and leaves the county in which he or she is
17 registered and enters and remains within a new county for twenty-four
18 hours is required to register with the county sheriff not more than
19 twenty-four hours after entering the county and provide the information
20 required in subsection (3)(b) of this section.

21 (viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER
22 SUPERVISION. Offenders who lack a fixed residence and who are under
23 the supervision of the department shall register in the county of their
24 supervision.

25 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND
26 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,
27 who move to another state, or who work, carry on a vocation, or attend
28 school in another state shall register a new address, fingerprints, and
29 photograph with the new state within ten days after establishing
30 residence, or after beginning to work, carry on a vocation, or attend
31 school in the new state. The person must also send written notice
32 within ten days of moving to the new state or to a foreign country to
33 the county sheriff with whom the person last registered in Washington
34 state. The county sheriff shall promptly forward this information to
35 the Washington state patrol.

36 (b) Failure to register within the time required under this section
37 constitutes a per se violation of this section and is punishable as

1 provided in subsection (11) of this section. The county sheriff shall
2 not be required to determine whether the person is living within the
3 county.

4 (c) An arrest on charges of failure to register, service of an
5 information, or a complaint for a violation of this section, or
6 arraignment on charges for a violation of this section, constitutes
7 actual notice of the duty to register. Any person charged with the
8 crime of failure to register under this section who asserts as a
9 defense the lack of notice of the duty to register shall register
10 immediately following actual notice of the duty through arrest,
11 service, or arraignment. Failure to register as required under this
12 subsection (4)(c) constitutes grounds for filing another charge of
13 failing to register. Registering following arrest, service, or
14 arraignment on charges shall not relieve the offender from criminal
15 liability for failure to register prior to the filing of the original
16 charge.

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

20 (5)(a) If any person required to register pursuant to this section
21 changes his or her residence address within the same county, the person
22 must send signed written notice of the change of address to the county
23 sheriff within seventy-two hours of moving. If any person required to
24 register pursuant to this section moves to a new county, the person
25 must send signed written notice of the change of address at least
26 fourteen days before moving to the county sheriff in the new county of
27 residence and must register with that county sheriff within twenty-four
28 hours of moving. The person must also send signed written notice
29 within ten days of the change of address in the new county to the
30 county sheriff with whom the person last registered. The county
31 sheriff with whom the person last registered shall promptly forward the
32 information concerning the change of address to the county sheriff for
33 the county of the person's new residence. Upon receipt of notice of
34 change of address to a new state, the county sheriff shall promptly
35 forward the information regarding the change of address to the agency
36 designated by the new state as the state's offender registration
37 agency.

1 (b) It is an affirmative defense to a charge that the person failed
2 to send a notice at least fourteen days in advance of moving as
3 required under (a) of this subsection that the person did not know the
4 location of his or her new residence at least fourteen days before
5 moving. The defendant must establish the defense by a preponderance of
6 the evidence and, to prevail on the defense, must also prove by a
7 preponderance that the defendant sent the required notice within
8 twenty-four hours of determining the new address.

9 (6)(a) Any person required to register under this section who lacks
10 a fixed residence shall provide signed written notice to the sheriff of
11 the county where he or she last registered within forty-eight hours
12 excluding weekends and holidays after ceasing to have a fixed
13 residence. The notice shall include the information required by
14 subsection (3)(b) of this section, except the photograph and
15 fingerprints. The county sheriff may, for reasonable cause, require
16 the offender to provide a photograph and fingerprints. The sheriff
17 shall forward this information to the sheriff of the county in which
18 the person intends to reside, if the person intends to reside in
19 another county.

20 (b) A person who lacks a fixed residence must report weekly, in
21 person, to the sheriff of the county where he or she is registered.
22 The weekly report shall be on a day specified by the county sheriff's
23 office, and shall occur during normal business hours. The county
24 sheriff's office may require the person to list the locations where the
25 person has stayed during the last seven days. The lack of a fixed
26 residence is a factor that may be considered in determining an
27 offender's risk level and shall make the offender subject to disclosure
28 of information to the public at large pursuant to RCW 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 forty-eight hours excluding weekends and holidays after ceasing to have
34 a fixed residence and has subsequently complied with the requirements
35 of subsections (4)(a)(vii) or (viii) and (6) of this section. To
36 prevail, the person must prove the defense by a preponderance of the
37 evidence.

1 (7) All offenders who are required to register pursuant to this
2 section who have a fixed residence and who are designated as a risk
3 level II or III must report, in person, every ninety days to the
4 sheriff of the county where he or she is registered. Reporting shall
5 be on a day specified by the county sheriff's office, and shall occur
6 during normal business hours. An offender who complies with the
7 ninety-day reporting requirement with no violations for a period of at
8 least five years in the community may petition the superior court to be
9 relieved of the duty to report every ninety days. The petition shall
10 be made to the superior court in the county where the offender resides
11 or reports under this section. The prosecuting attorney of the county
12 shall be named and served as respondent in any such petition. The
13 court shall relieve the petitioner of the duty to report if the
14 petitioner shows, by a preponderance of the evidence, that the
15 petitioner has complied with the reporting requirement for a period of
16 at least five years and that the offender has not been convicted of a
17 criminal violation of this section for a period of at least five years,
18 and the court determines that the reporting no longer serves a public
19 safety purpose. Failure to report, as specified, constitutes a
20 violation of this section and is punishable as provided in subsection
21 (11) of this section.

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

1 (9) The county sheriff shall obtain a photograph of the individual
2 and shall obtain a copy of the individual's fingerprints. A photograph
3 may be taken at any time to update an individual's file.

4 (10) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
5 70.48.470, and 72.09.330:

6 (a) "Sex offense" means:

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

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

10 (iii) Any violation under RCW 9.68A.090 (communication with a minor
11 for immoral purposes);

12 (iv) Any federal or out-of-state conviction for an offense that
13 under the laws of this state would be classified as a sex offense under
14 this subsection; and

15 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
16 criminal attempt, criminal solicitation, or criminal conspiracy to
17 commit an offense that is classified as a sex offense under RCW
18 9.94A.030 or this subsection.

19 (b) "Kidnapping offense" means: (i) The crimes of kidnapping in
20 the first degree, kidnapping in the second degree, and unlawful
21 imprisonment, as defined in chapter 9A.40 RCW, where the victim is a
22 minor and the offender is not the minor's parent; (ii) any offense that
23 is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation,
24 or criminal conspiracy to commit an offense that is classified as a
25 kidnapping offense under this subsection (10)(b); and (iii) any federal
26 or out-of-state conviction for an offense that under the laws of this
27 state would be classified as a kidnapping offense under this subsection
28 (10)(b).

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

35 (d) "Student" means a person who is enrolled, on a full-time or
36 part-time basis, in any public or private educational institution. An
37 educational institution includes any secondary school, trade or
38 professional institution, or institution of higher education.

1 (11)(a) A person who knowingly fails to comply with any of the
2 requirements of this section is guilty of a class C felony if the crime
3 for which the individual was convicted was a felony sex offense as
4 defined in subsection (10)(a) of this section or a federal or out-of-
5 state conviction for an offense that under the laws of this state would
6 be a felony sex offense as defined in subsection (10)(a) of this
7 section.

8 (b) If the crime for which the individual was convicted was other
9 than a felony or a federal or out-of-state conviction for an offense
10 that under the laws of this state would be other than a felony,
11 violation of this section is a gross misdemeanor.

12 (12)(a) A person who knowingly fails to comply with any of the
13 requirements of this section is guilty of a class C felony if the crime
14 for which the individual was convicted was a felony kidnapping offense
15 as defined in subsection (10)(b) of this section or a federal or out-
16 of-state conviction for an offense that under the laws of this state
17 would be a felony kidnapping offense as defined in subsection (10)(b)
18 of this section.

19 (b) If the crime for which the individual was convicted was other
20 than a felony or a federal or out-of-state conviction for an offense
21 that under the laws of this state would be other than a felony,
22 violation of this section is a gross misdemeanor.

23 (13) Except as may otherwise be provided by law, nothing in this
24 section shall impose any liability upon a peace officer, including a
25 county sheriff, or law enforcement agency, for failing to release
26 information authorized under this section."

HB 1836 - S COMM AMD
By Committee on Human Services & Corrections

27 On page 1, line 3 of the title, after "offense;" strike the
28 remainder of the title and insert "and reenacting and amending RCW
29 9A.44.130."

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