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**SUBSTITUTE HOUSE BILL 1072**

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**State of Washington**

**61st Legislature**

**2010 Regular Session**

**By** House Public Safety & Emergency Preparedness (originally sponsored by Representatives Simpson, Kelley, Pearson, Chase, Van De Wege, Hudgins, Seaquist, Morrell, and Williams)

READ FIRST TIME 01/29/10.

1       AN ACT Relating to prohibiting certain sex offenders on community  
2 custody from accessing the internet; and adding new sections to chapter  
3 9.94A RCW.

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

5       NEW SECTION.   **Sec. 1.** (1) In a prosecution for a sex offense, the  
6 prosecuting attorney shall file a special allegation of internet  
7 facilitation whenever sufficient admissible evidence exists, which,  
8 when considered with the most plausible, reasonably foreseeable defense  
9 that could be raised under the evidence, would justify a finding by a  
10 reasonable and objective fact-finder that the defendant used the  
11 internet to facilitate the commission of the offense.

12       (2) Once a special allegation has been made under this section, the  
13 state has the burden to prove beyond a reasonable doubt that the  
14 defendant used the internet to facilitate the commission of the  
15 offense. If a jury is had, the jury shall, if it finds the defendant  
16 guilty, also find a special verdict as to whether the defendant used  
17 the internet to facilitate the commission of the offense. If no jury  
18 is had, the court shall make a finding of fact as to whether the

1 defendant used the internet to facilitate the commission of the  
2 offense.

3 (3) The prosecuting attorney shall not withdraw a special  
4 allegation filed under this section without the approval of the court  
5 through an order of dismissal of the allegation. The court may not  
6 dismiss the special allegation unless it finds that the order is  
7 necessary to correct an error in the initial charging decision or that  
8 there are evidentiary problems that make proving the special allegation  
9 doubtful.

10 (4) For the purposes of this section, "internet facilitation" and  
11 "used the internet to facilitate the commission of the offense" mean  
12 that the defendant used a specific internet protocol address or  
13 handheld wireless device to visit or log onto an internet site or sites  
14 to locate, stalk, or communicate with the victim of the crime.

15 NEW SECTION. **Sec. 2.** When sentencing an offender convicted of a  
16 sex offense committed on or after the effective date of this section  
17 with a finding of internet facilitation under section 1 of this act,  
18 the court, as a condition of any term of community custody imposed  
19 under RCW 9.94A.507, 9.94A.545, 9.94A.670, or 9.94A.715, shall:

20 (1) Prohibit the offender from accessing or using a computer, or  
21 any other device with internet capability, without the prior written  
22 approval of the department;

23 (2) Require the offender to submit to unannounced inspections of  
24 his or her computer, or any other device with internet capability, by  
25 a community corrections officer or a computer or information technology  
26 specialist employed by, or under contract with, the department. The  
27 inspection may include, but is not limited to, the retrieval and  
28 copying of all data from the computer or device and any internal or  
29 external peripherals, and removal of the data, computer, device, or  
30 peripheral, to conduct a more thorough inspection;

31 (3) Require the offender to submit to the installation on the  
32 offender's computer or other device with internet capability, at the  
33 offender's expense, one or more hardware or software systems to monitor  
34 the offender's internet use; and

35 (4) Require the offender to submit to any other appropriate  
36 restrictions, as determined by the department, concerning his or her  
37 use or access to a computer or other device with internet capability.

1        NEW SECTION.   **Sec. 3.**   Sections 1 and 2 of this act are each added  
2   to chapter 9.94A RCW.

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