

SSB 5204 - H AMD TO WAYS COMM AMD (H2472.1/11) **606**

By Representative Pearson

WITHDRAWN 04/09/2011

1 On page 19, after line 22 of the striking amendment, insert the
2 following:

3 "Sec. 7. RCW 9A.44.130 and 2010 c 267 s 2 and 2010 c 265 s 1 are
4 each reenacted and amended to read as follows:

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

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

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

3 (ii) Who is admitted to a public or private institution of higher
4 education shall, within three business days prior to arriving at the
5 institution, notify the sheriff for the county of the person's
6 residence of the person's intent to attend the institution;

7 (iii) Who gains employment at a public or private institution of
8 higher education shall, within three business days prior to commencing
9 work at the institution, notify the sheriff for the county of the
10 person's 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 three
13 business days of such termination, notify the sheriff for the county
14 of the person's residence of the person's termination of enrollment or
15 employment at the institution.

16 (c) The sheriff shall notify the school district and the school's
17 principal or the institution's department of public safety and shall
18 provide (~~that department with~~) the same information provided to a
19 county sheriff under subsection (~~(+3)~~) (2) of this section.

20 (~~(d)(i) A principal receiving notice under this subsection must~~
21 ~~disclose the information received from the sheriff under (b) of this~~
22 ~~subsection as follows:~~

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

29 ~~(B) If the student who is required to register as a sex offender~~
30 ~~is classified as a risk level I, the principal shall provide the~~
31 ~~information received only to personnel who, in the judgment of the~~
32 ~~principal, for security purposes should be aware of the student's~~
33 ~~record.~~

34 ~~(ii) Any information received by a principal or school personnel~~

1 ~~under this subsection is confidential and may not be further~~
2 ~~disseminated except as provided in RCW 28A.225.330, other statutes or~~
3 ~~case law, and the family and educational and privacy rights act of~~
4 ~~1994, 20 U.S.C. Sec. 1232g et seq.~~

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

8 ~~((3))~~ (2)(a) The person shall provide the following information
9 when registering: (i) Name; (ii) complete residential address; (iii)
10 date and place of birth; (iv) place of employment; (v) crime for which
11 convicted; (vi) date and place of conviction; (vii) sentence imposed
12 for conviction; (viii) aliases used; ~~((viii))~~ (ix) social security
13 number; ~~((ix))~~ (x) photograph; and ~~((x))~~ (xi) 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) sentence imposed for
18 conviction; (vii) aliases used; ~~((vii))~~ (viii) social security
19 number; ~~((viii))~~ (ix) photograph; ~~((ix))~~ (x) fingerprints; and
20 ~~((x))~~ (xi) where he or she plans to stay.

21 ~~((4))~~ (3)(a) Offenders shall register with the county sheriff
22 within the following deadlines:

23 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
24 offense on, before, or after February 28, 1990, and who, on or after
25 July 28, 1991, are in custody, as a result of that offense, of the
26 state department of corrections, the state department of social and
27 health services, a local division of youth services, or a local jail
28 or juvenile detention facility, and (B) kidnapping offenders who on or
29 after July 27, 1997, are in custody of the state department of
30 corrections, the state department of social and health services, a
31 local division of youth services, or a local jail or juvenile
32 detention facility, must register at the time of release from custody
33 with an official designated by the agency that has jurisdiction over
34 the offender. The agency shall within three days forward the

1 registration information to the county sheriff for the county of the
2 offender's anticipated residence. The offender must also register
3 within three business days from the time of release with the county
4 sheriff for the county of the person's residence, or if the person is
5 not a resident of Washington, the county of the person's school, or
6 place of employment or vocation. The agency that has jurisdiction
7 over the offender shall provide notice to the offender of the duty to
8 register.

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

19 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
20 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
21 but are under the jurisdiction of the indeterminate sentence review
22 board or under the department of corrections' active supervision, as
23 defined by the department of corrections, the state department of
24 social and health services, or a local division of youth services, for
25 sex offenses committed before, on, or after February 28, 1990, must
26 register within ten days of July 28, 1991. Kidnapping offenders who,
27 on July 27, 1997, are not in custody but are under the jurisdiction of
28 the indeterminate sentence review board or under the department of
29 corrections' active supervision, as defined by the department of
30 corrections, the state department of social and health services, or a
31 local division of youth services, for kidnapping offenses committed
32 before, on, or after July 27, 1997, must register within ten days of
33 July 27, 1997. A change in supervision status of a sex offender who
34 was required to register under this subsection ((+4)) (3)(a)(ii) as

1 of July 28, 1991, or a kidnapping offender required to register as of
2 July 27, 1997, shall not relieve the offender of the duty to register
3 or to reregister following a change in residence.

4 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
5 or after July 23, 1995, and kidnapping offenders who, on or after July
6 27, 1997, as a result of that offense are in the custody of the United
7 States bureau of prisons or other federal or military correctional
8 agency for sex offenses committed before, on, or after February 28,
9 1990, or kidnapping offenses committed on, before, or after July 27,
10 1997, must register within three business days from the time of
11 release with the county sheriff for the county of the person's
12 residence, or if the person is not a resident of Washington, the
13 county of the person's school, or place of employment or vocation.
14 Sex offenders who, on July 23, 1995, are not in custody but are under
15 the jurisdiction of the United States bureau of prisons, United States
16 courts, United States parole commission, or military parole board for
17 sex offenses committed before, on, or after February 28, 1990, must
18 register within ten days of July 23, 1995. Kidnapping offenders who,
19 on July 27, 1997, are not in custody but are under the jurisdiction of
20 the United States bureau of prisons, United States courts, United
21 States parole commission, or military parole board for kidnapping
22 offenses committed before, on, or after July 27, 1997, must register
23 within ten days of July 27, 1997. A change in supervision status of a
24 sex offender who was required to register under this subsection
25 (~~(4)~~) (3)(a)(iii) as of July 23, 1995, or a kidnapping offender
26 required to register as of July 27, 1997 shall not relieve the
27 offender of the duty to register or to reregister following a change
28 in residence, or if the person is not a resident of Washington, the
29 county of the person's school, or place of employment or vocation.

30 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
31 who are convicted of a sex offense on or after July 28, 1991, for a
32 sex offense that was committed on or after February 28, 1990, and
33 kidnapping offenders who are convicted on or after July 27, 1997, for
34 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 within
3 three business days 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
13 under the laws of another state or a foreign country, federal or
14 military statutes for offenses committed before, on, or after February
15 28, 1990, or Washington state for offenses committed before, on, or
16 after February 28, 1990, and to kidnapping offenders convicted under
17 the laws of another state or a foreign country, federal or military
18 statutes, or Washington state for offenses committed before, on, or
19 after July 27, 1997. Sex offenders and kidnapping offenders from
20 other states or a foreign country who, when they move to Washington,
21 are under the jurisdiction of the department of corrections, the
22 indeterminate sentence review board, or the department of social and
23 health services must register within three business days of moving to
24 Washington. The agency that has jurisdiction over the offender shall
25 notify the offender of the registration requirements before the
26 offender moves to 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

1 health services, must register within three business days from the
2 time of release with the county sheriff for the county of the person's
3 residence. The state department of social and health services shall
4 provide notice to the adult or juvenile in its custody of the duty to
5 register. Any adult or juvenile who has been found not guilty by
6 reason of insanity of committing a sex offense on, before, or after
7 February 28, 1990, but who was released before July 23, 1995, or any
8 adult or juvenile who has been found not guilty by reason of insanity
9 of committing a kidnapping offense but who was released before July
10 27, 1997, shall be required to register within three business days of
11 receiving notice of this registration requirement.

12 (vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks
13 a fixed residence and leaves the county in which he or she is
14 registered and enters and remains within a new county for twenty-four
15 hours is required to register with the county sheriff not more than
16 three business days after entering the county and provide the
17 information required in subsection (~~(+3+)~~) (2)(b) of this section.

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

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

34

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

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

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

19 (5)(a) If any person required to register pursuant to this section
20 changes his or her residence address within the same county, the
21 person must provide, by certified mail, with return receipt requested
22 or in person, signed written notice of the change of address to the
23 county sheriff within three business days of moving.

24 (b) If any person required to register pursuant to this section
25 moves to a new county, the person must register with that county
26 sheriff within three business days of moving. Within three business
27 days, the person must also provide, by certified mail, with return
28 receipt requested or in person, signed written notice of the change of
29 address in the new county to the county sheriff with whom the person
30 last registered. The county sheriff with whom the person last
31 registered shall promptly forward the information concerning the
32 change of address to the county sheriff for the county of the person's
33 new residence. Upon receipt of notice of change of address to a new
34 state, the county sheriff shall promptly forward the information

1 regarding the change of address to the agency designated by the new
2 state as the state's offender registration agency.

3 (6)(a) Any person required to register under this section who
4 lacks a fixed residence shall provide signed written notice to the
5 sheriff of the county where he or she last registered within three
6 business days after ceasing to have a fixed residence. The notice
7 shall include the information required by subsection (~~(+3+)~~) (2)(b) of
8 this section, except the photograph and fingerprints. The county
9 sheriff may, for reasonable cause, require the offender to provide a
10 photograph and fingerprints. The sheriff shall forward this
11 information to the sheriff of the county in which the person intends
12 to reside, if the person intends to reside in another county.

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

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

31 (7) A sex offender subject to registration requirements under this
32 section who applies to change his or her name under RCW 4.24.130 or
33 any other law shall submit a copy of the application to the county
34 sheriff of the county of the person's residence and to the state

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

13 (8) The county sheriff shall obtain a photograph of the individual
14 and shall obtain a copy of the individual's fingerprints. A
15 photograph may be taken at any time to update an individual's file.

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

20

21 NEW SECTION. **Sec. 8.** A new section is added to chapter 9A.44 RCW
22 to read as follows:

23 (1) When a school district or department of public safety of an
24 institution of higher education receives notice under RCW 9A.44.130
25 that a person who is required to register as a sex offender plans to
26 attend the school, it shall make the following notifications:

27 (a) If the student who is required to register as a sex offender
28 is classified as a risk level I or is unclassified, the school
29 district or department of public safety shall provide the information
30 received under RCW 9A.44.130 only to personnel who, in the judgment of
31 the school district, the school principal, or department of public
32 safety, for security purposes should be aware of the student's record.

33 (b)(i) If the student who is required to register as a sex
34 offender is classified as a risk level II or III, the school district

1 or department of public safety shall provide the information received
2 under RCW 9A.44.130 to the student's teachers and to any other
3 personnel who, in the judgment of the school district, the school
4 principal, or department of public safety, supervises the student or
5 for security purposes should be aware of the student's record.

6 (ii) If the student who is required to register as a sex offender
7 is classified as a risk level II or III, the school district or
8 department of public safety shall also notify parents, legal
9 guardians, students who are eighteen years of age or older, and any
10 personnel who may observe or come into contact with the student,
11 including school administrators, teachers, staff persons, bus drivers,
12 security staff, coaches, playground supervisors, and maintenance
13 personnel.

14 (iii) A school district or department of public safety shall
15 provide the notice required by (b)(ii) of this subsection in writing
16 at the beginning of the school year and at any time a new student who
17 is required to register as a sex offender enrolls in or arrives at the
18 school or institution to attend classes. The school district or
19 department of public safety shall also provide the notice by e-mail,
20 if available. The notice provided under (b)(ii) of this subsection
21 must include the name of the student required to register as a sex
22 offender, the crime of conviction, the sentence imposed, and an
23 internet link, if available, to a local law enforcement agency web
24 site where interested persons may seek further information about
25 registered sex offenders.

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

31 (3) This section may not be construed to confer any powers
32 pursuant to RCW 4.24.550 upon the public safety department of any
33 public or private school or institution of higher education.

34

1 **Sec. 9.** RCW 28A.320.125 and 2009 c 578 s 10 are each amended to
2 read as follows:

3 (1) The legislature considers it to be a matter of public safety
4 for public schools and staff to have current safe school plans and
5 procedures in place, fully consistent with federal law. The
6 legislature further finds and intends, by requiring safe school plans
7 to be in place, that school districts will become eligible for federal
8 assistance. The legislature further finds that schools are in a
9 position to serve the community in the event of an emergency resulting
10 from natural disasters or man-made disasters.

11 (2) Schools and school districts shall consider the guidance
12 provided by the superintendent of public instruction, including the
13 comprehensive school safety checklist and the model comprehensive safe
14 school plans that include prevention, intervention, all hazard/crisis
15 response, and postcrisis recovery, when developing their own
16 individual comprehensive safe school plans. Each school district
17 shall adopt, no later than September 1, 2008, and implement a safe
18 school plan consistent with the school mapping information system
19 pursuant to RCW 36.28A.060. The plan shall:

20 (a) Include required school safety policies and procedures;

21 (b) Address emergency mitigation, preparedness, response, and
22 recovery;

23 (c) Include provisions for assisting and communicating with
24 students and staff, including those with special needs or
25 disabilities;

26 (d) Use the training guidance provided by the Washington emergency
27 management division of the state military department in collaboration
28 with the Washington state office of the superintendent of public
29 instruction school safety center and the school safety center advisory
30 committee;

31 (e) Require the building principal to be certified on the incident
32 command system;

33

34

1 (f) Take into account the manner in which the school facilities
2 may be used as a community asset in the event of a community-wide
3 emergency; and

4 (g) Set guidelines for requesting city or county law enforcement
5 agencies, local fire departments, emergency service providers, and
6 county emergency management agencies to meet with school districts and
7 participate in safety-related drills.

8 (3) To the extent funds are available, school districts shall
9 annually:

10 (a) Review and update safe school plans in collaboration with
11 local emergency response agencies;

12 (b) Conduct an inventory of all hazardous materials;

13 (c) Update information on the school mapping information system to
14 reflect current staffing and updated plans, including:

15 (i) Identifying all staff members who are trained on the national
16 incident management system, trained on the incident command system, or
17 are certified on the incident command system; and

18 (ii) Identifying school transportation procedures for evacuation,
19 to include bus staging areas, evacuation routes, communication
20 systems, parent-student reunification sites, and secondary
21 transportation agreements consistent with the school mapping
22 information system; and

23 (d) Provide information to all staff on the use of emergency
24 supplies and notification and alert procedures.

25 (4) To the extent funds are available, school districts shall
26 annually record and report on the information and activities required
27 in subsection (3) of this section to the Washington association of
28 sheriffs and police chiefs.

29 (5) School districts are encouraged to work with local emergency
30 management agencies and other emergency responders to conduct one
31 tabletop exercise, one functional exercise, and two full-scale
32 exercises within a four-year period.

33 (6) Schools shall conduct no less than one safety-related drill
34 each month that school is in session. Schools shall complete no less

1 than one drill using the school mapping information system, one drill
2 for lockdowns, one drill for shelter-in-place, and six drills for fire
3 evacuation in accordance with the state fire code. Schools should
4 consider drills for earthquakes, tsunamis, or other high-risk local
5 events. Schools shall document the date and time of such drills.
6 This subsection is intended to satisfy all federal requirements for
7 comprehensive school emergency drills and evacuations.

8 (7) Educational service districts are encouraged to apply for
9 federal emergency response and crisis management grants with the
10 assistance of the superintendent of public instruction and the
11 Washington emergency management division of the state military
12 department.

13 (8) School districts shall collect the residential addresses and
14 e-mail addresses of parents, legal guardians, students who are
15 eighteen years of age or older, and school district personnel. School
16 districts shall collect this information prior to the beginning of the
17 school year and at any time a student enrolls in a school in the
18 district or an employee is hired by the school district.

19 (9) The superintendent of public instruction may adopt rules to
20 implement provisions of this section. These rules may include, but
21 are not limited to, provisions for evacuations, lockdowns, or other
22 components of a comprehensive safe school plan."

23

EFFECT:

- Requires a school district or public safety department of an institution of higher education to notify the following people if a registered sex offender classified as a risk level II or III enrolls in a school: (1) parents and legal guardians; (2) students who are 18 years of age or older; and (3) any school personnel who may observe or come into contact with the student, including administrators, teachers, staff people, bus drivers, security staff, coaches, playground supervisors, and maintenance personnel.
- Requires that the notice include the student's name, crime of conviction, and the sentence imposed, as well as a link to a law enforcement website with more information. Requires that the notice be sent in writing and by e-mail, if available, at the beginning of the school year and any time a registered sex

offender enrolls or arrives to attend classes.

- Requires school districts to collect addresses and e-mail addresses, if available, for parents and legal guardians, students 18 years of age and older, and school personnel.
- Requires that a sex offender provide the sheriff with information regarding the sentence imposed at the time of registration.

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