
SUBSTITUTE SENATE BILL 5735

State of Washington

63rd Legislature

2013 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Hargrove, Carrell, and Darneille)

READ FIRST TIME 02/21/13.

1 AN ACT Relating to registered sex or kidnapping offenders; amending
2 RCW 4.24.550, 9A.44.128, 9A.44.130, 9A.44.132, 9A.44.140, 9A.44.142,
3 9A.44.143, 43.43.754, 9.94A.030, 28A.300.147, and 72.09.345; reenacting
4 and amending RCW 9.94A.515; adding new sections to chapter 28A.320 RCW;
5 prescribing penalties; and providing an effective date.

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

7 **Sec. 1.** RCW 4.24.550 and 2011 c 337 s 1 are each amended to read
8 as follows:

9 (1) In addition to the disclosure under subsection (5) of this
10 section, public agencies are authorized to release information to the
11 public regarding sex offenders and kidnapping offenders when the agency
12 determines that disclosure of the information is relevant and necessary
13 to protect the public and counteract the danger created by the
14 particular offender. This authorization applies to information
15 regarding: (a) Any person adjudicated or convicted of a sex offense as
16 defined in RCW 9A.44.128 or a kidnapping offense as defined by RCW
17 9A.44.128; (b) any person under the jurisdiction of the indeterminate
18 sentence review board as the result of a sex offense or kidnapping
19 offense; (c) any person committed as a sexually violent predator under

1 chapter 71.09 RCW or as a sexual psychopath under chapter 71.06 RCW;
2 (d) any person found not guilty of a sex offense or kidnapping offense
3 by reason of insanity under chapter 10.77 RCW; and (e) any person found
4 incompetent to stand trial for a sex offense or kidnapping offense and
5 subsequently committed under chapter 71.05 or 71.34 RCW.

6 (2) Except for the information specifically required under
7 subsection (5) of this section, the extent of the public disclosure of
8 relevant and necessary information shall be rationally related to: (a)
9 The level of risk posed by the offender to the community; (b) the
10 locations where the offender resides, expects to reside, or is
11 regularly found; and (c) the needs of the affected community members
12 for information to enhance their individual and collective safety.

13 (3) Except for the information specifically required under
14 subsection (5) of this section, local law enforcement agencies shall
15 consider the following guidelines in determining the extent of a public
16 disclosure made under this section: (a) For offenders classified as
17 risk level I, the agency shall share information with other appropriate
18 law enforcement agencies and, if the offender is a student, the public
19 or private school regulated under Title 28A RCW or chapter 72.40 RCW
20 which the offender is attending, or planning to attend. The agency may
21 disclose, upon request, relevant, necessary, and accurate information
22 to any victim or witness to the offense (~~and to~~), any individual
23 community member who lives near the residence where the offender
24 resides, expects to reside, or is regularly found, and any individual
25 who requests information regarding a specifically named offender; (b)
26 for offenders classified as risk level II, the agency may also disclose
27 relevant, necessary, and accurate information to public and private
28 schools, child day care centers, family day care providers, public
29 libraries, businesses and organizations that serve primarily children,
30 women, or vulnerable adults, and neighbors and community groups near
31 the residence where the offender resides, expects to reside, or is
32 regularly found; (c) for offenders classified as risk level III, the
33 agency may also disclose relevant, necessary, and accurate information
34 to the public at large; and (d) because more localized notification is
35 not feasible and homeless and transient offenders may present unique
36 risks to the community, the agency may also disclose relevant,
37 necessary, and accurate information to the public at large for
38 offenders registered as homeless or transient.

1 (4) In addition to publication on the statewide registered sex and
2 kidnapping offender web site pursuant to subsection (5) of this
3 section, the county sheriff with whom an offender classified as risk
4 level III is registered shall ((cause to be published by)) release a
5 sex offender community notification that conforms to the guidelines
6 established under RCW 4.24.5501 by means including, but not limited to,
7 legal notice, advertising, or news release ((a sex offender community
8 notification that conforms to the guidelines established under RCW
9 4.24.5501 in at least one legal newspaper with general circulation in
10 the area of the sex offender's registered address or location. Unless
11 the information is posted on the web site described in subsection (5)
12 of this section, this list shall be maintained by the county sheriff on
13 a publicly accessible web site and shall be updated at least once per
14 month)).

15 (5)(a) When funded by federal grants or other sources, the
16 Washington association of sheriffs and police chiefs shall create and
17 maintain a statewide registered kidnapping and sex offender web site,
18 which shall be available to the public. The web site shall post all
19 level III and level II registered sex offenders, level I registered sex
20 offenders only during the time they are out of compliance with
21 registration requirements under RCW 9A.44.130 or if lacking a fixed
22 residence as provided in RCW 9A.44.130, and all registered kidnapping
23 offenders in the state of Washington.

24 (i) For level III offenders, the web site shall contain, but is not
25 limited to, the registered sex offender's name, relevant criminal
26 convictions, address by hundred block, physical description, and
27 photograph. The web site shall provide mapping capabilities that
28 display the sex offender's address by hundred block on a map. The web
29 site shall allow citizens to search for registered sex offenders within
30 the state of Washington by county, city, zip code, last name, and
31 address by hundred block.

32 (ii) For level II offenders, and level I sex offenders during the
33 time they are out of compliance with registration requirements under
34 RCW 9A.44.130, the web site shall contain, but is not limited to, the
35 same information and functionality as described in (a)(i) of this
36 subsection, provided that it is permissible under state and federal
37 law. If it is not permissible, the web site shall be limited to the

1 information and functionality that is permissible under state and
2 federal law.

3 (iii) For kidnapping offenders, the web site shall contain, but is
4 not limited to, the same information and functionality as described in
5 (a)(i) of this subsection, provided that it is permissible under state
6 and federal law. If it is not permissible, the web site shall be
7 limited to the information and functionality that is permissible under
8 state and federal law.

9 (b) Until the implementation of (a) of this subsection, the
10 Washington association of sheriffs and police chiefs shall create a web
11 site available to the public that provides electronic links to county-
12 operated web sites that offer sex offender registration information.

13 (6)(a) Local law enforcement agencies (~~that disseminate~~
14 ~~information pursuant to this section~~) responsible for the registration
15 and dissemination of information regarding offenders required to
16 register under RCW 9A.44.130 shall assign a risk level classification
17 to all offenders after consideration of: ((a) Review) (i) Any
18 available risk level classifications ((made)) provided by the
19 department of corrections, the department of social and health
20 services, and the indeterminate sentence review board; ((b) assign
21 risk level classifications to all offenders about whom information will
22 be disseminated)) (ii) the agency's own application of a risk
23 assessment tool; and (iii) other information and aggravating or
24 mitigating factors known to the agency and deemed rationally related to
25 the risk posed by the offender to the community at large.

26 (b) A sex offender shall be classified as a risk level I if his or
27 her risk assessment and other information or factors deemed relevant by
28 the local law enforcement agency indicate he or she is a low risk
29 offender within the community at large. A sex offender shall be
30 classified as a risk level II if his or her risk assessment and other
31 information or factors deemed relevant by the local law enforcement
32 agency indicate he or she is a moderate risk offender within the
33 community at large. A sex offender shall be classified as a risk level
34 III if his or her risk assessment and other information or factors
35 deemed relevant by the local law enforcement agency indicate he or she
36 is a high risk offender within the community at large.

37 (c) The agency shall make a good faith effort to notify the public

1 and residents within a reasonable period of time after the offender
2 registers with the agency.

3 (d) The juvenile court shall provide local law enforcement
4 officials with all relevant information on offenders allowed to remain
5 in the community in a timely manner.

6 (7) An appointed or elected public official, public employee, or
7 public agency as defined in RCW 4.24.470, or units of local government
8 and its employees, as provided in RCW 36.28A.010, are immune from civil
9 liability for damages for any discretionary risk level classification
10 decisions or release of relevant and necessary information, unless it
11 is shown that the official, employee, or agency acted with gross
12 negligence or in bad faith. The immunity in this section applies to
13 risk level classification decisions and the release of relevant and
14 necessary information regarding any individual for whom disclosure is
15 authorized. The decision of a local law enforcement agency or official
16 to classify an offender to a risk level other than the one assigned by
17 the department of corrections, the department of social and health
18 services, or the indeterminate sentence review board, or the release of
19 any relevant and necessary information based on that different
20 classification shall not, by itself, be considered gross negligence or
21 bad faith. The immunity provided under this section applies to the
22 release of relevant and necessary information to other public
23 officials, public employees, or public agencies, and to the general
24 public.

25 (8) Except as may otherwise be provided by law, nothing in this
26 section shall impose any liability upon a public official, public
27 employee, or public agency for failing to release information
28 authorized under this section.

29 (9) Nothing in this section implies that information regarding
30 persons designated in subsection (1) of this section is confidential
31 except as may otherwise be provided by law.

32 (10) When a local law enforcement agency or official classifies an
33 offender differently than the offender is classified by the end of
34 sentence review committee (~~(or the department of social and health
35 services)~~) at the time of the offender's release from confinement, the
36 law enforcement agency or official shall notify the end of sentence
37 review committee (~~(or the department of social and health services)~~)

1 and the Washington state patrol and submit its reasons supporting the
2 change in classification.

3 **Sec. 2.** RCW 9A.44.128 and 2012 c 134 s 2 are each amended to read
4 as follows:

5 For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200,
6 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

7 (1) "Business day" means any day other than Saturday, Sunday, or a
8 legal local, state, or federal holiday.

9 (2) "Conviction" means any adult conviction or juvenile
10 adjudication for a sex offense or kidnapping offense.

11 (3) "Disqualifying offense" means a conviction for: Any offense
12 that is a felony; a sex offense as defined in this section; a crime
13 against children or persons as defined in RCW 43.43.830(~~((+5))~~)(7) and
14 9.94A.411(2)(a); an offense with a domestic violence designation as
15 provided in RCW 10.99.020; permitting the commercial sexual abuse of a
16 minor as defined in RCW 9.68A.103; or any violation of chapter 9A.88
17 RCW.

18 (4) "Employed" or "carries on a vocation" means employment that is
19 full time or part time for a period of time exceeding fourteen days, or
20 for an aggregate period of time exceeding thirty days during any
21 calendar year. A person is employed or carries on a vocation whether
22 the person's employment is financially compensated, volunteered, or for
23 the purpose of government or educational benefit.

24 (5) "Fixed residence" means a building that a person lawfully and
25 habitually uses as living quarters a majority of the week. Uses as
26 living quarters means to conduct activities consistent with the common
27 understanding of residing, such as sleeping; eating; keeping personal
28 belongings; receiving mail; and paying utilities, rent, or mortgage.
29 A nonpermanent structure including, but not limited to, a motor home,
30 travel trailer, camper, or boat may qualify as a residence provided it
31 is lawfully and habitually used as living quarters a majority of the
32 week, primarily kept at one location with a physical address, and the
33 location it is kept at is either owned or rented by the person or used
34 by the person with the permission of the owner or renter. A shelter
35 program may qualify as a residence provided it is a shelter program
36 designed to provide temporary living accommodations for the homeless,

1 provides an offender with a personally assigned living space, and the
2 offender is permitted to store belongings in the living space.

3 (6) "In the community" means residing outside of confinement or
4 incarceration for a disqualifying offense.

5 (7) "Institution of higher education" means any public or private
6 institution dedicated to postsecondary education, including any
7 college, university, community college, trade, or professional school.

8 (8) "Kidnapping offense" means:

9 (a) The crimes of kidnapping in the first degree, kidnapping in the
10 second degree, and unlawful imprisonment, as defined in chapter 9A.40
11 RCW, where the victim is a minor and the offender is not the minor's
12 parent;

13 (b) Any offense that is, under chapter 9A.28 RCW, a criminal
14 attempt, criminal solicitation, or criminal conspiracy to commit an
15 offense that is classified as a kidnapping offense under this
16 subsection; and

17 (c) Any federal or out-of-state conviction for: An offense for
18 which the person would be required to register as a kidnapping offender
19 if residing in the state of conviction; or, if not required to register
20 in the state of conviction, an offense that under the laws of this
21 state would be classified as a kidnapping offense under this
22 subsection.

23 (9) "Lacks a fixed residence" means the person does not have a
24 living situation that meets the definition of a fixed residence and
25 includes, but is not limited to, a shelter program designed to provide
26 temporary living accommodations for the homeless, an outdoor sleeping
27 location, or locations where the person does not have permission to
28 stay.

29 (10) "Sex offense" means:

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

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

33 (c) Any violation under RCW 9.68A.090 (communication with a minor
34 for immoral purposes);

35 (d) A violation under RCW 9A.88.070 (promoting prostitution in the
36 first degree) or RCW 9A.88.080 (promoting prostitution in the second
37 degree) if the person has a prior conviction for one of these offenses;

1 (e) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
2 criminal attempt, criminal solicitation, or criminal conspiracy to
3 commit an offense that is classified as a sex offense under RCW
4 9.94A.030 or this subsection;

5 (f) Any out-of-state conviction for an offense for which the person
6 would be required to register as a sex offender while residing in the
7 state of conviction; or, if not required to register in the state of
8 conviction, an offense that under the laws of this state would be
9 classified as a sex offense under this subsection;

10 (g) Any federal conviction classified as a sex offense under 42
11 U.S.C. Sec. 16911 (SORNA);

12 (h) Any military conviction for a sex offense. This includes sex
13 offenses under the uniform code of military justice, as specified by
14 the United States secretary of defense;

15 (i) Any conviction in a foreign country for a sex offense if it was
16 obtained with sufficient safeguards for fundamental fairness and due
17 process for the accused under guidelines or regulations established
18 pursuant to 42 U.S.C. Sec. 16912.

19 (11) "School" means a public or private school regulated under
20 Title 28A RCW or chapter 72.40 RCW.

21 (12) "Student" means a person who is enrolled, on a full-time or
22 part-time basis, in any school or institution of higher education.

23 **Sec. 3.** RCW 9A.44.130 and 2011 c 337 s 3 are each amended to read
24 as follows:

25 (1)(a) Any adult or juvenile residing whether or not the person has
26 a fixed residence, or who is a student, is employed, or carries on a
27 vocation in this state who has been found to have committed or has been
28 convicted of any sex offense or kidnapping offense, or who has been
29 found not guilty by reason of insanity under chapter 10.77 RCW of
30 committing any sex offense or kidnapping offense, shall register with
31 the county sheriff for the county of the person's residence, or if the
32 person is not a resident of Washington, the county of the person's
33 school, or place of employment or vocation, or as otherwise specified
34 in this section. When a person required to register under this section
35 is in custody of the state department of corrections, the state
36 department of social and health services, a local division of youth
37 services, or a local jail or juvenile detention facility as a result of

1 a sex offense or kidnapping offense, the person shall also register at
2 the time of release from custody with an official designated by the
3 agency that has jurisdiction over the person.

4 (b) Any adult or juvenile who is required to register under (a) of
5 this subsection must give notice to the county sheriff of the county
6 with whom the person is registered within three business days:

7 (i) Prior to arriving at a school or institution of higher
8 education to attend classes;

9 (ii) Prior to starting work at an institution of higher education;
10 or

11 (iii) After any termination of enrollment or employment at a school
12 or institution of higher education.

13 (2)(a) A person required to register under this section must
14 provide the following information when registering: (i) Name and any
15 aliases used; (ii) complete and accurate residential address or, if the
16 person lacks a fixed residence, where he or she plans to stay; (iii)
17 date and place of birth; (iv) place of employment; (v) crime for which
18 convicted; (vi) date and place of conviction; (vii) social security
19 number; (viii) photograph; and (ix) fingerprints.

20 (b) A person may be required to update any of the information
21 required in this subsection in conjunction with any address
22 verification conducted by the county sheriff or as part of any notice
23 required by this section.

24 (c) A photograph or copy of an individual's fingerprints may be
25 taken at any time to update an individual's file.

26 (3) Any person required to register under this section who intends
27 to travel outside the United States must provide, by certified mail,
28 with return receipt requested, or in person, signed written notice of
29 the plan to travel outside the country to the county sheriff of the
30 county with whom the person is registered at least twenty-one days
31 prior to travel. The notice shall include the following information:
32 (a) Name; (b) passport number and country; (c) destination; (d)
33 itinerary details including departure and return dates; (e) means of
34 travel; and (f) purpose of travel. If the offender does not
35 subsequently travel outside the United States, the offender must notify
36 the county sheriff within three days of the departure date provided in
37 the notification. The county sheriff shall notify the United States

1 marshals service as soon as practicable after receipt of the
2 notification.

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

5 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
6 offense on, before, or after February 28, 1990, and who, on or after
7 July 28, 1991, are in custody, as a result of that offense, of the
8 state department of corrections, the state department of social and
9 health services, a local division of youth services, or a local jail or
10 juvenile detention facility, and (B) kidnapping offenders who on or
11 after July 27, 1997, are in custody of the state department of
12 corrections, the state department of social and health services, a
13 local division of youth services, or a local jail or juvenile detention
14 facility, must register at the time of release from custody with an
15 official designated by the agency that has jurisdiction over the
16 offender. The agency shall within three days forward the registration
17 information to the county sheriff for the county of the offender's
18 anticipated residence. The offender must also register within three
19 business days from the time of release with the county sheriff for the
20 county of the person's residence, or if the person is not a resident of
21 Washington, the county of the person's school, or place of employment
22 or vocation. The agency that has jurisdiction over the offender shall
23 provide notice to the offender of the duty to register.

24 When the agency with jurisdiction intends to release an offender
25 with a duty to register under this section, and the agency has
26 knowledge that the offender is eligible for developmental disability
27 services from the department of social and health services, the agency
28 shall notify the division of developmental disabilities of the release.
29 Notice shall occur not more than thirty days before the offender is to
30 be released. The agency and the division shall assist the offender in
31 meeting the initial registration requirement under this section.
32 Failure to provide such assistance shall not constitute a defense for
33 any violation of this section.

34 When a person required to register under this section is in the
35 custody of the state department of corrections and has been approved
36 for partial confinement as defined in RCW 9.94A.030, the person must
37 register at the time of transfer to partial confinement with the
38 official designated by the agency that has jurisdiction over the

1 offender. The agency shall within three days forward the registration
2 information to the county sheriff for the county in which the offender
3 is in partial confinement. The offender must also register within
4 three business days from the time of the termination of partial
5 confinement or release from confinement with the county sheriff for the
6 county of the person's residence. The agency that has jurisdiction
7 over the offender shall provide notice to the offender of the duty to
8 register.

9 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
10 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
11 but are under the jurisdiction of the indeterminate sentence review
12 board or under the department of corrections' active supervision, as
13 defined by the department of corrections, the state department of
14 social and health services, or a local division of youth services, for
15 sex offenses committed before, on, or after February 28, 1990, must
16 register within ten days of July 28, 1991. Kidnapping offenders who,
17 on July 27, 1997, are not in custody but are under the jurisdiction of
18 the indeterminate sentence review board or under the department of
19 corrections' active supervision, as defined by the department of
20 corrections, the state department of social and health services, or a
21 local division of youth services, for kidnapping offenses committed
22 before, on, or after July 27, 1997, must register within ten days of
23 July 27, 1997. A change in supervision status of a sex offender who
24 was required to register under this subsection (~~(+3)~~) (4)(a)(ii) as of
25 July 28, 1991, or a kidnapping offender required to register as of July
26 27, 1997, shall not relieve the offender of the duty to register or to
27 reregister following a change in residence.

28 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
29 or after July 23, 1995, and kidnapping offenders who, on or after July
30 27, 1997, as a result of that offense are in the custody of the United
31 States bureau of prisons or other federal or military correctional
32 agency for sex offenses committed before, on, or after February 28,
33 1990, or kidnapping offenses committed on, before, or after July 27,
34 1997, must register within three business days from the time of release
35 with the county sheriff for the county of the person's residence, or if
36 the person is not a resident of Washington, the county of the person's
37 school, or place of employment or vocation. Sex offenders who, on July
38 23, 1995, are not in custody but are under the jurisdiction of the

1 United States bureau of prisons, United States courts, United States
2 parole commission, or military parole board for sex offenses committed
3 before, on, or after February 28, 1990, must register within ten days
4 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not
5 in custody but are under the jurisdiction of the United States bureau
6 of prisons, United States courts, United States parole commission, or
7 military parole board for kidnapping offenses committed before, on, or
8 after July 27, 1997, must register within ten days of July 27, 1997.
9 A change in supervision status of a sex offender who was required to
10 register under this subsection (~~(+3+)~~) (4)(a)(iii) as of July 23, 1995,
11 or a kidnapping offender required to register as of July 27, 1997 shall
12 not relieve the offender of the duty to register or to reregister
13 following a change in residence, or if the person is not a resident of
14 Washington, the county of the person's school, or place of employment
15 or vocation.

16 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
17 who are convicted of a sex offense on or after July 28, 1991, for a sex
18 offense that was committed on or after February 28, 1990, and
19 kidnapping offenders who are convicted on or after July 27, 1997, for
20 a kidnapping offense that was committed on or after July 27, 1997, but
21 who are not sentenced to serve a term of confinement immediately upon
22 sentencing, shall report to the county sheriff to register within three
23 business days of being sentenced.

24 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
25 RESIDENTS. Sex offenders and kidnapping offenders who move to
26 Washington state from another state or a foreign country that are not
27 under the jurisdiction of the state department of corrections, the
28 indeterminate sentence review board, or the state department of social
29 and health services at the time of moving to Washington, must register
30 within three business days of establishing residence or reestablishing
31 residence if the person is a former Washington resident. The duty to
32 register under this subsection applies to sex offenders convicted under
33 the laws of another state or a foreign country, federal or military
34 statutes for offenses committed before, on, or after February 28, 1990,
35 or Washington state for offenses committed before, on, or after
36 February 28, 1990, and to kidnapping offenders convicted under the laws
37 of another state or a foreign country, federal or military statutes, or
38 Washington state for offenses committed before, on, or after July 27,

1 1997. Sex offenders and kidnapping offenders from other states or a
2 foreign country who, when they move to Washington, are under the
3 jurisdiction of the department of corrections, the indeterminate
4 sentence review board, or the department of social and health services
5 must register within three business days of moving to Washington. The
6 agency that has jurisdiction over the offender shall notify the
7 offender of the registration requirements before the offender moves to
8 Washington.

9 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
10 or juvenile who has been found not guilty by reason of insanity under
11 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
12 February 28, 1990, and who, on or after July 23, 1995, is in custody,
13 as a result of that finding, of the state department of social and
14 health services, or (B) committing a kidnapping offense on, before, or
15 after July 27, 1997, and who on or after July 27, 1997, is in custody,
16 as a result of that finding, of the state department of social and
17 health services, must register within three business days from the time
18 of release with the county sheriff for the county of the person's
19 residence. The state department of social and health services shall
20 provide notice to the adult or juvenile in its custody of the duty to
21 register. Any adult or juvenile who has been found not guilty by
22 reason of insanity of committing a sex offense on, before, or after
23 February 28, 1990, but who was released before July 23, 1995, or any
24 adult or juvenile who has been found not guilty by reason of insanity
25 of committing a kidnapping offense but who was released before July 27,
26 1997, shall be required to register within three business days of
27 receiving notice of this registration requirement.

28 (vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks
29 a fixed residence and leaves the county in which he or she is
30 registered and enters and remains within a new county for twenty-four
31 hours is required to register with the county sheriff not more than
32 three business days after entering the county and provide the
33 information required in subsection (2)(a) of this section.

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

1 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND
2 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,
3 who move to another state, or who work, carry on a vocation, or attend
4 school in another state shall register a new address, fingerprints, and
5 photograph with the new state within three business days after
6 establishing residence, or after beginning to work, carry on a
7 vocation, or attend school in the new state. The person must also send
8 written notice within three business days of moving to the new state or
9 to a foreign country to the county sheriff with whom the person last
10 registered in Washington state. The county sheriff shall promptly
11 forward this information to the Washington state patrol.

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

14 (c) An arrest on charges of failure to register, service of an
15 information, or a complaint for a violation of RCW 9A.44.132, or
16 arraignment on charges for a violation of RCW 9A.44.132, constitutes
17 actual notice of the duty to register. Any person charged with the
18 crime of failure to register under RCW 9A.44.132 who asserts as a
19 defense the lack of notice of the duty to register shall register
20 within three business days following actual notice of the duty through
21 arrest, service, or arraignment. Failure to register as required under
22 this subsection (~~((+3))~~) (4)(c) constitutes grounds for filing another
23 charge of failing to register. Registering following arrest, service,
24 or arraignment on charges shall not relieve the offender from criminal
25 liability for failure to register prior to the filing of the original
26 charge.

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

30 (~~((+4))~~) (5)(a) If any person required to register pursuant to this
31 section changes his or her residence address within the same county,
32 the person must provide, by certified mail, with return receipt
33 requested or in person, signed written notice of the change of address
34 to the county sheriff within three business days of moving.

35 (b) If any person required to register pursuant to this section
36 moves to a new county, the person must register with that county
37 sheriff within three business days of moving. Within three business
38 days, the person must also provide, by certified mail, with return

1 receipt requested or in person, signed written notice of the change of
2 address in the new county to the county sheriff with whom the person
3 last registered. The county sheriff with whom the person last
4 registered shall promptly forward the information concerning the change
5 of address to the county sheriff for the county of the person's new
6 residence. Upon receipt of notice of change of address to a new state,
7 the county sheriff shall promptly forward the information regarding the
8 change of address to the agency designated by the new state as the
9 state's offender registration agency.

10 ((+5+)) (6)(a) Any person required to register under this section
11 who lacks a fixed residence shall provide signed written notice to the
12 sheriff of the county where he or she last registered within three
13 business days after ceasing to have a fixed residence. The notice
14 shall include the information required by subsection (2)(a) of this
15 section, except the photograph and fingerprints. The county sheriff
16 may, for reasonable cause, require the offender to provide a photograph
17 and fingerprints. The sheriff shall forward this information to the
18 sheriff of the county in which the person intends to reside, if the
19 person intends to reside in 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 person must
24 keep an accurate accounting of where he or she stays during the week
25 and provide it to the county sheriff upon request. 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 three business days of ceasing to have a fixed residence and has
34 subsequently complied with the requirements of subsections ((+3+))
35 (4)(a)(vii) or (viii) and ((+5+)) (6) of this section. To prevail, the
36 person must prove the defense by a preponderance of the evidence.

37 ((+6+)) (7) A sex offender subject to registration requirements
38 under this section who applies to change his or her name under RCW

1 4.24.130 or any other law shall submit a copy of the application to the
2 county sheriff of the county of the person's residence and to the state
3 patrol not fewer than five days before the entry of an order granting
4 the name change. No sex offender under the requirement to register
5 under this section at the time of application shall be granted an order
6 changing his or her name if the court finds that doing so will
7 interfere with legitimate law enforcement interests, except that no
8 order shall be denied when the name change is requested for religious
9 or legitimate cultural reasons or in recognition of marriage or
10 dissolution of marriage. A sex offender under the requirement to
11 register under this section who receives an order changing his or her
12 name shall submit a copy of the order to the county sheriff of the
13 county of the person's residence and to the state patrol within three
14 business days of the entry of the order.

15 ~~((+7))~~ (8) Except as may otherwise be provided by law, nothing in
16 this section shall impose any liability upon a peace officer, including
17 a county sheriff, or law enforcement agency, for failing to release
18 information authorized under this section.

19 **Sec. 4.** RCW 9A.44.132 and 2011 c 337 s 5 are each amended to read
20 as follows:

21 (1) A person commits the crime of failure to register as a sex
22 offender if the person has a duty to register under RCW 9A.44.130 for
23 a felony sex offense and knowingly fails to comply with any of the
24 requirements of RCW 9A.44.130.

25 (a) The failure to register as a sex offender pursuant to this
26 subsection is a class C felony if:

27 (i) It is the person's first conviction for a felony failure to
28 register; or

29 (ii) The person has previously been convicted of a felony failure
30 to register as a sex offender in this state or pursuant to the laws of
31 another state, or pursuant to federal law.

32 (b) If a person has been convicted of a felony failure to register
33 as a sex offender in this state or pursuant to the laws of another
34 state, or pursuant to federal law, on two or more prior occasions, the
35 failure to register under this subsection is a class B felony.

36 (2) A person is guilty of failure to register as a sex offender if
37 the person has a duty to register under RCW 9A.44.130 for a sex offense

1 other than a felony and knowingly fails to comply with any of the
2 requirements of RCW 9A.44.130. The failure to register as a sex
3 offender under this subsection is a gross misdemeanor.

4 (3) A person commits the crime of failure to register as a
5 kidnapping offender if the person has a duty to register under RCW
6 9A.44.130 for a kidnapping offense and knowingly fails to comply with
7 any of the requirements of RCW 9A.44.130.

8 (a) If the person has a duty to register for a felony kidnapping
9 offense, the failure to register as a kidnapping offender is a class C
10 felony.

11 (b) If the person has a duty to register for a kidnapping offense
12 other than a felony, the failure to register as a kidnapping offender
13 is a gross misdemeanor.

14 (4) A person commits the crime of refusal to provide DNA if the
15 person has a duty to register under RCW 9A.44.130 and the person
16 willfully refuses to comply with a legal request for a DNA sample as
17 required under RCW 43.43.754(1)(b). The refusal to provide DNA is a
18 gross misdemeanor.

19 (5) Unless relieved of the duty to register pursuant to RCW
20 9A.44.141 and 9A.44.142, a violation of this section is an ongoing
21 offense for purposes of the statute of limitations under RCW 9A.04.080.

22 **Sec. 5.** RCW 9A.44.140 and 2010 c 267 s 4 are each amended to read
23 as follows:

24 The duty to register under RCW 9A.44.130 shall continue for the
25 duration provided in this section.

26 (1) For a person convicted in this state of a class A felony (~~or~~
27 ~~an offense listed in RCW 9A.44.142(5))~~), or a person convicted (~~in~~
28 ~~this state~~) of any sex offense or kidnapping offense who has one or
29 more prior convictions for a sex offense or kidnapping offense, the
30 duty to register shall continue indefinitely.

31 (2) For a person convicted in this state of a class B felony who
32 does not have one or more prior convictions for a sex offense or
33 kidnapping offense (~~and whose current offense is not listed in RCW~~
34 ~~9A.44.142(5))~~), the duty to register shall end fifteen years after the
35 last date of release from confinement, if any, (including full-time
36 residential treatment) pursuant to the conviction, or entry of the

1 judgment and sentence, if the person has spent fifteen consecutive
2 years in the community without being convicted of a disqualifying
3 offense during that time period.

4 (3) For a person convicted in this state of a class C felony, a
5 violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation,
6 or conspiracy to commit a class C felony, and the person does not have
7 one or more prior convictions for a sex offense or kidnapping offense
8 (~~and the person's current offense is not listed in RCW 9A.44.142(5)~~),
9 the duty to register shall end ten years after the last date of release
10 from confinement, if any, (including full-time residential treatment)
11 pursuant to the conviction, or entry of the judgment and sentence, if
12 the person has spent ten consecutive years in the community without
13 being convicted of a disqualifying offense during that time period.

14 (4) For a person required to register for a federal or out-of-state
15 conviction, the duty to register shall continue indefinitely.

16 (5) For a person who has been determined to be a sexually violent
17 predator as defined in RCW 71.09.020, the duty to register shall
18 continue for the person's lifetime.

19 (6) Nothing in this section prevents a person from being relieved
20 of the duty to register under RCW 9A.44.142 and 9A.44.143.

21 ~~((+6))~~ (7) Nothing in RCW 9.94A.637 relating to discharge of an
22 offender shall be construed as operating to relieve the offender of his
23 or her duty to register pursuant to RCW 9A.44.130.

24 ~~((+7))~~ (8) For purposes of determining whether a person has been
25 convicted of more than one sex offense, failure to register as a sex
26 offender or kidnapping offender is not a sex or kidnapping offense.

27 ~~((+8))~~ (9) The provisions of this section and RCW 9A.44.141
28 through 9A.44.143 apply equally to a person who has been found not
29 guilty by reason of insanity under chapter 10.77 RCW of a sex offense
30 or kidnapping offense.

31 **Sec. 6.** RCW 9A.44.142 and 2011 c 337 s 7 are each amended to read
32 as follows:

33 (1) A person who is required to register under RCW 9A.44.130 may
34 petition the superior court to be relieved of the duty to register:

35 (a) If the person has a duty to register for a sex offense or
36 kidnapping offense committed when the offender was a juvenile,

1 regardless of whether the conviction was in this state, as provided in
2 RCW 9A.44.143;

3 (b) If the person is required to register for a conviction in this
4 state and is not prohibited from petitioning for relief from
5 registration under subsection (2) of this section, when the person has
6 spent ten consecutive years in the community without being convicted of
7 a disqualifying offense during that time period; or

8 (c) If the person is required to register for a federal or out-of-
9 state conviction, when the person has spent fifteen consecutive years
10 in the community without being convicted of a disqualifying offense
11 during that time period.

12 (2)(a) A person may not petition for relief from registration if
13 the person has been:

14 (i) Determined to be a sexually violent predator as defined in RCW
15 71.09.020; or

16 (ii) Convicted as an adult of a sex offense or kidnapping offense
17 that is a class A felony and that was committed with forcible
18 compulsion on or after June 8, 2000(~~or~~

19 ~~(iii) Until July 1, 2012, convicted of one aggravated offense or~~
20 ~~more than one sexually violent offense, as defined in subsection (5) of~~
21 ~~this section, and the offense or offenses were committed on or after~~
22 ~~March 12, 2002. After July 1, 2012, this subsection (2)(a)(iii) shall~~
23 ~~have no further force and effect)).~~

24 (b) Any person who may not be relieved of the duty to register may
25 petition the court to be exempted from any community notification
26 requirements that the person may be subject to fifteen years after the
27 later of the entry of the judgment and sentence or the last date of
28 release from confinement, including full-time residential treatment,
29 pursuant to the conviction, if the person has spent the time in the
30 community without being convicted of a disqualifying offense.

31 (3) A petition for relief from registration or exemption from
32 notification under this section shall be made to the court in which the
33 petitioner was convicted of the offense that subjects him or her to the
34 duty to register or, in the case of convictions in other states, a
35 foreign country, or a federal or military court, to the court in the
36 county where the person is registered at the time the petition is
37 sought. The prosecuting attorney of the county shall be named and
38 served as the respondent in any such petition.

1 (4)(a) The court may relieve a petitioner of the duty to register
2 only if the petitioner shows by clear and convincing evidence that the
3 petitioner is sufficiently rehabilitated to warrant removal from the
4 central registry of sex offenders and kidnapping offenders.

5 (b) In determining whether the petitioner is sufficiently
6 rehabilitated to warrant removal from the registry, the following
7 factors are provided as guidance to assist the court in making its
8 determination:

9 (i) The nature of the registrable offense committed including the
10 number of victims and the length of the offense history;

11 (ii) Any subsequent criminal history;

12 (iii) The petitioner's compliance with supervision requirements;

13 (iv) The length of time since the charged incident(s) occurred;

14 (v) Any input from community corrections officers, law enforcement,
15 or treatment providers;

16 (vi) Participation in sex offender treatment;

17 (vii) Participation in other treatment and rehabilitative programs;

18 (viii) The offender's stability in employment and housing;

19 (ix) The offender's community and personal support system;

20 (x) Any risk assessments or evaluations prepared by a qualified
21 professional;

22 (xi) Any updated polygraph examination;

23 (xii) Any input of the victim;

24 (xiii) Any other factors the court may consider relevant.

25 ~~(5)((a) A person who has been convicted of an aggravated offense,~~
26 ~~or has been convicted of one or more prior sexually violent offenses or~~
27 ~~criminal offenses against a victim who is a minor, as defined in (b) of~~
28 ~~this subsection:~~

29 ~~(i) Until July 1, 2012, may not be relieved of the duty to~~
30 ~~register;~~

31 ~~(ii) After July 1, 2012, may petition the court to be relieved of~~
32 ~~the duty to register as provided in this section;~~

33 ~~(iii) This provision shall apply to convictions for crimes~~
34 ~~committed on or after July 22, 2001.~~

35 ~~(b) Unless the context clearly requires otherwise, the following~~
36 ~~definitions apply only to the federal lifetime registration~~
37 ~~requirements under this subsection:~~

1 ~~(i) "Aggravated offense" means an adult conviction that meets the~~
2 ~~definition of 18 U.S.C. Sec. 2241, which is limited to the following:~~

3 ~~(A) Any sex offense involving sexual intercourse or sexual contact~~
4 ~~where the victim is under twelve years of age;~~

5 ~~(B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape~~
6 ~~of a child in the first degree), or RCW 9A.44.083 (child molestation in~~
7 ~~the first degree);~~

8 ~~(C) Any of the following offenses when committed by forcible~~
9 ~~compulsion or by the offender administering, by threat or force or~~
10 ~~without the knowledge or permission of that person, a drug, intoxicant,~~
11 ~~or other similar substance that substantially impairs the ability of~~
12 ~~that person to appraise or control conduct: RCW 9A.44.050 (rape in the~~
13 ~~second degree), RCW 9A.44.100 (indecent liberties), RCW 9A.44.160~~
14 ~~(custodial sexual misconduct in the first degree), RCW 9A.64.020~~
15 ~~(incest), or RCW 9.68A.040 (sexual exploitation of a minor);~~

16 ~~(D) Any of the following offenses when committed by forcible~~
17 ~~compulsion or by the offender administering, by threat or force or~~
18 ~~without the knowledge or permission of that person, a drug, intoxicant,~~
19 ~~or other similar substance that substantially impairs the ability of~~
20 ~~that person to appraise or control conduct, if the victim is twelve~~
21 ~~years of age or over but under sixteen years of age and the offender is~~
22 ~~eighteen years of age or over and is more than forty-eight months older~~
23 ~~than the victim: RCW 9A.44.076 (rape of a child in the second degree),~~
24 ~~RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086~~
25 ~~(child molestation in the second degree), or RCW 9A.44.089 (child~~
26 ~~molestation in the third degree);~~

27 ~~(E) A felony with a finding of sexual motivation under RCW~~
28 ~~9.94A.835 where the victim is under twelve years of age or that is~~
29 ~~committed by forcible compulsion or by the offender administering, by~~
30 ~~threat or force or without the knowledge or permission of that person,~~
31 ~~a drug, intoxicant, or other similar substance that substantially~~
32 ~~impairs the ability of that person to appraise or control conduct;~~

33 ~~(F) An offense that is, under chapter 9A.28 RCW, an attempt or~~
34 ~~solicitation to commit such an offense; or~~

35 ~~(G) An offense defined by federal law or the laws of another state~~
36 ~~that is equivalent to the offenses listed in (b)(i)(A) through (F) of~~
37 ~~this subsection.~~

1 ~~(ii) "Sexually violent offense" means an adult conviction that~~
2 ~~meets the definition of 42 U.S.C. Sec. 14071(a)(1)(A), which is limited~~
3 ~~to the following:~~

4 ~~(A) An aggravated offense;~~

5 ~~(B) An offense that is not an aggravated offense but meets the~~
6 ~~definition of 18 U.S.C. Sec. 2242, which is limited to RCW 9A.44.050(1)~~
7 ~~(b) through (f) (rape in the second degree) and RCW 9A.44.100(1) (b)~~
8 ~~through (f) (indecent liberties);~~

9 ~~(C) A felony with a finding of sexual motivation under RCW~~
10 ~~9.94A.835 where the victim is incapable of appraising the nature of the~~
11 ~~conduct or physically incapable of declining participation in, or~~
12 ~~communicating unwillingness to engage in, the conduct;~~

13 ~~(D) An offense that is, under chapter 9A.28 RCW, an attempt or~~
14 ~~solicitation to commit such an offense; or~~

15 ~~(E) An offense defined by federal law or the laws of another state~~
16 ~~that is equivalent to the offenses listed in (b)(ii)(A) through (D) of~~
17 ~~this subsection.~~

18 ~~(iii) "Criminal offense against a victim who is a minor" means, in~~
19 ~~addition to any aggravated offense or sexually violent offense where~~
20 ~~the victim was under eighteen years of age, an adult conviction for the~~
21 ~~following offenses where the victim is under eighteen years of age:~~

22 ~~(A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape~~
23 ~~of a child in the second degree), RCW 9A.44.079 (rape of a child in the~~
24 ~~third degree), RCW 9A.44.086 (child molestation in the second degree),~~
25 ~~RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093~~
26 ~~(sexual misconduct with a minor in the first degree), RCW 9A.44.096~~
27 ~~(sexual misconduct with a minor in the second degree), RCW 9A.44.160~~
28 ~~(custodial sexual misconduct in the first degree), RCW 9A.64.020~~
29 ~~(incest), RCW 9.68A.040 (sexual exploitation of a minor), RCW 9.68A.090~~
30 ~~(communication with a minor for immoral purposes), or RCW 9.68A.100~~
31 ~~(commercial sexual abuse of a minor);~~

32 ~~(B) RCW 9A.40.020 (kidnapping in the first degree), RCW 9A.40.030~~
33 ~~(kidnapping in the second degree), or RCW 9A.40.040 (unlawful~~
34 ~~imprisonment), where the victim is a minor and the offender is not the~~
35 ~~minor's parent;~~

36 ~~(C) A felony with a finding of sexual motivation under RCW~~
37 ~~9.94A.835 where the victim is a minor;~~

1 ~~(D) An offense that is, under chapter 9A.28 RCW, an attempt or~~
2 ~~solicitation to commit such an offense; or~~

3 ~~(E) An offense defined by federal law or the laws of another state~~
4 ~~that is equivalent to the offenses listed in (b)(iii)(A) through (D) of~~
5 ~~this subsection)) If a person is relieved of the duty to register~~
6 ~~pursuant to this section, the relief of registration does not~~
7 ~~constitute a certificate of rehabilitation, or the equivalent of a~~
8 ~~certificate of rehabilitation, for the purposes of restoration of~~
9 ~~firearm possession under RCW 9.41.040.~~

10 **Sec. 7.** RCW 9A.44.143 and 2011 c 338 s 1 are each amended to read
11 as follows:

12 (1) An offender having a duty to register under RCW 9A.44.130 for
13 a sex offense or kidnapping offense committed when the offender was a
14 juvenile, and who has not been determined to be a sexually violent
15 predator as defined in RCW 71.09.020 may petition the superior court to
16 be relieved of that duty as provided in this section.

17 (2) For class A sex offenses or kidnapping offenses committed when
18 the petitioner was fifteen years of age or older, the court may relieve
19 the petitioner of the duty to register if:

20 (a) At least sixty months have passed since the petitioner's
21 adjudication and completion of any term of confinement for the offense
22 giving rise to the duty to register and the petitioner has not been
23 adjudicated or convicted of any additional sex offenses or kidnapping
24 offenses within the sixty months before the petition;

25 (b) The petitioner has not been adjudicated or convicted of a
26 violation of RCW 9A.44.132 (failure to register) during the sixty
27 months prior to filing the petition; and

28 (c) The petitioner shows by a preponderance of the evidence that
29 the petitioner is sufficiently rehabilitated to warrant removal from
30 the central registry of sex offenders and kidnapping offenders.

31 (3) For all other sex offenses or kidnapping offenses committed by
32 a juvenile not included in subsection (2) of this section, the court
33 may relieve the petitioner of the duty to register if:

34 (a) At least twenty-four months have passed since the petitioner's
35 adjudication and completion of any term of confinement for the offense
36 giving rise to the duty to register and the petitioner has not been

1 adjudicated or convicted of any additional sex offenses or kidnapping
2 offenses within the twenty-four months before the petition;

3 (b) The petitioner has not been adjudicated or convicted of a
4 violation of RCW 9A.44.132 (failure to register) during the twenty-four
5 months prior to filing the petition; and

6 (c) The petitioner shows by a preponderance of the evidence that
7 the petitioner is sufficiently rehabilitated to warrant removal from
8 the central registry of sex offenders and kidnapping offenders.

9 (4) A petition for relief from registration under this section
10 shall be made to the court in which the petitioner was convicted of the
11 offense that subjects him or her to the duty to register or, in the
12 case of convictions in other states, a foreign country, or a federal or
13 military court, to the court in ((Thurston)) the county in which the
14 juvenile is registered at the time a petition is sought. The
15 prosecuting attorney of the county shall be named and served as the
16 respondent in any such petition.

17 (5) In determining whether the petitioner is sufficiently
18 rehabilitated to warrant removal from the central registry of sex
19 offenders and kidnapping offenders, the following factors are provided
20 as guidance to assist the court in making its determination, to the
21 extent the factors are applicable considering the age and circumstances
22 of the petitioner:

23 (a) The nature of the registrable offense committed including the
24 number of victims and the length of the offense history;

25 (b) Any subsequent criminal history;

26 (c) The petitioner's compliance with supervision requirements;

27 (d) The length of time since the charged incident(s) occurred;

28 (e) Any input from community corrections officers, juvenile parole
29 or probation officers, law enforcement, or treatment providers;

30 (f) Participation in sex offender treatment;

31 (g) Participation in other treatment and rehabilitative programs;

32 (h) The offender's stability in employment and housing;

33 (i) The offender's community and personal support system;

34 (j) Any risk assessments or evaluations prepared by a qualified
35 professional;

36 (k) Any updated polygraph examination;

37 (l) Any input of the victim;

38 (m) Any other factors the court may consider relevant.

1 (6) If a person is relieved of the duty to register pursuant to
2 this section, the relief of registration does not constitute a
3 certificate of rehabilitation, or the equivalent of a certificate of
4 rehabilitation, for the purposes of restoration of firearm possession
5 under RCW 9.41.040.

6 (7) A juvenile prosecuted and convicted of a sex offense or
7 kidnapping offense as an adult pursuant to RCW 13.40.110 or 13.04.030
8 may not petition to the superior court under this section and must
9 follow the provisions of RCW 9A.44.142.

10 (8) An adult prosecuted for an offense committed as juvenile once
11 the juvenile court has lost jurisdiction due to the passage of time
12 between the date of the offense and the date of filing of charges may
13 petition the superior court under the provisions of this section.

14 **Sec. 8.** RCW 43.43.754 and 2008 c 97 s 2 are each amended to read
15 as follows:

16 (1) A biological sample must be collected for purposes of DNA
17 identification analysis from:

18 (a) Every adult or juvenile individual convicted of a felony, or
19 any of the following crimes (or equivalent juvenile offenses):

20 Assault in the fourth degree with sexual motivation (RCW 9A.36.041,
21 9.94A.835)

22 Communication with a minor for immoral purposes (RCW 9.68A.090)

23 Custodial sexual misconduct in the second degree (RCW 9A.44.170)

24 Failure to register (RCW 9A.44.130 prior to June 10, 2010, and RCW
25 9A.44.132)

26 Harassment (RCW 9A.46.020)

27 Patronizing a prostitute (RCW 9A.88.110)

28 Sexual misconduct with a minor in the second degree (RCW 9A.44.096)

29 Stalking (RCW 9A.46.110)

30 Violation of a sexual assault protection order granted under
31 chapter 7.90 RCW; and

32 (b) Every adult or juvenile individual who is required to register
33 under RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132.

34 (2) If the Washington state patrol crime laboratory already has a
35 DNA sample from an individual for a qualifying offense, a subsequent
36 submission is not required to be submitted.

37 (3) Biological samples shall be collected in the following manner:

1 (a) For persons convicted of any offense listed in subsection
2 (1)(a) of this section or adjudicated guilty of an equivalent juvenile
3 offense who do not serve a term of confinement in a department of
4 corrections facility, and do serve a term of confinement in a city or
5 county jail facility, the city or county shall be responsible for
6 obtaining the biological samples.

7 (b) The local police department or sheriff's office shall be
8 responsible for obtaining the biological samples for:

9 (i) Persons convicted of any offense listed in subsection (1)(a) of
10 this section or adjudicated guilty of an equivalent juvenile offense
11 who do not serve a term of confinement in a department of corrections
12 facility, and do not serve a term of confinement in a city or county
13 jail facility; and

14 (ii) Persons who are required to register under RCW (~~9A.44.030~~)
15 9A.44.130.

16 (c) For persons convicted of any offense listed in subsection
17 (1)(a) of this section or adjudicated guilty of an equivalent juvenile
18 offense, who are serving or who are to serve a term of confinement in
19 a department of corrections facility or a department of social and
20 health services facility, the facility holding the person shall be
21 responsible for obtaining the biological samples. For those persons
22 incarcerated before June 12, 2008, who have not yet had a biological
23 sample collected, priority shall be given to those persons who will be
24 released the soonest.

25 (4) Any biological sample taken pursuant to RCW 43.43.752 through
26 43.43.758 may be retained by the forensic laboratory services bureau,
27 and shall be used solely for the purpose of providing DNA or other
28 tests for identification analysis and prosecution of a criminal offense
29 or for the identification of human remains or missing persons. Nothing
30 in this section prohibits the submission of results derived from the
31 biological samples to the federal bureau of investigation combined DNA
32 index system.

33 (5) The forensic laboratory services bureau of the Washington state
34 patrol is responsible for testing performed on all biological samples
35 that are collected under subsection (1) of this section, to the extent
36 allowed by funding available for this purpose. The director shall give
37 priority to testing on samples collected from those adults or juveniles
38 convicted of a felony or adjudicated guilty of an equivalent juvenile

1 offense that is defined as a sex offense or a violent offense in RCW
2 9.94A.030. Known duplicate samples may be excluded from testing unless
3 testing is deemed necessary or advisable by the director.

4 (6) This section applies to:

5 (a) All adults and juveniles to whom this section applied prior to
6 June 12, 2008;

7 (b) All adults and juveniles to whom this section did not apply
8 prior to June 12, 2008, who:

9 (i) Are convicted on or after June 12, 2008, of an offense listed
10 in subsection (1)(a) of this section; or

11 (ii) Were convicted prior to June 12, 2008, of an offense listed in
12 subsection (1)(a) of this section and are still incarcerated on or
13 after June 12, 2008; and

14 (c) All adults and juveniles who are required to register under RCW
15 9A.44.130 on or after June 12, 2008, whether convicted before, on, or
16 after June 12, 2008.

17 (7) This section creates no rights in a third person. No cause of
18 action may be brought based upon the noncollection or nonanalysis or
19 the delayed collection or analysis of a biological sample authorized to
20 be taken under RCW 43.43.752 through 43.43.758.

21 (8) The detention, arrest, or conviction of a person based upon a
22 database match or database information is not invalidated if it is
23 determined that the sample was obtained or placed in the database by
24 mistake, or if the conviction or juvenile adjudication that resulted in
25 the collection of the biological sample was subsequently vacated or
26 otherwise altered in any future proceeding including but not limited to
27 posttrial or postfact-finding motions, appeals, or collateral attacks.

28 (9) A person commits the crime of refusal to provide DNA if the
29 person has a duty to register under RCW 9A.44.130 and the person
30 willfully refuses to comply with a legal request for a DNA sample as
31 required under this section. The refusal to provide DNA is a gross
32 misdemeanor.

33 **Sec. 9.** RCW 9.94A.515 and 2012 c 176 s 3 and 2012 c 162 s 1 are
34 each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN
EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050) Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120) Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101) Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073) Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076) Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
X	Child Molestation 1 (RCW 9A.44.083) Criminal Mistreatment 1 (RCW 9A.42.020) Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))

1 Kidnapping 1 (RCW 9A.40.020)
2 Leading Organized Crime (RCW
3 9A.82.060(1)(a))
4 Malicious explosion 3 (RCW
5 70.74.280(3))
6 Sexually Violent Predator Escape
7 (RCW 9A.76.115)
8 IX Abandonment of Dependent Person 1
9 (RCW 9A.42.060)
10 Assault of a Child 2 (RCW 9A.36.130)
11 Explosive devices prohibited (RCW
12 70.74.180)
13 Hit and Run--Death (RCW
14 46.52.020(4)(a))
15 Homicide by Watercraft, by being
16 under the influence of intoxicating
17 liquor or any drug (RCW
18 79A.60.050)
19 Inciting Criminal Profiteering (RCW
20 9A.82.060(1)(b))
21 Malicious placement of an explosive 2
22 (RCW 70.74.270(2))
23 Robbery 1 (RCW 9A.56.200)
24 Sexual Exploitation (RCW 9.68A.040)
25 VIII Arson 1 (RCW 9A.48.020)
26 Commercial Sexual Abuse of a Minor
27 (RCW 9.68A.100)
28 Homicide by Watercraft, by the
29 operation of any vessel in a
30 reckless manner (RCW
31 79A.60.050)
32 Manslaughter 2 (RCW 9A.32.070)
33 Promoting Prostitution 1 (RCW
34 9A.88.070)
35 Theft of Ammonia (RCW 69.55.010)

1 Vehicular Homicide, by the operation
2 of any vehicle in a reckless manner
3 (RCW 46.61.520)

4 VII Burglary 1 (RCW 9A.52.020)
5 Child Molestation 2 (RCW 9A.44.086)
6 Civil Disorder Training (RCW
7 9A.48.120)
8 Dealing in depictions of minor engaged
9 in sexually explicit conduct 1
10 (RCW 9.68A.050(1))
11 Drive-by Shooting (RCW 9A.36.045)
12 Homicide by Watercraft, by disregard
13 for the safety of others (RCW
14 79A.60.050)
15 Indecent Liberties (without forcible
16 compulsion) (RCW 9A.44.100(1)
17 (b) and (c))
18 Introducing Contraband 1 (RCW
19 9A.76.140)
20 Malicious placement of an explosive 3
21 (RCW 70.74.270(3))
22 Negligently Causing Death By Use of a
23 Signal Preemption Device (RCW
24 46.37.675)
25 Sending, bringing into state depictions
26 of minor engaged in sexually
27 explicit conduct 1 (RCW
28 9.68A.060(1))
29 Unlawful Possession of a Firearm in
30 the first degree (RCW 9.41.040(1))
31 Use of a Machine Gun in Commission
32 of a Felony (RCW 9.41.225)
33 Vehicular Homicide, by disregard for
34 the safety of others (RCW
35 46.61.520)

36 VI Bail Jumping with Murder 1 (RCW
37 9A.76.170(3)(a))

1 Bribery (RCW 9A.68.010)
2 Incest 1 (RCW 9A.64.020(1))
3 Intimidating a Judge (RCW 9A.72.160)
4 Intimidating a Juror/Witness (RCW
5 9A.72.110, 9A.72.130)
6 Malicious placement of an imitation
7 device 2 (RCW 70.74.272(1)(b))
8 Possession of Depictions of a Minor
9 Engaged in Sexually Explicit
10 Conduct 1 (RCW 9.68A.070(1))
11 Rape of a Child 3 (RCW 9A.44.079)
12 Theft of a Firearm (RCW 9A.56.300)
13 Unlawful Storage of Ammonia (RCW
14 69.55.020)
15 V Abandonment of Dependent Person 2
16 (RCW 9A.42.070)
17 Advancing money or property for
18 extortionate extension of credit
19 (RCW 9A.82.030)
20 Bail Jumping with class A Felony
21 (RCW 9A.76.170(3)(b))
22 Child Molestation 3 (RCW 9A.44.089)
23 Criminal Mistreatment 2 (RCW
24 9A.42.030)
25 Custodial Sexual Misconduct 1 (RCW
26 9A.44.160)
27 Dealing in Depictions of Minor
28 Engaged in Sexually Explicit
29 Conduct 2 (RCW 9.68A.050(2))
30 Domestic Violence Court Order
31 Violation (RCW 10.99.040,
32 10.99.050, 26.09.300, 26.10.220,
33 26.26.138, 26.50.110, 26.52.070,
34 or 74.34.145)
35 Driving While Under the Influence
36 (RCW 46.61.502(6))
37 Extortion 1 (RCW 9A.56.120)

1 Extortionate Extension of Credit (RCW
2 9A.82.020)
3 Extortionate Means to Collect
4 Extensions of Credit (RCW
5 9A.82.040)
6 Incest 2 (RCW 9A.64.020(2))
7 Kidnapping 2 (RCW 9A.40.030)
8 Perjury 1 (RCW 9A.72.020)
9 Persistent prison misbehavior (RCW
10 9.94.070)
11 Physical Control of a Vehicle While
12 Under the Influence (RCW
13 46.61.504(6))
14 Possession of a Stolen Firearm (RCW
15 9A.56.310)
16 Rape 3 (RCW 9A.44.060)
17 Rendering Criminal Assistance 1
18 (RCW 9A.76.070)
19 Sending, Bringing into State Depictions
20 of Minor Engaged in Sexually
21 Explicit Conduct 2 (RCW
22 9.68A.060(2))
23 Sexual Misconduct with a Minor 1
24 (RCW 9A.44.093)
25 Sexually Violating Human Remains
26 (RCW 9A.44.105)
27 Stalking (RCW 9A.46.110)
28 Taking Motor Vehicle Without
29 Permission 1 (RCW 9A.56.070)
30 IV Arson 2 (RCW 9A.48.030)
31 Assault 2 (RCW 9A.36.021)
32 Assault 3 (of a Peace Officer with a
33 Projectile Stun Gun) (RCW
34 9A.36.031(1)(h))
35 Assault by Watercraft (RCW
36 79A.60.060)

1 Bribing a Witness/Bribe Received by
2 Witness (RCW 9A.72.090,
3 9A.72.100)
4 Cheating 1 (RCW 9.46.1961)
5 Commercial Bribery (RCW 9A.68.060)
6 Counterfeiting (RCW 9.16.035(4))
7 Endangerment with a Controlled
8 Substance (RCW 9A.42.100)
9 Escape 1 (RCW 9A.76.110)
10 Hit and Run--Injury (RCW
11 46.52.020(4)(b))
12 Hit and Run with Vessel--Injury
13 Accident (RCW 79A.60.200(3))
14 Identity Theft 1 (RCW 9.35.020(2))
15 Indecent Exposure to Person Under
16 Age Fourteen (subsequent sex
17 offense) (RCW 9A.88.010)
18 Influencing Outcome of Sporting Event
19 (RCW 9A.82.070)
20 Malicious Harassment (RCW
21 9A.36.080)
22 Possession of Depictions of a Minor
23 Engaged in Sexually Explicit
24 Conduct 2 (RCW 9.68A.070(2))
25 Residential Burglary (RCW
26 9A.52.025)
27 Robbery 2 (RCW 9A.56.210)
28 Theft of Livestock 1 (RCW 9A.56.080)
29 Threats to Bomb (RCW 9.61.160)
30 Trafficking in Stolen Property 1 (RCW
31 9A.82.050)
32 Unlawful factoring of a credit card or
33 payment card transaction (RCW
34 9A.56.290(4)(b))
35 Unlawful transaction of health
36 coverage as a health care service
37 contractor (RCW 48.44.016(3))

1 Unlawful transaction of health
2 coverage as a health maintenance
3 organization (RCW 48.46.033(3))
4 Unlawful transaction of insurance
5 business (RCW 48.15.023(3))
6 Unlicensed practice as an insurance
7 professional (RCW 48.17.063(2))
8 Use of Proceeds of Criminal
9 Profiteering (RCW 9A.82.080 (1)
10 and (2))
11 Vehicular Assault, by being under the
12 influence of intoxicating liquor or
13 any drug, or by the operation or
14 driving of a vehicle in a reckless
15 manner (RCW 46.61.522)
16 Viewing of Depictions of a Minor
17 Engaged in Sexually Explicit
18 Conduct 1 (RCW 9.68A.075(1))
19 Willful Failure to Return from
20 Furlough (RCW 72.66.060)
21 III Animal Cruelty 1 (Sexual Conduct or
22 Contact) (RCW 16.52.205(3))
23 Assault 3 (Except Assault 3 of a Peace
24 Officer With a Projectile Stun
25 Gun) (RCW 9A.36.031 except
26 subsection (1)(h))
27 Assault of a Child 3 (RCW 9A.36.140)
28 Bail Jumping with class B or C Felony
29 (RCW 9A.76.170(3)(c))
30 Burglary 2 (RCW 9A.52.030)
31 Communication with a Minor for
32 Immoral Purposes (RCW
33 9.68A.090)
34 Criminal Gang Intimidation (RCW
35 9A.46.120)
36 Custodial Assault (RCW 9A.36.100)

1 Cyberstalking (subsequent conviction
2 or threat of death) (RCW
3 9.61.260(3))
4 Escape 2 (RCW 9A.76.120)
5 Extortion 2 (RCW 9A.56.130)
6 Harassment (RCW 9A.46.020)
7 Intimidating a Public Servant (RCW
8 9A.76.180)
9 Introducing Contraband 2 (RCW
10 9A.76.150)
11 Malicious Injury to Railroad Property
12 (RCW 81.60.070)
13 Mortgage Fraud (RCW 19.144.080)
14 Negligently Causing Substantial Bodily
15 Harm By Use of a Signal
16 Preemption Device (RCW
17 46.37.674)
18 Organized Retail Theft 1 (RCW
19 9A.56.350(2))
20 Perjury 2 (RCW 9A.72.030)
21 Possession of Incendiary Device (RCW
22 9.40.120)
23 Possession of Machine Gun or Short-
24 Barreled Shotgun or Rifle (RCW
25 9.41.190)
26 Promoting Prostitution 2 (RCW
27 9A.88.080)
28 Retail Theft with Extenuating
29 Circumstances 1 (RCW
30 9A.56.360(2))
31 Securities Act violation (RCW
32 21.20.400)
33 Tampering with a Witness (RCW
34 9A.72.120)
35 Telephone Harassment (subsequent
36 conviction or threat of death)
37 (RCW 9.61.230(2))

1 Theft of Livestock 2 (RCW 9A.56.083)
2 Theft with the Intent to Resell 1 (RCW
3 9A.56.340(2))
4 Trafficking in Stolen Property 2 (RCW
5 9A.82.055)
6 Unlawful Hunting of Big Game 1
7 (RCW 77.15.410(3)(b))
8 Unlawful Imprisonment (RCW
9 9A.40.040)
10 Unlawful possession of firearm in the
11 second degree (RCW 9A.1.040(2))
12 Unlawful Taking of Endangered Fish
13 or Wildlife 1 (RCW
14 77.15.120(3)(b))
15 Unlawful Trafficking in Fish, Shellfish,
16 or Wildlife 1 (RCW
17 77.15.260(3)(b))
18 Unlawful Use of a Nondesignated
19 Vessel (RCW 77.15.530(4))
20 Vehicular Assault, by the operation or
21 driving of a vehicle with disregard
22 for the safety of others (RCW
23 46.61.522)
24 Willful Failure to Return from Work
25 Release (RCW 72.65.070)
26 II Commercial Fishing Without a License
27 1 (RCW 77.15.500(3)(b))
28 Computer Trespass 1 (RCW
29 9A.52.110)
30 Counterfeiting (RCW 9.16.035(3))
31 Engaging in Fish Dealing Activity
32 Unlicensed 1 (RCW 77.15.620(3))
33 Escape from Community Custody
34 (RCW 72.09.310)

1 Failure to Register as a Sex Offender
2 (second or subsequent offense)
3 (RCW 9A.44.130 prior to June 10,
4 2010, and RCW 9A.44.132)
5 Health Care False Claims (RCW
6 48.80.030)
7 Identity Theft 2 (RCW 9.35.020(3))
8 Improperly Obtaining Financial
9 Information (RCW 9.35.010)
10 Malicious Mischief 1 (RCW
11 9A.48.070)
12 Organized Retail Theft 2 (RCW
13 9A.56.350(3))
14 Possession of Stolen Property 1 (RCW
15 9A.56.150)
16 Possession of a Stolen Vehicle (RCW
17 9A.56.068)
18 Retail Theft with Extenuating
19 Circumstances 2 (RCW
20 9A.56.360(3))
21 Theft 1 (RCW 9A.56.030)
22 Theft of a Motor Vehicle (RCW
23 9A.56.065)
24 Theft of Rental, Leased, or Lease-
25 purchased Property (valued at one
26 thousand five hundred dollars or
27 more) (RCW 9A.56.096(5)(a))
28 Theft with the Intent to Resell 2 (RCW
29 9A.56.340(3))
30 Trafficking in Insurance Claims (RCW
31 48.30A.015)
32 Unlawful factoring of a credit card or
33 payment card transaction (RCW
34 9A.56.290(4)(a))
35 Unlawful Participation of Non-Indians
36 in Indian Fishery (RCW
37 77.15.570(2))

1 Unlawful Practice of Law (RCW
2 2.48.180)
3 Unlicensed Practice of a Profession or
4 Business (RCW 18.130.190(7))
5 Unlawful Purchase or Use of a License
6 (RCW 77.15.650(3)(b))
7 Unlawful Trafficking in Fish, Shellfish,
8 or Wildlife 2 (RCW
9 77.15.260(3)(a))
10 Voyeurism (RCW 9A.44.115)
11 I Attempting to Elude a Pursuing Police
12 Vehicle (RCW 46.61.024)
13 False Verification for Welfare (RCW
14 74.08.055)
15 Forgery (RCW 9A.60.020)
16 Fraudulent Creation or Revocation of a
17 Mental Health Advance Directive
18 (RCW 9A.60.060)
19 Malicious Mischief 2 (RCW
20 9A.48.080)
21 Mineral Trespass (RCW 78.44.330)
22 Possession of Stolen Property 2 (RCW
23 9A.56.160)
24 Reckless Burning 1 (RCW 9A.48.040)
25 Spotlighting Big Game 1 (RCW
26 77.15.450(3)(b))
27 Suspension of Department Privileges 1
28 (RCW 77.15.670(3)(b))
29 Taking Motor Vehicle Without
30 Permission 2 (RCW 9A.56.075)
31 Theft 2 (RCW 9A.56.040)
32 Theft of Rental, Leased, or Lease-
33 purchased Property (valued at two
34 hundred fifty dollars or more but
35 less than one thousand five
36 hundred dollars) (RCW
37 9A.56.096(5)(b))

1 Transaction of insurance business
2 beyond the scope of licensure
3 (RCW 48.17.063)
4 Unlawful Fish and Shellfish Catch
5 Accounting (RCW
6 77.15.630(3)(b))
7 Unlawful Issuance of Checks or Drafts
8 (RCW 9A.56.060)
9 Unlawful Possession of Fictitious
10 Identification (RCW 9A.56.320)
11 Unlawful Possession of Instruments of
12 Financial Fraud (RCW 9A.56.320)
13 Unlawful Possession of Payment
14 Instruments (RCW 9A.56.320)
15 Unlawful Possession of a Personal
16 Identification Device (RCW
17 9A.56.320)
18 Unlawful Production of Payment
19 Instruments (RCW 9A.56.320)
20 Unlawful Release of Deleterious Exotic
21 Wildlife (RCW 77.15.250(2)(b))
22 Unlawful Trafficking in Food Stamps
23 (RCW 9.91.142)
24 Unlawful Use of Food Stamps (RCW
25 9.91.144)
26 Unlawful Use of Net to Take Fish 1
27 (RCW 77.15.580(3)(b))
28 Unlawful Use of Prohibited Aquatic
29 Animal Species (RCW
30 77.15.253(3))
31 Vehicle Prowl 1 (RCW 9A.52.095)
32 Violating Commercial Fishing Area or
33 Time 1 (RCW 77.15.550(3)(b))

34 **Sec. 10.** RCW 9.94A.030 and 2012 c 143 s 1 are each amended to read
35 as follows:

36 Unless the context clearly requires otherwise, the definitions in
37 this section apply throughout this chapter.

1 (1) "Board" means the indeterminate sentence review board created
2 under chapter 9.95 RCW.

3 (2) "Collect," or any derivative thereof, "collect and remit," or
4 "collect and deliver," when used with reference to the department,
5 means that the department, either directly or through a collection
6 agreement authorized by RCW 9.94A.760, is responsible for monitoring
7 and enforcing the offender's sentence with regard to the legal
8 financial obligation, receiving payment thereof from the offender, and,
9 consistent with current law, delivering daily the entire payment to the
10 superior court clerk without depositing it in a departmental account.

11 (3) "Commission" means the sentencing guidelines commission.

12 (4) "Community corrections officer" means an employee of the
13 department who is responsible for carrying out specific duties in
14 supervision of sentenced offenders and monitoring of sentence
15 conditions.

16 (5) "Community custody" means that portion of an offender's
17 sentence of confinement in lieu of earned release time or imposed as
18 part of a sentence under this chapter and served in the community
19 subject to controls placed on the offender's movement and activities by
20 the department.

21 (6) "Community protection zone" means the area within eight hundred
22 eighty feet of the facilities and grounds of a public or private
23 school.

24 (7) "Community restitution" means compulsory service, without
25 compensation, performed for the benefit of the community by the
26 offender.

27 (8) "Confinement" means total or partial confinement.

28 (9) "Conviction" means an adjudication of guilt pursuant to Title
29 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
30 acceptance of a plea of guilty.

31 (10) "Crime-related prohibition" means an order of a court
32 prohibiting conduct that directly relates to the circumstances of the
33 crime for which the offender has been convicted, and shall not be
34 construed to mean orders directing an offender affirmatively to
35 participate in rehabilitative programs or to otherwise perform
36 affirmative conduct. However, affirmative acts necessary to monitor
37 compliance with the order of a court may be required by the department.

1 (11) "Criminal history" means the list of a defendant's prior
2 convictions and juvenile adjudications, whether in this state, in
3 federal court, or elsewhere.

4 (a) The history shall include, where known, for each conviction (i)
5 whether the defendant has been placed on probation and the length and
6 terms thereof; and (ii) whether the defendant has been incarcerated and
7 the length of incarceration.

8 (b) A conviction may be removed from a defendant's criminal history
9 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or
10 a similar out-of-state statute, or if the conviction has been vacated
11 pursuant to a governor's pardon.

12 (c) The determination of a defendant's criminal history is distinct
13 from the determination of an offender score. A prior conviction that
14 was not included in an offender score calculated pursuant to a former
15 version of the sentencing reform act remains part of the defendant's
16 criminal history.

17 (12) "Criminal street gang" means any ongoing organization,
18 association, or group of three or more persons, whether formal or
19 informal, having a common name or common identifying sign or symbol,
20 having as one of its primary activities the commission of criminal
21 acts, and whose members or associates individually or collectively
22 engage in or have engaged in a pattern of criminal street gang
23 activity. This definition does not apply to employees engaged in
24 concerted activities for their mutual aid and protection, or to the
25 activities of labor and bona fide nonprofit organizations or their
26 members or agents.

27 (13) "Criminal street gang associate or member" means any person
28 who actively participates in any criminal street gang and who
29 intentionally promotes, furthers, or assists in any criminal act by the
30 criminal street gang.

31 (14) "Criminal street gang-related offense" means any felony or
32 misdemeanor offense, whether in this state or elsewhere, that is
33 committed for the benefit of, at the direction of, or in association
34 with any criminal street gang, or is committed with the intent to
35 promote, further, or assist in any criminal conduct by the gang, or is
36 committed for one or more of the following reasons:

37 (a) To gain admission, prestige, or promotion within the gang;

1 (b) To increase or maintain the gang's size, membership, prestige,
2 dominance, or control in any geographical area;

3 (c) To exact revenge or retribution for the gang or any member of
4 the gang;

5 (d) To obstruct justice, or intimidate or eliminate any witness
6 against the gang or any member of the gang;

7 (e) To directly or indirectly cause any benefit, aggrandizement,
8 gain, profit, or other advantage for the gang, its reputation,
9 influence, or membership; or

10 (f) To provide the gang with any advantage in, or any control or
11 dominance over any criminal market sector, including, but not limited
12 to, manufacturing, delivering, or selling any controlled substance
13 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
14 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
15 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
16 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
17 9.68 RCW).

18 (15) "Day fine" means a fine imposed by the sentencing court that
19 equals the difference between the offender's net daily income and the
20 reasonable obligations that the offender has for the support of the
21 offender and any dependents.

22 (16) "Day reporting" means a program of enhanced supervision
23 designed to monitor the offender's daily activities and compliance with
24 sentence conditions, and in which the offender is required to report
25 daily to a specific location designated by the department or the
26 sentencing court.

27 (17) "Department" means the department of corrections.

28 (18) "Determinate sentence" means a sentence that states with
29 exactitude the number of actual years, months, or days of total
30 confinement, of partial confinement, of community custody, the number
31 of actual hours or days of community restitution work, or dollars or
32 terms of a legal financial obligation. The fact that an offender
33 through earned release can reduce the actual period of confinement
34 shall not affect the classification of the sentence as a determinate
35 sentence.

36 (19) "Disposable earnings" means that part of the earnings of an
37 offender remaining after the deduction from those earnings of any
38 amount required by law to be withheld. For the purposes of this

1 definition, "earnings" means compensation paid or payable for personal
2 services, whether denominated as wages, salary, commission, bonuses, or
3 otherwise, and, notwithstanding any other provision of law making the
4 payments exempt from garnishment, attachment, or other process to
5 satisfy a court-ordered legal financial obligation, specifically
6 includes periodic payments pursuant to pension or retirement programs,
7 or insurance policies of any type, but does not include payments made
8 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
9 or Title 74 RCW.

10 (20) "Domestic violence" has the same meaning as defined in RCW
11 10.99.020 and 26.50.010.

12 (21) "Drug offender sentencing alternative" is a sentencing option
13 available to persons convicted of a felony offense other than a violent
14 offense or a sex offense and who are eligible for the option under RCW
15 9.94A.660.

16 (22) "Drug offense" means:

17 (a) Any felony violation of chapter 69.50 RCW except possession of
18 a controlled substance (RCW 69.50.4013) or forged prescription for a
19 controlled substance (RCW 69.50.403);

20 (b) Any offense defined as a felony under federal law that relates
21 to the possession, manufacture, distribution, or transportation of a
22 controlled substance; or

23 (c) Any out-of-state conviction for an offense that under the laws
24 of this state would be a felony classified as a drug offense under (a)
25 of this subsection.

26 (23) "Earned release" means earned release from confinement as
27 provided in RCW 9.94A.728.

28 (24) "Escape" means:

29 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
30 first degree (RCW 9A.76.110), escape in the second degree (RCW
31 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
32 willful failure to return from work release (RCW 72.65.070), or willful
33 failure to be available for supervision by the department while in
34 community custody (RCW 72.09.310); or

35 (b) Any federal or out-of-state conviction for an offense that
36 under the laws of this state would be a felony classified as an escape
37 under (a) of this subsection.

38 (25) "Felony traffic offense" means:

1 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
2 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
3 run injury-accident (RCW 46.52.020(4)), felony driving while under the
4 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or
5 felony physical control of a vehicle while under the influence of
6 intoxicating liquor or any drug (RCW 46.61.504(6)); or

7 (b) Any federal or out-of-state conviction for an offense that
8 under the laws of this state would be a felony classified as a felony
9 traffic offense under (a) of this subsection.

10 (26) "Fine" means a specific sum of money ordered by the sentencing
11 court to be paid by the offender to the court over a specific period of
12 time.

13 (27) "First-time offender" means any person who has no prior
14 convictions for a felony and is eligible for the first-time offender
15 waiver under RCW 9.94A.650.

16 (28) "Home detention" means a program of partial confinement
17 available to offenders wherein the offender is confined in a private
18 residence subject to electronic surveillance.

19 (29) "Homelessness" or "homeless" means a condition where an
20 individual lacks a fixed, regular, and adequate nighttime residence and
21 who has a primary nighttime residence that is:

22 (a) A supervised, publicly or privately operated shelter designed
23 to provide temporary living accommodations;

24 (b) A public or private place not designed for, or ordinarily used
25 as, a regular sleeping accommodation for human beings; or

26 (c) A private residence where the individual stays as a transient
27 invitee.

28 (30) "Legal financial obligation" means a sum of money that is
29 ordered by a superior court of the state of Washington for legal
30 financial obligations which may include restitution to the victim,
31 statutorily imposed crime victims' compensation fees as assessed
32 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
33 court-appointed attorneys' fees, and costs of defense, fines, and any
34 other financial obligation that is assessed to the offender as a result
35 of a felony conviction. Upon conviction for vehicular assault while
36 under the influence of intoxicating liquor or any drug, RCW
37 46.61.522(1)(b), or vehicular homicide while under the influence of
38 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial

1 obligations may also include payment to a public agency of the expense
2 of an emergency response to the incident resulting in the conviction,
3 subject to RCW 38.52.430.

4 (31) "Minor child" means a biological or adopted child of the
5 offender who is under age eighteen at the time of the offender's
6 current offense.

7 (32) "Most serious offense" means any of the following felonies or
8 a felony attempt to commit any of the following felonies:

9 (a) Any felony defined under any law as a class A felony or
10 criminal solicitation of or criminal conspiracy to commit a class A
11 felony;

12 (b) Assault in the second degree;

13 (c) Assault of a child in the second degree;

14 (d) Child molestation in the second degree;

15 (e) Controlled substance homicide;

16 (f) Extortion in the first degree;

17 (g) Incest when committed against a child under age fourteen;

18 (h) Indecent liberties;

19 (i) Kidnapping in the second degree;

20 (j) Leading organized crime;

21 (k) Manslaughter in the first degree;

22 (l) Manslaughter in the second degree;

23 (m) Promoting prostitution in the first degree;

24 (n) Rape in the third degree;

25 (o) Robbery in the second degree;

26 (p) Sexual exploitation;

27 (q) Vehicular assault, when caused by the operation or driving of
28 a vehicle by a person while under the influence of intoxicating liquor
29 or any drug or by the operation or driving of a vehicle in a reckless
30 manner;

31 (r) Vehicular homicide, when proximately caused by the driving of
32 any vehicle by any person while under the influence of intoxicating
33 liquor or any drug as defined by RCW 46.61.502, or by the operation of
34 any vehicle in a reckless manner;

35 (s) Any other class B felony offense with a finding of sexual
36 motivation;

37 (t) Any other felony with a deadly weapon verdict under RCW
38 9.94A.825;

1 (u) Any felony offense in effect at any time prior to December 2,
2 1993, that is comparable to a most serious offense under this
3 subsection, or any federal or out-of-state conviction for an offense
4 that under the laws of this state would be a felony classified as a
5 most serious offense under this subsection;

6 (v)(i) A prior conviction for indecent liberties under RCW
7 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
8 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
9 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
10 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

11 (ii) A prior conviction for indecent liberties under RCW
12 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
13 if: (A) The crime was committed against a child under the age of
14 fourteen; or (B) the relationship between the victim and perpetrator is
15 included in the definition of indecent liberties under RCW
16 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
17 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
18 through July 27, 1997;

19 (w) Any out-of-state conviction for a felony offense with a finding
20 of sexual motivation if the minimum sentence imposed was ten years or
21 more; provided that the out-of-state felony offense must be comparable
22 to a felony offense under this title and Title 9A RCW and the out-of-
23 state definition of sexual motivation must be comparable to the
24 definition of sexual motivation contained in this section.

25 (33) "Nonviolent offense" means an offense which is not a violent
26 offense.

27 (34) "Offender" means a person who has committed a felony
28 established by state law and is eighteen years of age or older or is
29 less than eighteen years of age but whose case is under superior court
30 jurisdiction under RCW 13.04.030 or has been transferred by the
31 appropriate juvenile court to a criminal court pursuant to RCW
32 13.40.110. In addition, for the purpose of community custody
33 requirements under this chapter, "offender" also means a misdemeanor
34 or gross misdemeanor probationer ordered by a superior court to
35 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
36 supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011.
37 Throughout this chapter, the terms "offender" and "defendant" are used
38 interchangeably.

1 (35) "Partial confinement" means confinement for no more than one
2 year in a facility or institution operated or utilized under contract
3 by the state or any other unit of government, or, if home detention or
4 work crew has been ordered by the court or home detention has been
5 ordered by the department as part of the parenting program, in an
6 approved residence, for a substantial portion of each day with the
7 balance of the day spent in the community. Partial confinement
8 includes work release, home detention, work crew, and a combination of
9 work crew and home detention.

10 (36) "Pattern of criminal street gang activity" means:

11 (a) The commission, attempt, conspiracy, or solicitation of, or any
12 prior juvenile adjudication of or adult conviction of, two or more of
13 the following criminal street gang-related offenses:

14 (i) Any "serious violent" felony offense as defined in this
15 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
16 Child 1 (RCW 9A.36.120);

17 (ii) Any "violent" offense as defined by this section, excluding
18 Assault of a Child 2 (RCW 9A.36.130);

19 (iii) Deliver or Possession with Intent to Deliver a Controlled
20 Substance (chapter 69.50 RCW);

21 (iv) Any violation of the firearms and dangerous weapon act
22 (chapter 9.41 RCW);

23 (v) Theft of a Firearm (RCW 9A.56.300);

24 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

25 (vii) Malicious Harassment (RCW 9A.36.080);

26 (viii) Harassment where a subsequent violation or deadly threat is
27 made (RCW 9A.46.020(2)(b));

28 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

29 (x) Any felony conviction by a person eighteen years of age or
30 older with a special finding of involving a juvenile in a felony
31 offense under RCW 9.94A.833;

32 (xi) Residential Burglary (RCW 9A.52.025);

33 (xii) Burglary 2 (RCW 9A.52.030);

34 (xiii) Malicious Mischief 1 (RCW 9A.48.070);

35 (xiv) Malicious Mischief 2 (RCW 9A.48.080);

36 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);

37 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

38 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

1 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
2 9A.56.075);
3 (xix) Extortion 1 (RCW 9A.56.120);
4 (xx) Extortion 2 (RCW 9A.56.130);
5 (xxi) Intimidating a Witness (RCW 9A.72.110);
6 (xxii) Tampering with a Witness (RCW 9A.72.120);
7 (xxiii) Reckless Endangerment (RCW 9A.36.050);
8 (xxiv) Coercion (RCW 9A.36.070);
9 (xxv) Harassment (RCW 9A.46.020); or
10 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
11 (b) That at least one of the offenses listed in (a) of this
12 subsection shall have occurred after July 1, 2008;
13 (c) That the most recent committed offense listed in (a) of this
14 subsection occurred within three years of a prior offense listed in (a)
15 of this subsection; and
16 (d) Of the offenses that were committed in (a) of this subsection,
17 the offenses occurred on separate occasions or were committed by two or
18 more persons.
19 (37) "Persistent offender" is an offender who:
20 (a)(i) Has been convicted in this state of any felony considered a
21 most serious offense; and
22 (ii) Has, before the commission of the offense under (a) of this
23 subsection, been convicted as an offender on at least two separate
24 occasions, whether in this state or elsewhere, of felonies that under
25 the laws of this state would be considered most serious offenses and
26 would be included in the offender score under RCW 9.94A.525; provided
27 that of the two or more previous convictions, at least one conviction
28 must have occurred before the commission of any of the other most
29 serious offenses for which the offender was previously convicted; or
30 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
31 of a child in the first degree, child molestation in the first degree,
32 rape in the second degree, rape of a child in the second degree, or
33 indecent liberties by forcible compulsion; (B) any of the following
34 offenses with a finding of sexual motivation: Murder in the first
35 degree, murder in the second degree, homicide by abuse, kidnapping in
36 the first degree, kidnapping in the second degree, assault in the first
37 degree, assault in the second degree, assault of a child in the first

1 degree, assault of a child in the second degree, or burglary in the
2 first degree; or (C) an attempt to commit any crime listed in this
3 subsection (37)(b)(i); and

4 (ii) Has, before the commission of the offense under (b)(i) of this
5 subsection, been convicted as an offender on at least one occasion,
6 whether in this state or elsewhere, of an offense listed in (b)(i) of
7 this subsection or any federal or out-of-state offense or offense under
8 prior Washington law that is comparable to the offenses listed in
9 (b)(i) of this subsection. A conviction for rape of a child in the
10 first degree constitutes a conviction under (b)(i) of this subsection
11 only when the offender was sixteen years of age or older when the
12 offender committed the offense. A conviction for rape of a child in
13 the second degree constitutes a conviction under (b)(i) of this
14 subsection only when the offender was eighteen years of age or older
15 when the offender committed the offense.

16 (38) "Predatory" means: (a) The perpetrator of the crime was a
17 stranger to the victim, as defined in this section; (b) the perpetrator
18 established or promoted a relationship with the victim prior to the
19 offense and the victimization of the victim was a significant reason
20 the perpetrator established or promoted the relationship; or (c) the
21 perpetrator was: (i) A teacher, counselor, volunteer, or other person
22 in authority in any public or private school and the victim was a
23 student of the school under his or her authority or supervision. For
24 purposes of this subsection, "school" does not include home-based
25 instruction as defined in RCW 28A.225.010; (ii) a coach, trainer,
26 volunteer, or other person in authority in any recreational activity
27 and the victim was a participant in the activity under his or her
28 authority or supervision; (iii) a pastor, elder, volunteer, or other
29 person in authority in any church or religious organization, and the
30 victim was a member or participant of the organization under his or her
31 authority; or (iv) a teacher, counselor, volunteer, or other person in
32 authority providing home-based instruction and the victim was a student
33 receiving home-based instruction while under his or her authority or
34 supervision. For purposes of this subsection: (A) "Home-based
35 instruction" has the same meaning as defined in RCW 28A.225.010; and
36 (B) "teacher, counselor, volunteer, or other person in authority" does
37 not include the parent or legal guardian of the victim.

1 (39) "Private school" means a school regulated under chapter
2 28A.195 or 28A.205 RCW.

3 (40) "Public school" has the same meaning as in RCW 28A.150.010.

4 (41) "Repetitive domestic violence offense" means any:

5 (a)(i) Domestic violence assault that is not a felony offense under
6 RCW 9A.36.041;

7 (ii) Domestic violence violation of a no-contact order under
8 chapter 10.99 RCW that is not a felony offense;

9 (iii) Domestic violence violation of a protection order under
10 chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;

11 (iv) Domestic violence harassment offense under RCW 9A.46.020 that
12 is not a felony offense; or

13 (v) Domestic violence stalking offense under RCW 9A.46.110 that is
14 not a felony offense; or

15 (b) Any federal, out-of-state, tribal court, military, county, or
16 municipal conviction for an offense that under the laws of this state
17 would be classified as a repetitive domestic violence offense under (a)
18 of this subsection.

19 (42) "Restitution" means a specific sum of money ordered by the
20 sentencing court to be paid by the offender to the court over a
21 specified period of time as payment of damages. The sum may include
22 both public and private costs.

23 (43) "Risk assessment" means the application of the risk instrument
24 recommended to the department by the Washington state institute for
25 public policy as having the highest degree of predictive accuracy for
26 assessing an offender's risk of reoffense.

27 (44) "Serious traffic offense" means:

28 (a) Nonfelony driving while under the influence of intoxicating
29 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
30 while under the influence of intoxicating liquor or any drug (RCW
31 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
32 attended vehicle (RCW 46.52.020(5)); or

33 (b) Any federal, out-of-state, county, or municipal conviction for
34 an offense that under the laws of this state would be classified as a
35 serious traffic offense under (a) of this subsection.

36 (45) "Serious violent offense" is a subcategory of violent offense
37 and means:

38 (a)(i) Murder in the first degree;

1 (ii) Homicide by abuse;
2 (iii) Murder in the second degree;
3 (iv) Manslaughter in the first degree;
4 (v) Assault in the first degree;
5 (vi) Kidnapping in the first degree;
6 (vii) Rape in the first degree;
7 (viii) Assault of a child in the first degree; or
8 (ix) An attempt, criminal solicitation, or criminal conspiracy to
9 commit one of these felonies; or
10 (b) Any federal or out-of-state conviction for an offense that
11 under the laws of this state would be a felony classified as a serious
12 violent offense under (a) of this subsection.
13 (46) "Sex offense" means:
14 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
15 RCW 9A.44.132;
16 (ii) A violation of RCW 9A.64.020;
17 (iii) A felony that is a violation of chapter 9.68A RCW other than
18 RCW 9.68A.080;
19 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
20 criminal solicitation, or criminal conspiracy to commit such crimes; or
21 (v) A felony violation of RCW 9A.44.132(1) (failure to register as
22 a sex offender) if the person has been convicted of violating RCW
23 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior
24 to June 10, 2010, on at least one prior occasion;
25 (b) Any conviction for a felony offense in effect at any time prior
26 to July 1, 1976, that is comparable to a felony classified as a sex
27 offense in (a) of this subsection;
28 (c) A felony with a finding of sexual motivation under RCW
29 9.94A.835 or 13.40.135; or
30 (d) Any federal or out-of-state conviction for an offense that
31 under the laws of this state would be a felony classified as a sex
32 offense under (a) of this subsection.
33 (47) "Sexual motivation" means that one of the purposes for which
34 the defendant committed the crime was for the purpose of his or her
35 sexual gratification.
36 (48) "Standard sentence range" means the sentencing court's
37 discretionary range in imposing a nonappealable sentence.

1 (49) "Statutory maximum sentence" means the maximum length of time
2 for which an offender may be confined as punishment for a crime as
3 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
4 crime, or other statute defining the maximum penalty for a crime.

5 (50) "Stranger" means that the victim did not know the offender
6 twenty-four hours before the offense.

7 (51) "Total confinement" means confinement inside the physical
8 boundaries of a facility or institution operated or utilized under
9 contract by the state or any other unit of government for twenty-four
10 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

11 (52) "Transition training" means written and verbal instructions
12 and assistance provided by the department to the offender during the
13 two weeks prior to the offender's successful completion of the work
14 ethic camp program. The transition training shall include instructions
15 in the offender's requirements and obligations during the offender's
16 period of community custody.

17 (53) "Victim" means any person who has sustained emotional,
18 psychological, physical, or financial injury to person or property as
19 a direct result of the crime charged.

20 (54) "Violent offense" means:

21 (a) Any of the following felonies:

22 (i) Any felony defined under any law as a class A felony or an
23 attempt to commit a class A felony;

24 (ii) Criminal solicitation of or criminal conspiracy to commit a
25 class A felony;

26 (iii) Manslaughter in the first degree;

27 (iv) Manslaughter in the second degree;

28 (v) Indecent liberties if committed by forcible compulsion;

29 (vi) Kidnapping in the second degree;

30 (vii) Arson in the second degree;

31 (viii) Assault in the second degree;

32 (ix) Assault of a child in the second degree;

33 (x) Extortion in the first degree;

34 (xi) Robbery in the second degree;

35 (xii) Drive-by shooting;

36 (xiii) Vehicular assault, when caused by the operation or driving
37 of a vehicle by a person while under the influence of intoxicating

1 liquor or any drug or by the operation or driving of a vehicle in a
2 reckless manner; and

3 (xiv) Vehicular homicide, when proximately caused by the driving of
4 any vehicle by any person while under the influence of intoxicating
5 liquor or any drug as defined by RCW 46.61.502, or by the operation of
6 any vehicle in a reckless manner;

7 (b) Any conviction for a felony offense in effect at any time prior
8 to July 1, 1976, that is comparable to a felony classified as a violent
9 offense in (a) of this subsection; and

10 (c) Any federal or out-of-state conviction for an offense that
11 under the laws of this state would be a felony classified as a violent
12 offense under (a) or (b) of this subsection.

13 (55) "Work crew" means a program of partial confinement consisting
14 of civic improvement tasks for the benefit of the community that
15 complies with RCW 9.94A.725.

16 (56) "Work ethic camp" means an alternative incarceration program
17 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
18 the cost of corrections by requiring offenders to complete a
19 comprehensive array of real-world job and vocational experiences,
20 character-building work ethics training, life management skills
21 development, substance abuse rehabilitation, counseling, literacy
22 training, and basic adult education.

23 (57) "Work release" means a program of partial confinement
24 available to offenders who are employed or engaged as a student in a
25 regular course of study at school.

26 **Sec. 11.** RCW 28A.300.147 and 2011 c 338 s 6 are each amended to
27 read as follows:

28 The superintendent of public instruction shall publish on its web
29 site, with a link to the safety center web page((~~7~~)):

30 (1) A revised and updated sample policy for schools to follow
31 regarding students required to register as sex or kidnapping offenders;
32 and

33 (2) Educational materials developed pursuant to RCW 28A.300.145.

34 NEW SECTION. **Sec. 12.** A new section is added to chapter 28A.320
35 RCW to read as follows:

36 (1) Each school district must develop or amend and adopt a written

1 policy, with protocol, to ensure the health and safety of all staff and
2 students in the school where students required to register as sex or
3 kidnapping offenders are enrolled. The policy must also include
4 procedures for the dissemination of information to appropriate school
5 staff.

6 (2) The policy must address:

7 (a) Guidelines for developing student safety plans;

8 (b) Guidelines for disseminating appropriate information to school
9 staff;

10 (c) Communication protocols for when school staff observe any
11 suspect behavior or action on the part of a student required to
12 register as a sex or kidnapping offender that may compromise the
13 health, safety, or well-being of students or staff;

14 (d) Communication strategies with local law enforcement; and

15 (e) Responsibilities of the school's designated primary contact.

16 (3) The school district shall make its policy available to the
17 public and share the location with the superintendent of public
18 instruction no later than September 1, 2013.

19 NEW SECTION. **Sec. 13.** A new section is added to chapter 28A.320
20 RCW to read as follows:

21 (1) Each school must designate one person in the school to serve as
22 the primary contact regarding students who are required to register as
23 sex or kidnapping offenders pursuant to RCW 9A.44.130. The primary
24 contact must be in a position to recognize high-risk situations or
25 factors that may indicate a student is encountering difficulty in
26 controlling his or her behavior.

27 (2)(a) Each school must develop an individual student safety plan
28 for any student enrolling or attending the school who is required to
29 register as a sex or kidnapping offender.

30 (b) An individual student safety plan must be developed in
31 coordination with a multidisciplinary team of professionals including,
32 but not limited to, the school's primary contact, the parent or
33 guardian of the student required to register as a sex or kidnapping
34 offender, the student's probation officer, and the student's counselor.

35 (c) Individual safety plans must be reviewed and updated at least
36 annually and housed in a secure location, monitored by the primary
37 contact person for the school.

1 **Sec. 14.** RCW 72.09.345 and 2011 c 338 s 5 are each amended to read
2 as follows:

3 (1) In addition to any other information required to be released
4 under this chapter, the department is authorized, pursuant to RCW
5 4.24.550, to release relevant information that is necessary to protect
6 the public concerning offenders convicted of sex offenses.

7 (2) In order for public agencies to have the information necessary
8 to notify the public as authorized in RCW 4.24.550, the secretary shall
9 establish and administer an end-of-sentence review committee for the
10 purposes of assigning risk levels, reviewing available release plans,
11 and making appropriate referrals for sex offenders.

12 (3) The committee shall assess, on a case-by-case basis, the public
13 risk posed by:

14 (a) Offenders preparing for release from confinement for a sex
15 offense or sexually violent offense committed on or after July 1, 1984;

16 (b) Sex offenders accepted from another state under a reciprocal
17 agreement under the interstate corrections compact authorized in
18 chapter 72.74 RCW;

19 (c) Juveniles preparing for release from confinement for a sex
20 offense and releasing from the department of social and health services
21 juvenile rehabilitation administration;

22 (d) Juveniles, following disposition, under the jurisdiction of a
23 county juvenile court for a registerable sex offense; and

24 (e) Juveniles found to have committed a sex offense and accepted
25 from another state under a reciprocal agreement under the interstate
26 compact for juveniles authorized in chapter 13.24 RCW.

27 (4) Notwithstanding any other provision of law, the committee shall
28 have access to all relevant records and information in the possession
29 of public agencies relating to the offenders under review, including
30 police reports; prosecutors' statements of probable cause; presentence
31 investigations and reports; complete judgments and sentences; current
32 classification referrals; criminal history summaries; violation and
33 disciplinary reports; all psychological evaluations and psychiatric
34 hospital reports; sex offender treatment program reports; and juvenile
35 records. Records and information obtained under this subsection shall
36 not be disclosed outside the committee unless otherwise authorized by
37 law.

1 (5) The committee shall review each sex offender under its
2 authority before the offender's release from confinement or start of
3 the offender's term of community custody in order to: (a) Classify the
4 offender into a risk level for the purposes of public notification
5 under RCW 4.24.550; (b) where available, review the offender's proposed
6 release plan in accordance with the requirements of RCW 72.09.340; and
7 (c) make appropriate referrals.

8 (6) The committee shall classify as risk level I those sex
9 offenders whose risk assessments indicate ((a)) they are low risk ((of
10 ~~reoffense~~)) offenders within the community at large. The committee
11 shall classify as risk level II those offenders whose risk assessments
12 indicate ((a)) they are moderate risk ((of ~~reoffense~~)) offenders within
13 the community at large. The committee shall classify as risk level III
14 those offenders whose risk assessments indicate ((a)) they are high
15 risk ((of ~~reoffense~~)) offenders within the community at large.

16 (7) The committee shall issue to appropriate law enforcement
17 agencies, for their use in making public notifications under RCW
18 4.24.550, narrative notices regarding the pending release of sex
19 offenders from the department's facilities. The narrative notices
20 shall, at a minimum, describe the identity and criminal history
21 behavior of the offender and shall include the department's risk level
22 classification for the offender. For sex offenders classified as
23 either risk level II or III, the narrative notices shall also include
24 the reasons underlying the classification.

25 NEW SECTION. **Sec. 15.** Sections 11 through 13 of this act take
26 effect September 1, 2013.

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