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SECOND SUBSTITUTE SENATE BILL 5735

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State of Washington                      63rd Legislature                      2014 Regular Session

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

READ FIRST TIME 02/07/14.

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.44.141,  
3 9A.44.142, 9A.44.143, 43.43.754, 9.94A.030, 28A.300.147, and 72.09.345;  
4 reenacting and amending RCW 9.94A.515; and prescribing penalties.

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

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

8            (1) In addition to the disclosure under subsection (5) of this  
9 section, public agencies are authorized to release information to the  
10 public regarding sex offenders and kidnapping offenders when the agency  
11 determines that disclosure of the information is relevant and necessary  
12 to protect the public and counteract the danger created by the  
13 particular offender. This authorization applies to information  
14 regarding: (a) Any person adjudicated or convicted of a sex offense as  
15 defined in RCW 9A.44.128 or a kidnapping offense as defined by RCW  
16 9A.44.128; (b) any person under the jurisdiction of the indeterminate  
17 sentence review board as the result of a sex offense or kidnapping  
18 offense; (c) any person committed as a sexually violent predator under  
19 chapter 71.09 RCW or as a sexual psychopath under chapter 71.06 RCW;

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

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

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

1 (c) The agency shall make a good faith effort to notify the public  
2 and residents within a reasonable period of time after the offender  
3 registers with the agency.

4 (~~The juvenile court shall provide local law enforcement officials~~  
5 ~~with all relevant information on offenders allowed to remain in the~~  
6 ~~community in a timely manner.)) (d) Agencies may develop a process to  
7 allow an offender to petition for review of the offender's assigned  
8 risk level classification. The timing, frequency, and process for  
9 review are at the sole discretion of the agency.~~

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

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

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

36 (10) When a (~~local~~) law enforcement agency or official classifies  
37 an offender differently than the offender is classified by the end of  
38 sentence review committee (~~or the department of social and health~~

1 ~~services))~~ at the time of the offender's release from confinement, the  
2 law enforcement agency or official shall notify the end of sentence  
3 review committee (~~or the department of social and health services~~)  
4 and the Washington state patrol and submit its reasons supporting the  
5 change in classification.

6 (11) As used in this section, "law enforcement agency" means a  
7 general authority Washington law enforcement agency as defined in RCW  
8 10.93.020.

9 **Sec. 2.** RCW 9A.44.128 and 2013 c 302 s 8 are each amended to read  
10 as follows:

11 For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200,  
12 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

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

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

17 (3) "Disqualifying offense" means a conviction for: Any offense  
18 that is a felony; a sex offense as defined in this section; a crime  
19 against children or persons as defined in RCW 43.43.830(7) and  
20 9.94A.411(2)(a); an offense with a domestic violence designation as  
21 provided in RCW 10.99.020; permitting the commercial sexual abuse of a  
22 minor as defined in RCW 9.68A.103; or any violation of chapter 9A.88  
23 RCW.

24 (4) "Employed" or "carries on a vocation" means employment that is  
25 full time or part time for a period of time exceeding fourteen days, or  
26 for an aggregate period of time exceeding thirty days during any  
27 calendar year. A person is employed or carries on a vocation whether  
28 the person's employment is financially compensated, volunteered, or for  
29 the purpose of government or educational benefit.

30 (5) "Fixed residence" means a building that a person lawfully and  
31 habitually uses as living quarters a majority of the week. Uses as  
32 living quarters means to conduct activities consistent with the common  
33 understanding of residing, such as sleeping; eating; keeping personal  
34 belongings; receiving mail; and paying utilities, rent, or mortgage.  
35 A nonpermanent structure including, but not limited to, a motor home,  
36 travel trailer, camper, or boat may qualify as a residence provided it  
37 is lawfully and habitually used as living quarters a majority of the

1 week, primarily kept at one location with a physical address, and the  
2 location it is kept at is either owned or rented by the person or used  
3 by the person with the permission of the owner or renter. A shelter  
4 program may qualify as a residence provided it is a shelter program  
5 designed to provide temporary living accommodations for the homeless,  
6 provides an offender with a personally assigned living space, and the  
7 offender is permitted to store belongings in the living space.

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

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

13 (8) "Kidnapping offense" means:

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

18 (b) Any offense that is, under chapter 9A.28 RCW, a criminal  
19 attempt, criminal solicitation, or criminal conspiracy to commit an  
20 offense that is classified as a kidnapping offense under this  
21 subsection; and

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

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

34 (10) "Sex offense" means:

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

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

38 (c) Any violation under RCW 9A.40.100(1)(a)(ii)(B) (trafficking);

1 (d) Any violation under RCW 9.68A.090 (communication with a minor  
2 for immoral purposes);

3 (e) A violation under RCW 9A.88.070 (promoting prostitution in the  
4 first degree) or RCW 9A.88.080 (promoting prostitution in the second  
5 degree) if the person has a prior conviction for one of these offenses;

6 (f) Any gross misdemeanor that is, under chapter 9A.28 RCW, a  
7 criminal attempt, criminal solicitation, or criminal conspiracy to  
8 commit an offense that is classified as a sex offense under RCW  
9 9.94A.030 or this subsection;

10 (g) Any out-of-state conviction for an offense for which the person  
11 would be required to register as a sex offender while residing in the  
12 state of conviction; or, if not required to register in the state of  
13 conviction, an offense that under the laws of this state would be  
14 classified as a sex offense under this subsection;

15 (h) Any federal conviction classified as a sex offense under 42  
16 U.S.C. Sec. 16911 (SORNA);

17 (i) Any military conviction for a sex offense. This includes sex  
18 offenses under the uniform code of military justice, as specified by  
19 the United States secretary of defense;

20 (j) Any conviction in a foreign country for a sex offense if it was  
21 obtained with sufficient safeguards for fundamental fairness and due  
22 process for the accused under guidelines or regulations established  
23 pursuant to 42 U.S.C. Sec. 16912;

24 (k) Any tribal conviction for an offense for which the person would  
25 be required to register as a sex offender while residing in the  
26 reservation of conviction; or, if not required to register in the  
27 reservation of conviction, an offense that under the laws of this state  
28 would be classified as a sex offense under this subsection.

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

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

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

35 (1)(a) Any adult or juvenile residing whether or not the person has  
36 a fixed residence, or who is a student, is employed, or carries on a  
37 vocation in this state who has been found to have committed or has been



1 convicted of any sex offense or kidnapping offense, or who has been  
2 found not guilty by reason of insanity under chapter 10.77 RCW of  
3 committing any sex offense or kidnapping offense, shall register with  
4 the county sheriff for the county of the person's residence, or if the  
5 person is not a resident of Washington, the county of the person's  
6 school, or place of employment or vocation, or as otherwise specified  
7 in this section. When a person required to register under this section  
8 is in custody of the state department of corrections, the state  
9 department of social and health services, a local division of youth  
10 services, or a local jail or juvenile detention facility as a result of  
11 a sex offense or kidnapping offense, the person shall also register at  
12 the time of release from custody with an official designated by the  
13 agency that has jurisdiction over the person.

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

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

19 (ii) Prior to starting work at an institution of higher education;  
20 or

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

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

30 (b) A person may be required to update any of the information  
31 required in this subsection in conjunction with any address  
32 verification conducted by the county sheriff or as part of any notice  
33 required by this section.

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

36 (3) Any person required to register under this section who intends  
37 to travel outside the United States must provide, by certified mail,  
38 with return receipt requested, or in person, signed written notice of

1 the plan to travel outside the country to the county sheriff of the  
2 county with whom the person is registered at least twenty-one days  
3 prior to travel. The notice shall include the following information:  
4 (a) Name; (b) passport number and country; (c) destination; (d)  
5 itinerary details including departure and return dates; (e) means of  
6 travel; and (f) purpose of travel. If the offender does not  
7 subsequently travel outside the United States, the offender must notify  
8 the county sheriff within three days of the departure date provided in  
9 the notification. The county sheriff shall notify the United States  
10 marshals service as soon as practicable after receipt of the  
11 notification.

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

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

33 When the agency with jurisdiction intends to release an offender  
34 with a duty to register under this section, and the agency has  
35 knowledge that the offender is eligible for developmental disability  
36 services from the department of social and health services, the agency  
37 shall notify the division of developmental disabilities of the release.  
38 Notice shall occur not more than thirty days before the offender is to

1 be released. The agency and the division shall assist the offender in  
2 meeting the initial registration requirement under this section.  
3 Failure to provide such assistance shall not constitute a defense for  
4 any violation of this section.

5 When a person required to register under this section is in the  
6 custody of the state department of corrections and has been approved  
7 for partial confinement as defined in RCW 9.94A.030, the person must  
8 register at the time of transfer to partial confinement with the  
9 official designated by the agency that has jurisdiction over the  
10 offender. The agency shall within three days forward the registration  
11 information to the county sheriff for the county in which the offender  
12 is in partial confinement. The offender must also register within  
13 three business days from the time of the termination of partial  
14 confinement or release from confinement with the county sheriff for the  
15 county of the person's residence. The agency that has jurisdiction  
16 over the offender shall provide notice to the offender of the duty to  
17 register.

18 ~~(ii) ((OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL~~  
19 ~~JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody~~  
20 ~~but are under the jurisdiction of the indeterminate sentence review~~  
21 ~~board or under the department of corrections' active supervision, as~~  
22 ~~defined by the department of corrections, the state department of~~  
23 ~~social and health services, or a local division of youth services, for~~  
24 ~~sex offenses committed before, on, or after February 28, 1990, must~~  
25 ~~register within ten days of July 28, 1991. Kidnapping offenders who,~~  
26 ~~on July 27, 1997, are not in custody but are under the jurisdiction of~~  
27 ~~the indeterminate sentence review board or under the department of~~  
28 ~~corrections' active supervision, as defined by the department of~~  
29 ~~corrections, the state department of social and health services, or a~~  
30 ~~local division of youth services, for kidnapping offenses committed~~  
31 ~~before, on, or after July 27, 1997, must register within ten days of~~  
32 ~~July 27, 1997. A change in supervision status of a sex offender who~~  
33 ~~was required to register under this subsection (3)(a)(ii) as of July~~  
34 ~~28, 1991, or a kidnapping offender required to register as of July 27,~~  
35 ~~1997, shall not relieve the offender of the duty to register or to~~  
36 ~~reregister following a change in residence.~~

37 ~~(iii)) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders ((who,~~  
38 ~~on or after July 23, 1995, and)) or kidnapping offenders who(~~, on or~~~~

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

25 ~~(iv))~~ (iii) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex  
26 offenders who are convicted of a sex offense on or after July 28, 1991,  
27 for a sex offense that was committed on or after February 28, 1990, and  
28 kidnapping offenders who are convicted on or after July 27, 1997, for  
29 a kidnapping offense that was committed on or after July 27, 1997, but  
30 who are not sentenced to serve a term of confinement immediately upon  
31 sentencing, shall report to the county sheriff to register within three  
32 business days of being sentenced.

33 ~~((v))~~ (iv) OFFENDERS WHO ARE NEW RESIDENTS, TEMPORARY RESIDENTS,  
34 OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping  
35 offenders who move to Washington state from another state or a foreign  
36 country ~~((that are not under the jurisdiction of the state department~~  
37 ~~of corrections, the indeterminate sentence review board, or the state~~  
38 ~~department of social and health services at the time of moving to~~

1 ~~Washington,~~) must register within three business days of establishing  
2 residence or reestablishing residence if the person is a former  
3 Washington resident. ~~((The duty to register under this subsection~~  
4 ~~applies to sex offenders convicted under the laws of another state or~~  
5 ~~a foreign country, federal or military statutes for offenses committed~~  
6 ~~before, on, or after February 28, 1990, or Washington state for~~  
7 ~~offenses committed before, on, or after February 28, 1990, and to~~  
8 ~~kidnapping offenders convicted under the laws of another state or a~~  
9 ~~foreign country, federal or military statutes, or Washington state for~~  
10 ~~offenses committed before, on, or after July 27, 1997. Sex offenders~~  
11 ~~and kidnapping offenders from other states or a foreign country who,~~  
12 ~~when they move to Washington, are under the jurisdiction of the~~  
13 ~~department of corrections, the indeterminate sentence review board, or~~  
14 ~~the department of social and health services must register within three~~  
15 ~~business days of moving to Washington. The agency that has~~  
16 ~~jurisdiction over the offender shall notify the offender of the~~  
17 ~~registration requirements before the offender moves to Washington.~~

18 (vi)) If the offender is under the jurisdiction of an agency of  
19 this state when the offender moves to Washington, the agency shall  
20 provide notice to the offender of the duty to register.

21 Sex offenders and kidnapping offenders who are visiting Washington  
22 state and intend to reside in the state for ten days or more shall  
23 register his or her temporary address with the county sheriff of the  
24 county where the offender will be staying within three business days of  
25 arrival. Registration for temporary residents shall include the  
26 information required by subsection (2)(a) of this section, except the  
27 photograph and fingerprints.

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

1 health services shall provide notice to the adult or juvenile in its  
2 custody of the duty to register. Any adult or juvenile who has been  
3 found not guilty by reason of insanity of committing a sex offense  
4 (~~(on, before, or after February 28, 1990)~~), but who was released before  
5 July 23, 1995, or any adult or juvenile who has been found not guilty  
6 by reason of insanity of committing a kidnapping offense but who was  
7 released before July 27, 1997, shall be required to register within  
8 three business days of receiving notice of this registration  
9 requirement.

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

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

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

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

33 (c) An arrest on charges of failure to register, service of an  
34 information, or a complaint for a violation of RCW 9A.44.132, or  
35 arraignment on charges for a violation of RCW 9A.44.132, constitutes  
36 actual notice of the duty to register. Any person charged with the  
37 crime of failure to register under RCW 9A.44.132 who asserts as a  
38 defense the lack of notice of the duty to register shall register

1 within three business days following actual notice of the duty through  
2 arrest, service, or arraignment. Failure to register as required under  
3 this subsection ~~((+3+))~~ (4)(c) constitutes grounds for filing another  
4 charge of failing to register. Registering following arrest, service,  
5 or arraignment on charges shall not relieve the offender from criminal  
6 liability for failure to register prior to the filing of the original  
7 charge.

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

11 ~~((+4+))~~ (5)(a) If any person required to register pursuant to this  
12 section changes his or her residence address within the same county,  
13 the person must provide, by certified mail, with return receipt  
14 requested or in person, signed written notice of the change of address  
15 to the county sheriff within three business days of moving.

16 (b) If any person required to register pursuant to this section  
17 moves to a new county, within three business days of moving the person  
18 must register with ~~((that))~~ the new county sheriff ~~((within three  
19 business days of moving. Within three business days, the person must  
20 also))~~ and provide, by certified mail, with return receipt requested or  
21 in person, signed written notice of the change of address ~~((in the new  
22 county))~~ to the county sheriff with whom the person last registered.  
23 The county sheriff with whom the person last registered ~~((shall  
24 promptly forward the information concerning the change of address to  
25 the county sheriff for the county of the person's new residence. Upon  
26 receipt of notice of change of address to a new state, the county  
27 sheriff shall promptly forward the information regarding the change of  
28 address to the agency designated by the new state as the state's  
29 offender registration agency))~~ is responsible for address verification  
30 pursuant to RCW 9A.44.135 until the person completes registration of  
31 his or her new residence address.

32 ~~((+5+))~~ (6)(a) Any person required to register under this section  
33 who lacks a fixed residence shall provide signed written notice to the  
34 sheriff of the county where he or she last registered within three  
35 business days after ceasing to have a fixed residence. The notice  
36 shall include the information required by subsection (2)(a) of this  
37 section, except the photograph and fingerprints. The county sheriff  
38 may, for reasonable cause, require the offender to provide a photograph

1 and fingerprints. The sheriff shall forward this information to the  
2 sheriff of the county in which the person intends to reside, if the  
3 person intends to reside in another county.

4 (b) A person who lacks a fixed residence must report weekly, in  
5 person, to the sheriff of the county where he or she is registered.  
6 The weekly report shall be on a day specified by the county sheriff's  
7 office, and shall occur during normal business hours. The person must  
8 keep an accurate accounting of where he or she stays during the week  
9 and provide it to the county sheriff upon request. The lack of a fixed  
10 residence is a factor that may be considered in determining an  
11 offender's risk level and shall make the offender subject to disclosure  
12 of information to the public at large pursuant to RCW 4.24.550.

13 (c) If any person required to register pursuant to this section  
14 does not have a fixed residence, it is an affirmative defense to the  
15 charge of failure to register, that he or she provided written notice  
16 to the sheriff of the county where he or she last registered within  
17 three business days of ceasing to have a fixed residence and has  
18 subsequently complied with the requirements of subsections ~~((+3))~~  
19 (4)(a)(~~(+vii))~~ (vi) or ~~((+viii))~~ (vii) and ~~((+5))~~ (6) of this  
20 section. To prevail, the person must prove the defense by a  
21 preponderance of the evidence.

22 ~~((+6))~~ (7) A sex offender subject to registration requirements  
23 under this section who applies to change his or her name under RCW  
24 4.24.130 or any other law shall submit a copy of the application to the  
25 county sheriff of the county of the person's residence and to the state  
26 patrol not fewer than five days before the entry of an order granting  
27 the name change. No sex offender under the requirement to register  
28 under this section at the time of application shall be granted an order  
29 changing his or her name if the court finds that doing so will  
30 interfere with legitimate law enforcement interests, except that no  
31 order shall be denied when the name change is requested for religious  
32 or legitimate cultural reasons or in recognition of marriage or  
33 dissolution of marriage. A sex offender under the requirement to  
34 register under this section who receives an order changing his or her  
35 name shall submit a copy of the order to the county sheriff of the  
36 county of the person's residence and to the state patrol within three  
37 business days of the entry of the order.



1       (~~(7)~~) (8) Except as may otherwise be provided by law, nothing in  
2 this section shall impose any liability upon a peace officer, including  
3 a county sheriff, or law enforcement agency, for failing to release  
4 information authorized under this section.

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

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

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

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

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

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

22       (2) A person is guilty of failure to register as a sex offender if  
23 the person has a duty to register under RCW 9A.44.130 for a sex offense  
24 other than a felony and knowingly fails to comply with any of the  
25 requirements of RCW 9A.44.130. The failure to register as a sex  
26 offender under this subsection is a gross misdemeanor.

27       (3) A person commits the crime of failure to register as a  
28 kidnapping offender if the person has a duty to register under RCW  
29 9A.44.130 for a kidnapping offense and knowingly fails to comply with  
30 any of the requirements of RCW 9A.44.130.

31       (a) If the person has a duty to register for a felony kidnapping  
32 offense, the failure to register as a kidnapping offender is a class C  
33 felony.

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

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

6       (5) Unless relieved of the duty to register pursuant to RCW  
7 9A.44.141 and 9A.44.142, a violation of this section is an ongoing  
8 offense for purposes of the statute of limitations under RCW 9A.04.080.

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

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

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

18       (2) For a person convicted in this state of a class B felony who  
19 does not have one or more prior convictions for a sex offense or  
20 kidnapping offense (~~and whose current offense is not listed in RCW~~  
21 ~~9A.44.142(5))~~), the duty to register shall end fifteen years after the  
22 last date of release from confinement, if any, (including full-time  
23 residential treatment) pursuant to the conviction, or entry of the  
24 judgment and sentence, if the person has spent fifteen consecutive  
25 years in the community without being convicted of a disqualifying  
26 offense during that time period.

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

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

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

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

8 ((+6+)) (7) Nothing in RCW 9.94A.637 relating to discharge of an  
9 offender shall be construed as operating to relieve the offender of his  
10 or her duty to register pursuant to RCW 9A.44.130.

11 ((+7+)) (8) For purposes of determining whether a person has been  
12 convicted of more than one sex offense, failure to register as a sex  
13 offender or kidnapping offender is not a sex or kidnapping offense.

14 ((+8+)) (9) The provisions of this section and RCW 9A.44.141  
15 through 9A.44.143 apply equally to a person who has been found not  
16 guilty by reason of insanity under chapter 10.77 RCW of a sex offense  
17 or kidnapping offense.

18 **Sec. 6.** RCW 9A.44.141 and 2011 c 337 s 6 are each amended to read  
19 as follows:

20 (1) Upon the request of a person who is listed in the Washington  
21 state patrol central registry of sex offenders and kidnapping  
22 offenders, the county sheriff shall investigate whether a person's duty  
23 to register has ended by operation of law pursuant to RCW 9A.44.140.

24 (a) Using available records, the county sheriff shall verify that  
25 the offender has spent the requisite time in the community and has not  
26 been convicted of a disqualifying offense.

27 (b) If the county sheriff determines the person's duty to register  
28 has ended by operation of law, the county sheriff shall request the  
29 Washington state patrol remove the person's name from the central  
30 registry.

31 (2) Nothing in this subsection prevents a county sheriff from  
32 investigating, upon his or her own initiative, whether a person's duty  
33 to register has ended by operation of law pursuant to RCW 9A.44.140.

34 (3)(a) A person who is listed in the central registry as the result  
35 of a federal or out-of-state conviction may request the county sheriff  
36 to investigate whether the person should be removed from the registry  
37 if:

1 (i) A court or other administrative authority in the person's state  
2 of conviction has made an individualized determination that the person  
3 (~~should~~) is not (~~be~~) required to register; and

4 (ii) The person provides proof of relief from registration to the  
5 county sheriff.

6 (b) If the county sheriff determines the person has been relieved  
7 of the duty to register in his or her state of conviction, the county  
8 sheriff shall request the Washington state patrol remove the person's  
9 name from the central registry.

10 (4) An appointed or elected public official, public employee, or  
11 public agency as defined in RCW 4.24.470, or units of local government  
12 and its employees, as provided in RCW 36.28A.010, are immune from civil  
13 liability for damages for removing or requesting the removal of a  
14 person from the central registry of sex offenders and kidnapping  
15 offenders or the failure to remove or request removal of a person  
16 within the time frames provided in RCW 9A.44.140.

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

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

21 (a) If the person has a duty to register for a sex offense or  
22 kidnapping offense committed when the offender was a juvenile,  
23 regardless of whether the conviction was in this state, as provided in  
24 RCW 9A.44.143;

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

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

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

36 (i) Determined to be a sexually violent predator as defined in RCW  
37 71.09.020; or

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

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

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

16 (3) A petition for relief from registration or exemption from  
17 notification under this section shall be made to the court in which the  
18 petitioner was convicted of the offense that subjects him or her to the  
19 duty to register or, in the case of convictions in other states, a  
20 foreign country, or a federal or military court, to the court in the  
21 county where the person is registered at the time the petition is  
22 sought. The prosecuting attorney of the county shall be named and  
23 served as the respondent in any such petition.

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

28 (b) In determining whether the petitioner is sufficiently  
29 rehabilitated to warrant removal from the registry, the following  
30 factors are provided as guidance to assist the court in making its  
31 determination:

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

34 (ii) Any subsequent criminal history;

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

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

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

1 (vi) Participation in sex offender treatment;  
2 (vii) Participation in other treatment and rehabilitative programs;  
3 (viii) The offender's stability in employment and housing;  
4 (ix) The offender's community and personal support system;  
5 (x) Any risk assessments or evaluations prepared by a qualified  
6 professional;  
7 (xi) Any updated polygraph examination;  
8 (xii) Any input of the victim;  
9 (xiii) Any other factors the court may consider relevant.

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

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

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

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

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

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

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

27 ~~(B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape~~  
28 ~~of a child in the first degree), or RCW 9A.44.083 (child molestation in~~  
29 ~~the first degree);~~

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

1       ~~(D) Any of the following offenses when committed by forcible~~  
2 ~~compulsion or by the offender administering, by threat or force or~~  
3 ~~without the knowledge or permission of that person, a drug, intoxicant,~~  
4 ~~or other similar substance that substantially impairs the ability of~~  
5 ~~that person to appraise or control conduct, if the victim is twelve~~  
6 ~~years of age or over but under sixteen years of age and the offender is~~  
7 ~~eighteen years of age or over and is more than forty-eight months older~~  
8 ~~than the victim: RCW 9A.44.076 (rape of a child in the second degree),~~  
9 ~~RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086~~  
10 ~~(child molestation in the second degree), or RCW 9A.44.089 (child~~  
11 ~~molestation in the third degree);~~

12       ~~(E) A felony with a finding of sexual motivation under RCW~~  
13 ~~9.94A.835 where the victim is under twelve years of age or that is~~  
14 ~~committed by forcible compulsion or by the offender administering, by~~  
15 ~~threat or force or without the knowledge or permission of that person,~~  
16 ~~a drug, intoxicant, or other similar substance that substantially~~  
17 ~~impairs the ability of that person to appraise or control conduct;~~

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

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

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

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

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

31       ~~(C) A felony with a finding of sexual motivation under RCW~~  
32 ~~9.94A.835 where the victim is incapable of appraising the nature of the~~  
33 ~~conduct or physically incapable of declining participation in, or~~  
34 ~~communicating unwillingness to engage in, the conduct;~~

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

37       ~~(E) An offense defined by federal law or the laws of another state~~

1 that is equivalent to the offenses listed in (b)(ii)(A) through (D) of  
2 this subsection.

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

7 (A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape  
8 of a child in the second degree), RCW 9A.44.079 (rape of a child in the  
9 third degree), RCW 9A.44.086 (child molestation in the second degree),  
10 RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093  
11 (sexual misconduct with a minor in the first degree), RCW 9A.44.096  
12 (sexual misconduct with a minor in the second degree), RCW 9A.44.160  
13 (custodial sexual misconduct in the first degree), RCW 9A.64.020  
14 (incest), RCW 9.68A.040 (sexual exploitation of a minor), RCW 9.68A.090  
15 (communication with a minor for immoral purposes), or RCW 9.68A.100  
16 (commercial sexual abuse of a minor);

17 (B) RCW 9A.40.020 (kidnapping in the first degree), RCW 9A.40.030  
18 (kidnapping in the second degree), or RCW 9A.40.040 (unlawful  
19 imprisonment), where the victim is a minor and the offender is not the  
20 minor's parent;

21 (C) A felony with a finding of sexual motivation under RCW  
22 9.94A.835 where the victim is a minor;

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

25 (E) An offense defined by federal law or the laws of another state  
26 that is equivalent to the offenses listed in (b)(iii)(A) through (D) of  
27 this subsection)) If a person is relieved of the duty to register  
28 pursuant to this section, the relief of registration does not  
29 constitute a certificate of rehabilitation, or the equivalent of a  
30 certificate of rehabilitation, for the purposes of restoration of  
31 firearm possession under RCW 9.41.040.

32 **Sec. 8.** RCW 9A.44.143 and 2011 c 338 s 1 are each amended to read  
33 as follows:

34 (1) An offender having a duty to register under RCW 9A.44.130 for  
35 a sex offense or kidnapping offense committed when the offender was a  
36 juvenile, and who has not been determined to be a sexually violent



1 predator as defined in RCW 71.09.020 may petition the superior court to  
2 be relieved of that duty as provided in this section.

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

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

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

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

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

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

1 (5) In determining whether the petitioner is sufficiently  
2 rehabilitated to warrant removal from the central registry of sex  
3 offenders and kidnapping offenders, the following factors are provided  
4 as guidance to assist the court in making its determination, to the  
5 extent the factors are applicable considering the age and circumstances  
6 of the petitioner:

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

9 (b) Any subsequent criminal history;

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

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

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

14 (f) Participation in sex offender treatment;

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

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

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

18 (j) Any risk assessments or evaluations prepared by a qualified  
19 professional;

20 (k) Any updated polygraph examination;

21 (l) Any input of the victim;

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

23 (6) If a person is relieved of the duty to register pursuant to  
24 this section, the relief of registration does not constitute a  
25 certificate of rehabilitation, or the equivalent of a certificate of  
26 rehabilitation, for the purposes of restoration of firearm possession  
27 under RCW 9.41.040.

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

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

36 **Sec. 9.** RCW 43.43.754 and 2008 c 97 s 2 are each amended to read  
37 as follows:

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

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

5 Assault in the fourth degree with sexual motivation (RCW 9A.36.041,  
6 9.94A.835)

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

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

9 Failure to register (RCW 9A.44.130 for persons convicted on or  
10 before June 10, 2010, and RCW 9A.44.132 for persons convicted after  
11 June 10, 2010)

12 Harassment (RCW 9A.46.020)

13 Patronizing a prostitute (RCW 9A.88.110)

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

15 Stalking (RCW 9A.46.110)

16 Violation of a sexual assault protection order granted under  
17 chapter 7.90 RCW; and

18 (b) Every adult or juvenile individual who is required to register  
19 under RCW 9A.44.130.

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

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

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

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

32 (i) Persons convicted of any offense listed in subsection (1)(a) of  
33 this section or adjudicated guilty of an equivalent juvenile offense  
34 who do not serve a term of confinement in a department of corrections  
35 facility, and do not serve a term of confinement in a city or county  
36 jail facility; and

37 (ii) Persons who are required to register under RCW (~~9A.44.030~~)  
38 9A.44.130.

1 (c) 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 are serving or who are to serve a term of confinement in  
4 a department of corrections facility or a department of social and  
5 health services facility, the facility holding the person shall be  
6 responsible for obtaining the biological samples. For those persons  
7 incarcerated before June 12, 2008, who have not yet had a biological  
8 sample collected, priority shall be given to those persons who will be  
9 released the soonest.

10 (4) Any biological sample taken pursuant to RCW 43.43.752 through  
11 43.43.758 may be retained by the forensic laboratory services bureau,  
12 and shall be used solely for the purpose of providing DNA or other  
13 tests for identification analysis and prosecution of a criminal offense  
14 or for the identification of human remains or missing persons. Nothing  
15 in this section prohibits the submission of results derived from the  
16 biological samples to the federal bureau of investigation combined DNA  
17 index system.

18 (5) The forensic laboratory services bureau of the Washington state  
19 patrol is responsible for testing performed on all biological samples  
20 that are collected under subsection (1) of this section, to the extent  
21 allowed by funding available for this purpose. The director shall give  
22 priority to testing on samples collected from those adults or juveniles  
23 convicted of a felony or adjudicated guilty of an equivalent juvenile  
24 offense that is defined as a sex offense or a violent offense in RCW  
25 9.94A.030. Known duplicate samples may be excluded from testing unless  
26 testing is deemed necessary or advisable by the director.

27 (6) This section applies to:

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

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

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

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

37 (c) All adults and juveniles who are required to register under RCW

1 9A.44.130 on or after June 12, 2008, whether convicted before, on, or  
2 after June 12, 2008.

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

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

14 (9) 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 this section. The refusal to provide DNA is a gross  
18 misdemeanor.

19 **Sec. 10.** RCW 9.94A.515 and 2013 c 322 s 26, 2013 c 290 s 8, 2013  
20 c 267 s 2, and 2013 c 153 s 2 are each reenacted and amended to read as  
21 follows:  
22

23 TABLE 2  
24 CRIMES INCLUDED WITHIN  
25 EACH SERIOUSNESS LEVEL

- 26 XVI Aggravated Murder 1 (RCW
- 27 10.95.020)
- 28 XV Homicide by abuse (RCW 9A.32.055)
- 29 Malicious explosion 1 (RCW
- 30 70.74.280(1))
- 31 Murder 1 (RCW 9A.32.030)
- 32 XIV Murder 2 (RCW 9A.32.050)
- 33 Trafficking 1 (RCW 9A.40.100(1))
- 34 XIII Malicious explosion 2 (RCW
- 35 70.74.280(2))

1 Malicious placement of an explosive 1  
2 (RCW 70.74.270(1))  
3 XII Assault 1 (RCW 9A.36.011)  
4 Assault of a Child 1 (RCW 9A.36.120)  
5 Malicious placement of an imitation  
6 device 1 (RCW 70.74.272(1)(a))  
7 Promoting Commercial Sexual Abuse  
8 of a Minor (RCW 9.68A.101)  
9 Rape 1 (RCW 9A.44.040)  
10 Rape of a Child 1 (RCW 9A.44.073)  
11 Trafficking 2 (RCW 9A.40.100(2))  
12 XI Manslaughter 1 (RCW 9A.32.060)  
13 Rape 2 (RCW 9A.44.050)  
14 Rape of a Child 2 (RCW 9A.44.076)  
15 Vehicular Homicide, by being under  
16 the influence of intoxicating liquor  
17 or any drug (RCW 46.61.520)  
18 X Child Molestation 1 (RCW 9A.44.083)  
19 Criminal Mistreatment 1 (RCW  
20 9A.42.020)  
21 Indecent Liberties (with forcible  
22 compulsion) (RCW  
23 9A.44.100(1)(a))  
24 Kidnapping 1 (RCW 9A.40.020)  
25 Leading Organized Crime (RCW  
26 9A.82.060(1)(a))  
27 Malicious explosion 3 (RCW  
28 70.74.280(3))  
29 Sexually Violent Predator Escape  
30 (RCW 9A.76.115)  
31 IX Abandonment of Dependent Person 1  
32 (RCW 9A.42.060)  
33 Assault of a Child 2 (RCW 9A.36.130)  
34 Explosive devices prohibited (RCW  
35 70.74.180)  
36 Hit and Run--Death (RCW  
37 46.52.020(4)(a))

1 Homicide by Watercraft, by being  
2 under the influence of intoxicating  
3 liquor or any drug (RCW  
4 79A.60.050)  
5 Inciting Criminal Profiteering (RCW  
6 9A.82.060(1)(b))  
7 Malicious placement of an explosive 2  
8 (RCW 70.74.270(2))  
9 Robbery 1 (RCW 9A.56.200)  
10 Sexual Exploitation (RCW 9.68A.040)  
11 VIII Arson 1 (RCW 9A.48.020)  
12 Commercial Sexual Abuse of a Minor  
13 (RCW 9.68A.100)  
14 Homicide by Watercraft, by the  
15 operation of any vessel in a  
16 reckless manner (RCW  
17 79A.60.050)  
18 Manslaughter 2 (RCW 9A.32.070)  
19 Promoting Prostitution 1 (RCW  
20 9A.88.070)  
21 Theft of Ammonia (RCW 69.55.010)  
22 Vehicular Homicide, by the operation  
23 of any vehicle in a reckless manner  
24 (RCW 46.61.520)  
25 VII Burglary 1 (RCW 9A.52.020)  
26 Child Molestation 2 (RCW 9A.44.086)  
27 Civil Disorder Training (RCW  
28 9A.48.120)  
29 Dealing in depictions of minor engaged  
30 in sexually explicit conduct 1  
31 (RCW 9.68A.050(1))  
32 Drive-by Shooting (RCW 9A.36.045)  
33 Homicide by Watercraft, by disregard  
34 for the safety of others (RCW  
35 79A.60.050)

1 Indecent Liberties (without forcible  
2 compulsion) (RCW 9A.44.100(1)  
3 (b) and (c))  
4 Introducing Contraband 1 (RCW  
5 9A.76.140)  
6 Malicious placement of an explosive 3  
7 (RCW 70.74.270(3))  
8 Negligently Causing Death By Use of a  
9 Signal Preemption Device (RCW  
10 46.37.675)  
11 Sending, bringing into state depictions  
12 of minor engaged in sexually  
13 explicit conduct 1 (RCW  
14 9.68A.060(1))  
15 Unlawful Possession of a Firearm in  
16 the first degree (RCW 9.41.040(1))  
17 Use of a Machine Gun in Commission  
18 of a Felony (RCW 9.41.225)  
19 Vehicular Homicide, by disregard for  
20 the safety of others (RCW  
21 46.61.520)  
22 VI Bail Jumping with Murder 1 (RCW  
23 9A.76.170(3)(a))  
24 Bribery (RCW 9A.68.010)  
25 Incest 1 (RCW 9A.64.020(1))  
26 Intimidating a Judge (RCW 9A.72.160)  
27 Intimidating a Juror/Witness (RCW  
28 9A.72.110, 9A.72.130)  
29 Malicious placement of an imitation  
30 device 2 (RCW 70.74.272(1)(b))  
31 Possession of Depictions of a Minor  
32 Engaged in Sexually Explicit  
33 Conduct 1 (RCW 9.68A.070(1))  
34 Rape of a Child 3 (RCW 9A.44.079)  
35 Theft of a Firearm (RCW 9A.56.300)  
36 Unlawful Storage of Ammonia (RCW  
37 69.55.020)



1 V Abandonment of Dependent Person 2  
2 (RCW 9A.42.070)  
3 Advancing money or property for  
4 extortionate extension of credit  
5 (RCW 9A.82.030)  
6 Bail Jumping with class A Felony  
7 (RCW 9A.76.170(3)(b))  
8 Child Molestation 3 (RCW 9A.44.089)  
9 Criminal Mistreatment 2 (RCW  
10 9A.42.030)  
11 Custodial Sexual Misconduct 1 (RCW  
12 9A.44.160)  
13 Dealing in Depictions of Minor  
14 Engaged in Sexually Explicit  
15 Conduct 2 (RCW 9.68A.050(2))  
16 Domestic Violence Court Order  
17 Violation (RCW 10.99.040,  
18 10.99.050, 26.09.300, 26.10.220,  
19 26.26.138, 26.50.110, 26.52.070,  
20 or 74.34.145)  
21 Driving While Under the Influence  
22 (RCW 46.61.502(6))  
23 Extortion 1 (RCW 9A.56.120)  
24 Extortionate Extension of Credit (RCW  
25 9A.82.020)  
26 Extortionate Means to Collect  
27 Extensions of Credit (RCW  
28 9A.82.040)  
29 Incest 2 (RCW 9A.64.020(2))  
30 Kidnapping 2 (RCW 9A.40.030)  
31 Perjury 1 (RCW 9A.72.020)  
32 Persistent prison misbehavior (RCW  
33 9.94.070)  
34 Physical Control of a Vehicle While  
35 Under the Influence (RCW  
36 46.61.504(6))

1 Possession of a Stolen Firearm (RCW  
2 9A.56.310)  
3 Rape 3 (RCW 9A.44.060)  
4 Rendering Criminal Assistance 1  
5 (RCW 9A.76.070)  
6 Sending, Bringing into State Depictions  
7 of Minor Engaged in Sexually  
8 Explicit Conduct 2 (RCW  
9 9.68A.060(2))  
10 Sexual Misconduct with a Minor 1  
11 (RCW 9A.44.093)  
12 Sexually Violating Human Remains  
13 (RCW 9A.44.105)  
14 Stalking (RCW 9A.46.110)  
15 Taking Motor Vehicle Without  
16 Permission 1 (RCW 9A.56.070)  
17 IV Arson 2 (RCW 9A.48.030)  
18 Assault 2 (RCW 9A.36.021)  
19 Assault 3 (of a Peace Officer with a  
20 Projectile Stun Gun) (RCW  
21 9A.36.031(1)(h))  
22 Assault by Watercraft (RCW  
23 79A.60.060)  
24 Bribing a Witness/Bribe Received by  
25 Witness (RCW 9A.72.090,  
26 9A.72.100)  
27 Cheating 1 (RCW 9.46.1961)  
28 Commercial Bribery (RCW 9A.68.060)  
29 Counterfeiting (RCW 9.16.035(4))  
30 Endangerment with a Controlled  
31 Substance (RCW 9A.42.100)  
32 Escape 1 (RCW 9A.76.110)  
33 Hit and Run--Injury (RCW  
34 46.52.020(4)(b))  
35 Hit and Run with Vessel--Injury  
36 Accident (RCW 79A.60.200(3))  
37 Identity Theft 1 (RCW 9.35.020(2))

1 Indecent Exposure to Person Under  
2 Age Fourteen (subsequent sex  
3 offense) (RCW 9A.88.010)  
4 Influencing Outcome of Sporting Event  
5 (RCW 9A.82.070)  
6 Malicious Harassment (RCW  
7 9A.36.080)  
8 Possession of Depictions of a Minor  
9 Engaged in Sexually Explicit  
10 Conduct 2 (RCW 9.68A.070(2))  
11 Residential Burglary (RCW  
12 9A.52.025)  
13 Robbery 2 (RCW 9A.56.210)  
14 Theft of Livestock 1 (RCW 9A.56.080)  
15 Threats to Bomb (RCW 9.61.160)  
16 Trafficking in Stolen Property 1 (RCW  
17 9A.82.050)  
18 Unlawful factoring of a credit card or  
19 payment card transaction (RCW  
20 9A.56.290(4)(b))  
21 Unlawful transaction of health  
22 coverage as a health care service  
23 contractor (RCW 48.44.016(3))  
24 Unlawful transaction of health  
25 coverage as a health maintenance  
26 organization (RCW 48.46.033(3))  
27 Unlawful transaction of insurance  
28 business (RCW 48.15.023(3))  
29 Unlicensed practice as an insurance  
30 professional (RCW 48.17.063(2))  
31 Use of Proceeds of Criminal  
32 Profiteering (RCW 9A.82.080 (1)  
33 and (2))  
34 Vehicle Prowling 2 (third or  
35 subsequent offense) (RCW  
36 9A.52.100(3))

1 Vehicular Assault, by being under the  
2 influence of intoxicating liquor or  
3 any drug, or by the operation or  
4 driving of a vehicle in a reckless  
5 manner (RCW 46.61.522)  
6 Viewing of Depictions of a Minor  
7 Engaged in Sexually Explicit  
8 Conduct 1 (RCW 9.68A.075(1))  
9 Willful Failure to Return from  
10 Furlough (RCW 72.66.060)  
11 III Animal Cruelty 1 (Sexual Conduct or  
12 Contact) (RCW 16.52.205(3))  
13 Assault 3 (Except Assault 3 of a Peace  
14 Officer With a Projectile Stun  
15 Gun) (RCW 9A.36.031 except  
16 subsection (1)(h))  
17 Assault of a Child 3 (RCW 9A.36.140)  
18 Bail Jumping with class B or C Felony  
19 (RCW 9A.76.170(3)(c))  
20 Burglary 2 (RCW 9A.52.030)  
21 Communication with a Minor for  
22 Immoral Purposes (RCW  
23 9.68A.090)  
24 Criminal Gang Intimidation (RCW  
25 9A.46.120)  
26 Custodial Assault (RCW 9A.36.100)  
27 Cyberstalking (subsequent conviction  
28 or threat of death) (RCW  
29 9.61.260(3))  
30 Escape 2 (RCW 9A.76.120)  
31 Extortion 2 (RCW 9A.56.130)  
32 Harassment (RCW 9A.46.020)  
33 Intimidating a Public Servant (RCW  
34 9A.76.180)  
35 Introducing Contraband 2 (RCW  
36 9A.76.150)

1 Malicious Injury to Railroad Property  
2 (RCW 81.60.070)  
3 Mortgage Fraud (RCW 19.144.080)  
4 Negligently Causing Substantial Bodily  
5 Harm By Use of a Signal  
6 Preemption Device (RCW  
7 46.37.674)  
8 Organized Retail Theft 1 (RCW  
9 9A.56.350(2))  
10 Perjury 2 (RCW 9A.72.030)  
11 Possession of Incendiary Device (RCW  
12 9.40.120)  
13 Possession of Machine Gun or Short-  
14 Barreled Shotgun or Rifle (RCW  
15 9.41.190)  
16 Promoting Prostitution 2 (RCW  
17 9A.88.080)  
18 Retail Theft with Extenuating  
19 Circumstances 1 (RCW  
20 9A.56.360(2))  
21 Securities Act violation (RCW  
22 21.20.400)  
23 Tampering with a Witness (RCW  
24 9A.72.120)  
25 Telephone Harassment (subsequent  
26 conviction or threat of death)  
27 (RCW 9.61.230(2))  
28 Theft of Livestock 2 (RCW 9A.56.083)  
29 Theft with the Intent to Resell 1 (RCW  
30 9A.56.340(2))  
31 Trafficking in Stolen Property 2 (RCW  
32 9A.82.055)  
33 Unlawful Hunting of Big Game 1  
34 (RCW 77.15.410(3)(b))  
35 Unlawful Imprisonment (RCW  
36 9A.40.040)

1 Unlawful Misbranding of Food Fish or  
2 Shellfish 1 (RCW 69.04.938(3))  
3 Unlawful possession of firearm in the  
4 second degree (RCW 9.41.040(2))  
5 Unlawful Taking of Endangered Fish  
6 or Wildlife 1 (RCW  
7 77.15.120(3)(b))  
8 Unlawful Trafficking in Fish, Shellfish,  
9 or Wildlife 1 (RCW  
10 77.15.260(3)(b))  
11 Unlawful Use of a Nondesignated  
12 Vessel (RCW 77.15.530(4))  
13 Vehicular Assault, by the operation or  
14 driving of a vehicle with disregard  
15 for the safety of others (RCW  
16 46.61.522)  
17 Willful Failure to Return from Work  
18 Release (RCW 72.65.070)  
19 II Commercial Fishing Without a License  
20 1 (RCW 77.15.500(3)(b))  
21 Computer Trespass 1 (RCW  
22 9A.52.110)  
23 Counterfeiting (RCW 9.16.035(3))  
24 Engaging in Fish Dealing Activity  
25 Unlicensed 1 (RCW 77.15.620(3))  
26 Escape from Community Custody  
27 (RCW 72.09.310)  
28 Failure to Register as a Sex Offender  
29 (second or subsequent offense)  
30 (RCW 9A.44.130 prior to June 10,  
31 2010, and RCW 9A.44.132)  
32 Health Care False Claims (RCW  
33 48.80.030)  
34 Identity Theft 2 (RCW 9.35.020(3))  
35 Improperly Obtaining Financial  
36 Information (RCW 9.35.010)

1 Malicious Mischief 1 (RCW  
2 9A.48.070)  
3 Organized Retail Theft 2 (RCW  
4 9A.56.350(3))  
5 Possession of Stolen Property 1 (RCW  
6 9A.56.150)  
7 Possession of a Stolen Vehicle (RCW  
8 9A.56.068)  
9 Retail Theft with Extenuating  
10 Circumstances 2 (RCW  
11 9A.56.360(3))  
12 Scrap Processing, Recycling, or  
13 Supplying Without a License  
14 (second or subsequent offense)  
15 (RCW 19.290.100)  
16 Theft 1 (RCW 9A.56.030)  
17 Theft of a Motor Vehicle (RCW  
18 9A.56.065)  
19 Theft of Rental, Leased, or Lease-  
20 purchased Property (valued at one  
21 thousand five hundred dollars or  
22 more) (RCW 9A.56.096(5)(a))  
23 Theft with the Intent to Resell 2 (RCW  
24 9A.56.340(3))  
25 Trafficking in Insurance Claims (RCW  
26 48.30A.015)  
27 Unlawful factoring of a credit card or  
28 payment card transaction (RCW  
29 9A.56.290(4)(a))  
30 Unlawful Participation of Non-Indians  
31 in Indian Fishery (RCW  
32 77.15.570(2))  
33 Unlawful Practice of Law (RCW  
34 2.48.180)  
35 Unlawful Purchase or Use of a License  
36 (RCW 77.15.650(3)(b))

1 Unlawful Trafficking in Fish, Shellfish,  
2 or Wildlife 2 (RCW  
3 77.15.260(3)(a))  
4 Unlicensed Practice of a Profession or  
5 Business (RCW 18.130.190(7))  
6 Voyeurism (RCW 9A.44.115)  
7 I Attempting to Elude a Pursuing Police  
8 Vehicle (RCW 46.61.024)  
9 False Verification for Welfare (RCW  
10 74.08.055)  
11 Forgery (RCW 9A.60.020)  
12 Fraudulent Creation or Revocation of a  
13 Mental Health Advance Directive  
14 (RCW 9A.60.060)  
15 Malicious Mischief 2 (RCW  
16 9A.48.080)  
17 Mineral Trespass (RCW 78.44.330)  
18 Possession of Stolen Property 2 (RCW  
19 9A.56.160)  
20 Reckless Burning 1 (RCW 9A.48.040)  
21 Spotlighting Big Game 1 (RCW  
22 77.15.450(3)(b))  
23 Suspension of Department Privileges 1  
24 (RCW 77.15.670(3)(b))  
25 Taking Motor Vehicle Without  
26 Permission 2 (RCW 9A.56.075)  
27 Theft 2 (RCW 9A.56.040)  
28 Theft of Rental, Leased, or Lease-  
29 purchased Property (valued at two  
30 hundred fifty dollars or more but  
31 less than one thousand five  
32 hundred dollars) (RCW  
33 9A.56.096(5)(b))  
34 Transaction of insurance business  
35 beyond the scope of licensure  
36 (RCW 48.17.063)



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

31 **Sec. 11.** RCW 9.94A.030 and 2012 c 143 s 1 are each amended to read  
32 as follows:

33 Unless the context clearly requires otherwise, the definitions in  
34 this section apply throughout this chapter.

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

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

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

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

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

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

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

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

26 (9) "Conviction" means an adjudication of guilt pursuant to Title  
27 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
28 acceptance of a plea of guilty.

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

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

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

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

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

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

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

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

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

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

37 (c) To exact revenge or retribution for the gang or any member of  
38 the gang;

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

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

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

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

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

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

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

32 (19) "Disposable earnings" means that part of the earnings of an  
33 offender remaining after the deduction from those earnings of any  
34 amount required by law to be withheld. For the purposes of this  
35 definition, "earnings" means compensation paid or payable for personal  
36 services, whether denominated as wages, salary, commission, bonuses, or  
37 otherwise, and, notwithstanding any other provision of law making the  
38 payments exempt from garnishment, attachment, or other process to

1 satisfy a court-ordered legal financial obligation, specifically  
2 includes periodic payments pursuant to pension or retirement programs,  
3 or insurance policies of any type, but does not include payments made  
4 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
5 or Title 74 RCW.

6 (20) "Domestic violence" has the same meaning as defined in RCW  
7 10.99.020 and 26.50.010.

8 (21) "Drug offender sentencing alternative" is a sentencing option  
9 available to persons convicted of a felony offense other than a violent  
10 offense or a sex offense and who are eligible for the option under RCW  
11 9.94A.660.

12 (22) "Drug offense" means:

13 (a) Any felony violation of chapter 69.50 RCW except possession of  
14 a controlled substance (RCW 69.50.4013) or forged prescription for a  
15 controlled substance (RCW 69.50.403);

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

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

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

24 (24) "Escape" means:

25 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the  
26 first degree (RCW 9A.76.110), escape in the second degree (RCW  
27 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
28 willful failure to return from work release (RCW 72.65.070), or willful  
29 failure to be available for supervision by the department while in  
30 community custody (RCW 72.09.310); or

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

34 (25) "Felony traffic offense" means:

35 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
36 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-  
37 run injury-accident (RCW 46.52.020(4)), felony driving while under the

1 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or  
2 felony physical control of a vehicle while under the influence of  
3 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

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

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

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

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

23 (c) A private residence where the individual stays as a transient  
24 invitee.

25 (30) "Legal financial obligation" means a sum of money that is  
26 ordered by a superior court of the state of Washington for legal  
27 financial obligations which may include restitution to the victim,  
28 statutorily imposed crime victims' compensation fees as assessed  
29 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,  
30 court-appointed attorneys' fees, and costs of defense, fines, and any  
31 other financial obligation that is assessed to the offender as a result  
32 of a felony conviction. Upon conviction for vehicular assault while  
33 under the influence of intoxicating liquor or any drug, RCW  
34 46.61.522(1)(b), or vehicular homicide while under the influence of  
35 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial  
36 obligations may also include payment to a public agency of the expense  
37 of an emergency response to the incident resulting in the conviction,  
38 subject to RCW 38.52.430.

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

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

6 (a) Any felony defined under any law as a class A felony or  
7 criminal solicitation of or criminal conspiracy to commit a class A  
8 felony;

9 (b) Assault in the second degree;

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

11 (d) Child molestation in the second degree;

12 (e) Controlled substance homicide;

13 (f) Extortion in the first degree;

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

15 (h) Indecent liberties;

16 (i) Kidnapping in the second degree;

17 (j) Leading organized crime;

18 (k) Manslaughter in the first degree;

19 (l) Manslaughter in the second degree;

20 (m) Promoting prostitution in the first degree;

21 (n) Rape in the third degree;

22 (o) Robbery in the second degree;

23 (p) Sexual exploitation;

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

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

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

34 (t) Any other felony with a deadly weapon verdict under RCW  
35 9.94A.825;

36 (u) Any felony offense in effect at any time prior to December 2,  
37 1993, that is comparable to a most serious offense under this

1 subsection, or any federal or out-of-state conviction for an offense  
2 that under the laws of this state would be a felony classified as a  
3 most serious offense under this subsection;

4 (v)(i) A prior conviction for indecent liberties under RCW  
5 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.  
6 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as  
7 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)  
8 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

9 (ii) A prior conviction for indecent liberties under RCW  
10 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
11 if: (A) The crime was committed against a child under the age of  
12 fourteen; or (B) the relationship between the victim and perpetrator is  
13 included in the definition of indecent liberties under RCW  
14 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
15 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
16 through July 27, 1997;

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

23 (33) "Nonviolent offense" means an offense which is not a violent  
24 offense.

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

37 (35) "Partial confinement" means confinement for no more than one  
38 year in a facility or institution operated or utilized under contract



1 by the state or any other unit of government, or, if home detention or  
2 work crew has been ordered by the court or home detention has been  
3 ordered by the department as part of the parenting program, in an  
4 approved residence, for a substantial portion of each day with the  
5 balance of the day spent in the community. Partial confinement  
6 includes work release, home detention, work crew, and a combination of  
7 work crew and home detention.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW  
38 9A.56.075);

1 (xix) Extortion 1 (RCW 9A.56.120);  
2 (xx) Extortion 2 (RCW 9A.56.130);  
3 (xxi) Intimidating a Witness (RCW 9A.72.110);  
4 (xxii) Tampering with a Witness (RCW 9A.72.120);  
5 (xxiii) Reckless Endangerment (RCW 9A.36.050);  
6 (xxiv) Coercion (RCW 9A.36.070);  
7 (xxv) Harassment (RCW 9A.46.020); or  
8 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);  
9 (b) That at least one of the offenses listed in (a) of this  
10 subsection shall have occurred after July 1, 2008;  
11 (c) That the most recent committed offense listed in (a) of this  
12 subsection occurred within three years of a prior offense listed in (a)  
13 of this subsection; and  
14 (d) Of the offenses that were committed in (a) of this subsection,  
15 the offenses occurred on separate occasions or were committed by two or  
16 more persons.  
17 (37) "Persistent offender" is an offender who:  
18 (a)(i) Has been convicted in this state of any felony considered a  
19 most serious offense; and  
20 (ii) Has, before the commission of the offense under (a) of this  
21 subsection, been convicted as an offender on at least two separate  
22 occasions, whether in this state or elsewhere, of felonies that under  
23 the laws of this state would be considered most serious offenses and  
24 would be included in the offender score under RCW 9.94A.525; provided  
25 that of the two or more previous convictions, at least one conviction  
26 must have occurred before the commission of any of the other most  
27 serious offenses for which the offender was previously convicted; or  
28 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
29 of a child in the first degree, child molestation in the first degree,  
30 rape in the second degree, rape of a child in the second degree, or  
31 indecent liberties by forcible compulsion; (B) any of the following  
32 offenses with a finding of sexual motivation: Murder in the first  
33 degree, murder in the second degree, homicide by abuse, kidnapping in  
34 the first degree, kidnapping in the second degree, assault in the first  
35 degree, assault in the second degree, assault of a child in the first  
36 degree, assault of a child in the second degree, or burglary in the  
37 first degree; or (C) an attempt to commit any crime listed in this  
38 subsection (37)(b)(i); and

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

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

35 (39) "Private school" means a school regulated under chapter  
36 28A.195 or 28A.205 RCW.

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

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

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

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

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

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

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

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

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

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

23 (44) "Serious traffic offense" means:

24 (a) Nonfelony driving while under the influence of intoxicating  
25 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
26 while under the influence of intoxicating liquor or any drug (RCW  
27 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
28 attended vehicle (RCW 46.52.020(5)); or

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

32 (45) "Serious violent offense" is a subcategory of violent offense  
33 and means:

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

35 (ii) Homicide by abuse;

36 (iii) Murder in the second degree;

37 (iv) Manslaughter in the first degree;

38 (v) Assault in the first degree;

1 (vi) Kidnapping in the first degree;  
2 (vii) Rape in the first degree;  
3 (viii) Assault of a child in the first degree; or  
4 (ix) An attempt, criminal solicitation, or criminal conspiracy to  
5 commit one of these felonies; or  
6 (b) Any federal or out-of-state conviction for an offense that  
7 under the laws of this state would be a felony classified as a serious  
8 violent offense under (a) of this subsection.  
9 (46) "Sex offense" means:  
10 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than  
11 RCW 9A.44.132;  
12 (ii) A violation of RCW 9A.64.020;  
13 (iii) A felony that is a violation of chapter 9.68A RCW other than  
14 RCW 9.68A.080;  
15 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,  
16 criminal solicitation, or criminal conspiracy to commit such crimes; or  
17 (v) A felony violation of RCW 9A.44.132(1) (failure to register as  
18 a sex offender) if the person has been convicted of violating RCW  
19 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior  
20 to June 10, 2010, on at least one prior occasion;  
21 (b) Any conviction for a felony offense in effect at any time prior  
22 to July 1, 1976, that is comparable to a felony classified as a sex  
23 offense in (a) of this subsection;  
24 (c) A felony with a finding of sexual motivation under RCW  
25 9.94A.835 or 13.40.135; or  
26 (d) Any federal or out-of-state conviction for an offense that  
27 under the laws of this state would be a felony classified as a sex  
28 offense under (a) of this subsection.  
29 (47) "Sexual motivation" means that one of the purposes for which  
30 the defendant committed the crime was for the purpose of his or her  
31 sexual gratification.  
32 (48) "Standard sentence range" means the sentencing court's  
33 discretionary range in imposing a nonappealable sentence.  
34 (49) "Statutory maximum sentence" means the maximum length of time  
35 for which an offender may be confined as punishment for a crime as  
36 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the  
37 crime, or other statute defining the maximum penalty for a crime.

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

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

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

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

16 (54) "Violent offense" means:

17 (a) Any of the following felonies:

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

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

22 (iii) Manslaughter in the first degree;

23 (iv) Manslaughter in the second degree;

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

25 (vi) Kidnapping in the second degree;

26 (vii) Arson in the second degree;

27 (viii) Assault in the second degree;

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

29 (x) Extortion in the first degree;

30 (xi) Robbery in the second degree;

31 (xii) Drive-by shooting;

32 (xiii) Vehicular assault, when caused by the operation or driving  
33 of a vehicle by a person while under the influence of intoxicating  
34 liquor or any drug or by the operation or driving of a vehicle in a  
35 reckless manner; and

36 (xiv) Vehicular homicide, when proximately caused by the driving of  
37 any vehicle by any person while under the influence of intoxicating

1 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
2 any vehicle in a reckless manner;

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

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

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

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

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

22 **Sec. 12.** RCW 28A.300.147 and 2011 c 338 s 6 are each amended to  
23 read as follows:

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

26 (1) A revised and updated sample policy for schools to follow  
27 regarding students required to register as sex or kidnapping offenders;  
28 and

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

30 **Sec. 13.** RCW 72.09.345 and 2011 c 338 s 5 are each amended to read  
31 as follows:

32 (1) In addition to any other information required to be released  
33 under this chapter, the department is authorized, pursuant to RCW  
34 4.24.550, to release relevant information to a law enforcement agency  
35 that is necessary to protect the public concerning offenders convicted  
36 of sex offenses.

1 (2) In order for ((public)) law enforcement agencies to have the  
2 information necessary to notify the public as authorized in RCW  
3 4.24.550, the secretary shall establish and administer an end-of-  
4 sentence review committee for the purposes of assigning risk levels,  
5 reviewing available release plans, and making appropriate referrals for  
6 sex offenders.

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

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

11 (b) Sex offenders accepted from another state under a reciprocal  
12 agreement under the interstate corrections compact authorized in  
13 chapter 72.74 RCW;

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

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

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

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

33 (5) The committee shall review each sex offender under its  
34 authority before the offender's release from confinement or start of  
35 the offender's term of community custody in order to: (a) Classify the  
36 offender into a risk level for the purposes of public notification  
37 under RCW 4.24.550; (b) where available, review the offender's proposed



1 release plan in accordance with the requirements of RCW 72.09.340; and  
2 (c) make appropriate referrals.

3 (6) The committee shall classify as risk level I those sex  
4 offenders whose risk assessments indicate ((a)) they are at a low risk  
5 ((of reoffense)) to sexually reoffend within the community at large.  
6 The committee shall classify as risk level II those offenders whose  
7 risk assessments indicate ((a)) they are at a moderate risk ((of  
8 reoffense)) to sexually reoffend within the community at large. The  
9 committee shall classify as risk level III those offenders whose risk  
10 assessments indicate ((a)) they are at a high risk ((of reoffense)) to  
11 sexually reoffend within the community at large.

12 (7) The committee shall issue to appropriate law enforcement  
13 agencies, for their use in making public notifications under RCW  
14 4.24.550, narrative notices regarding the pending release of sex  
15 offenders from the department's facilities. The narrative notices  
16 shall, at a minimum, describe the identity and criminal history  
17 behavior of the offender and shall include the department's risk level  
18 classification for the offender. For sex offenders classified as  
19 either risk level II or III, the narrative notices shall also include  
20 the reasons underlying the classification.

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