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**SUBSTITUTE SENATE BILL 5980**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** Senate Committee on Health & Long-Term Care (originally sponsored by Senators Fraser, Pflug, Keiser, Parlette, Kohl-Welles, Rasmussen, Roach, Poulsen and Fairley)

READ FIRST TIME 02/28/07.

1       AN ACT Relating to notifying licensed nursing homes, boarding  
2 homes, and adult family homes of offender status of residents or  
3 persons seeking admission; amending RCW 72.09.340 and 70.129.110;  
4 reenacting and amending RCW 9A.44.130; adding a new section to chapter  
5 70.129 RCW; adding a new section to chapter 18.20 RCW; adding a new  
6 section to chapter 18.51 RCW; and adding a new section to chapter  
7 70.128 RCW.

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

9       **Sec. 1.** RCW 72.09.340 and 2005 c 436 s 3 are each amended to read  
10 as follows:

11       (1) In making all discretionary decisions regarding release plans  
12 for and supervision of sex offenders, the department shall set  
13 priorities and make decisions based on an assessment of public safety  
14 risks.

15       (2) The department shall, no later than September 1, 1996,  
16 implement a policy governing the department's evaluation and approval  
17 of release plans for sex offenders. The policy shall include, at a  
18 minimum, a formal process by which victims, witnesses, and other  
19 interested people may provide information and comments to the

1 department on potential safety risks to specific individuals or classes  
2 of individuals posed by a specific sex offender. The department shall  
3 make all reasonable efforts to publicize the availability of this  
4 process through currently existing mechanisms and shall seek the  
5 assistance of courts, prosecutors, law enforcement, and victims'  
6 advocacy groups in doing so. Notice of an offender's proposed  
7 residence shall be provided to all people registered to receive notice  
8 of an offender's release under RCW 9.94A.612(2), except that in no case  
9 may this notification requirement be construed to require an extension  
10 of an offender's release date.

11 (3)(a) The department shall notify a boarding home licensed under  
12 chapter 18.20 RCW, a nursing home licensed under chapter 18.51 RCW, or  
13 an adult family home licensed under chapter 70.128 RCW that an offender  
14 convicted of a sex offense, as defined in RCW 9.94A.030 or convicted of  
15 reckless burning or arson under chapter 9A.48 RCW, when an offender is  
16 going to be discharged from total or partial confinement or is  
17 currently under supervision or community custody and is seeking  
18 admission to a facility.

19 (b) In making this notification, the department shall include:

20 (i) The person's name or names;

21 (ii) A physical description of the person;

22 (iii) Any conditions upon the person's probation, parole,  
23 postprison supervision, or conditions of release;

24 (iv) A description of the offender's method of offense;

25 (v) A description of the person's primary and secondary targets;

26 (vi) A current photograph of the person; and

27 (vii) The name and telephone number of the person's parole or  
28 probation officer.

29 (4)(a) For any offender convicted of a felony sex offense against  
30 a minor victim after June 6, 1996, the department shall not approve a  
31 residence location if the proposed residence: (i) Includes a minor  
32 victim or child of similar age or circumstance as a previous victim who  
33 the department determines may be put at substantial risk of harm by the  
34 offender's residence in the household; or (ii) is within close  
35 proximity of the current residence of a minor victim, unless the  
36 whereabouts of the minor victim cannot be determined or unless such a  
37 restriction would impede family reunification efforts ordered by the  
38 court or directed by the department of social and health services. The

1 department is further authorized to reject a residence location if the  
2 proposed residence is within close proximity to schools, child care  
3 centers, playgrounds, or other grounds or facilities where children of  
4 similar age or circumstance as a previous victim are present who the  
5 department determines may be put at substantial risk of harm by the sex  
6 offender's residence at that location.

7 (b) In addition, for any offender prohibited from living in a  
8 community protection zone under RCW 9.94A.712(6)(a)(ii), the department  
9 may not approve a residence location if the proposed residence is in a  
10 community protection zone.

11 (~~(4)~~) (5) When the department requires supervised visitation as  
12 a term or condition of a sex offender's community placement under RCW  
13 9.94A.700(6), the department shall, prior to approving a supervisor,  
14 consider the following:

15 (a) The relationships between the proposed supervisor, the  
16 offender, and the minor; (b) the proposed supervisor's acknowledgment  
17 and understanding of the offender's prior criminal conduct, general  
18 knowledge of the dynamics of child sexual abuse, and willingness and  
19 ability to protect the minor from the potential risks posed by contact  
20 with the offender; and (c) recommendations made by the department of  
21 social and health services about the best interests of the child.

22 **Sec. 2.** RCW 9A.44.130 and 2006 c 129 s 2, 2006 c 128 s 2, 2006 c  
23 127 s 2, and 2006 c 126 s 2 are each reenacted and amended to read as  
24 follows:

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

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

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

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

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

17 (iii) Who gains employment at a public or private institution of  
18 higher education shall, within ten days of accepting employment or by  
19 the first business day after commencing work at the institution,  
20 whichever is earlier, notify the sheriff for the county of the person's  
21 residence of the person's employment by the institution; (~~(or)~~)

22 (iv) Whose enrollment or employment at a public or private  
23 institution of higher education is terminated shall, within ten days of  
24 such termination, notify the sheriff for the county of the person's  
25 residence of the person's termination of enrollment or employment at  
26 the institution; or

27 (v) Who is residing, or planning to reside, in a boarding home  
28 licensed under chapter 18.20 RCW, a nursing home licensed under chapter  
29 18.51 RCW, or an adult family home licensed under chapter 70.128 RCW,  
30 shall notify the sheriff for the county or his or her legal  
31 representative shall notify the sheriff for the county in which a  
32 boarding home, nursing home, or adult family home is located and in  
33 which the person resides, or intends to reside, within five days. The  
34 sheriff shall promptly notify the administrator of the boarding home,  
35 nursing home, or adult family home that a person required to register  
36 under this section intends to or resides in the boarding home, nursing  
37 home, or adult family home.

1       The resident or his or her legal representative shall promptly  
2 notify the sheriff, upon transfer or discharge from a boarding home  
3 licensed under chapter 18.20 RCW, nursing home licensed under chapter  
4 18.51 RCW, or an adult family home licensed under chapter 70.128 RCW,  
5 of the change in residence.

6       (c) Persons required to register under this section who are  
7 enrolled in a public or private institution of higher education on June  
8 11, 1998, or a public or private school regulated under Title 28A RCW  
9 or chapter 72.40 RCW on September 1, 2006, or residing in a boarding  
10 home licensed under chapter 18.20 RCW, a nursing home licensed under  
11 chapter 18.51 RCW, or an adult family home licensed under chapter  
12 70.128 RCW on June 30, 2007, must notify the county sheriff  
13 immediately.

14       (d) The sheriff shall notify the school's principal (~~(or)~~), the  
15 institution's department of public safety, or the boarding home,  
16 nursing home, or adult family home administrator, and shall provide  
17 (~~that department with~~) the same information provided to a county  
18 sheriff under subsection (3) of this section.

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

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

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

33       (ii) Any information received by a principal or school personnel  
34 under this subsection is confidential and may not be further  
35 disseminated except as provided in RCW 28A.225.330, other statutes or  
36 case law, and the family and educational and privacy rights act of  
37 1994, 20 U.S.C. Sec. 1232g et seq.

1       (f)(i) An administrator of a boarding home licensed under chapter  
2 18.20 RCW, a nursing home licensed under chapter 18.51 RCW, or an adult  
3 family home licensed under chapter 70.128 RCW, receiving notice under  
4 this subsection may disclose to all management staff, and all  
5 caregivers within the boarding home, nursing home, or adult family home  
6 that a convicted sex offender resides in the boarding home, nursing  
7 home, or adult family home and any other relevant information that may  
8 be necessary for the proper care and treatment of that person.

9       (ii) Any information received by an administrator of a boarding  
10 home, nursing home, or adult family home under this subsection is  
11 confidential and may not be further disseminated except as required by  
12 law.

13       (iii) The administrator shall notify the sheriff upon transfer or  
14 discharge of the convicted sex offender that the person will no longer  
15 reside in the boarding home, nursing home, or adult family home.

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

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

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

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

34       (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex  
35 offense on, before, or after February 28, 1990, and who, on or after  
36 July 28, 1991, are in custody, as a result of that offense, of the  
37 state department of corrections, the state department of social and  
38 health services, a local division of youth services, or a local jail or

1 juvenile detention facility, and (B) kidnapping offenders who on or  
2 after July 27, 1997, are in custody of the state department of  
3 corrections, the state department of social and health services, a  
4 local division of youth services, or a local jail or juvenile detention  
5 facility, must register at the time of release from custody with an  
6 official designated by the agency that has jurisdiction over the  
7 offender. The agency shall within three days forward the registration  
8 information to the county sheriff for the county of the offender's  
9 anticipated residence. The offender must also register within twenty-  
10 four hours from the time of release with the county sheriff for the  
11 county of the person's residence, or if the person is not a resident of  
12 Washington, the county of the person's school, or place of employment  
13 or vocation. The agency that has jurisdiction over the offender shall  
14 provide notice to the offender of the duty to register. Failure to  
15 register at the time of release and within twenty-four hours of release  
16 constitutes a violation of this section and is punishable as provided  
17 in subsection (11) of this section.

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

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

1 corrections, the state department of social and health services, or a  
2 local division of youth services, for kidnapping offenses committed  
3 before, on, or after July 27, 1997, must register within ten days of  
4 July 27, 1997. A change in supervision status of a sex offender who  
5 was required to register under this subsection (4)(a)(ii) as of July  
6 28, 1991, or a kidnapping offender required to register as of July 27,  
7 1997, shall not relieve the offender of the duty to register or to  
8 reregister following a change in residence. The obligation to register  
9 shall only cease pursuant to RCW 9A.44.140.

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

37 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders  
38 who are convicted of a sex offense on or after July 28, 1991, for a sex



1 offense that was committed on or after February 28, 1990, and  
2 kidnapping offenders who are convicted on or after July 27, 1997, for  
3 a kidnapping offense that was committed on or after July 27, 1997, but  
4 who are not sentenced to serve a term of confinement immediately upon  
5 sentencing, shall report to the county sheriff to register immediately  
6 upon completion of being sentenced.

7 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON  
8 RESIDENTS. Sex offenders and kidnapping offenders who move to  
9 Washington state from another state or a foreign country that are not  
10 under the jurisdiction of the state department of corrections, the  
11 indeterminate sentence review board, or the state department of social  
12 and health services at the time of moving to Washington, must register  
13 within three business days of establishing residence or reestablishing  
14 residence if the person is a former Washington resident. The duty to  
15 register under this subsection applies to sex offenders convicted under  
16 the laws of another state or a foreign country, federal or military  
17 statutes for offenses committed before, on, or after February 28, 1990,  
18 or Washington state for offenses committed before, on, or after  
19 February 28, 1990, and to kidnapping offenders convicted under the laws  
20 of another state or a foreign country, federal or military statutes, or  
21 Washington state for offenses committed before, on, or after July 27,  
22 1997. Sex offenders and kidnapping offenders from other states or a  
23 foreign country who, when they move to Washington, are under the  
24 jurisdiction of the department of corrections, the indeterminate  
25 sentence review board, or the department of social and health services  
26 must register within twenty-four hours of moving to Washington. The  
27 agency that has jurisdiction over the offender shall notify the  
28 offender of the registration requirements before the offender moves to  
29 Washington.

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

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

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

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

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

1 (b) Failure to register within the time required under this section  
2 constitutes a per se violation of this section and is punishable as  
3 provided in subsection (11) of this section. The county sheriff shall  
4 not be required to determine whether the person is living within the  
5 county.

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

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

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

1 designated by the new state as the state's offender registration  
2 agency.

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

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

22 (b) A person who lacks a fixed residence must report weekly, in  
23 person, to the sheriff of the county where he or she is registered.  
24 The weekly report shall be on a day specified by the county sheriff's  
25 office, and shall occur during normal business hours. The county  
26 sheriff's office may require the person to list the locations where the  
27 person has stayed during the last seven days. The lack of a fixed  
28 residence is a factor that may be considered in determining an  
29 offender's risk level and shall make the offender subject to disclosure  
30 of information to the public at large pursuant to RCW 4.24.550.

31 (c) If any person required to register pursuant to this section  
32 does not have a fixed residence, it is an affirmative defense to the  
33 charge of failure to register, that he or she provided written notice  
34 to the sheriff of the county where he or she last registered within  
35 forty-eight hours excluding weekends and holidays after ceasing to have  
36 a fixed residence and has subsequently complied with the requirements  
37 of subsections (4)(a)(vii) or (viii) and (6) of this section. To

1 prevail, the person must prove the defense by a preponderance of the  
2 evidence.

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

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

1 residence and to the state patrol within five days of the entry of the  
2 order.

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

6 (10) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,  
7 70.48.470, and 72.09.330:

8 (a) "Sex offense" means:

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

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

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

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

17 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a  
18 criminal attempt, criminal solicitation, or criminal conspiracy to  
19 commit an offense that is classified as a sex offense under RCW  
20 9.94A.030 or this subsection.

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

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

37 (d) "Student" means a person who is enrolled, on a full-time or

1 part-time basis, in any public or private educational institution. An  
2 educational institution includes any secondary school, trade or  
3 professional institution, or institution of higher education.

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

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

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

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

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

30 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.129 RCW  
31 to read as follows:

32 (1) If the department learns that a current or prospective resident  
33 of a boarding home licensed under chapter 18.20 RCW, a nursing home  
34 licensed under chapter 18.51 RCW, or an adult family home licensed  
35 under chapter 70.128 RCW has been convicted of a sex offense as defined  
36 in RCW 9.94A.030 or convicted of reckless burning or arson under  
37 chapter 9A.48 RCW, the department shall notify the facility's

1 administrator immediately. The administrator may notify other facility  
2 staff consistent with RCW 9A.44.130 and may notify other persons  
3 pursuant to law.

4 (2) Any person convicted of a sex offense as defined in RCW  
5 9.94A.030, or convicted of reckless burning or arson under chapter  
6 9A.48 RCW, applying for admission to a boarding home licensed under  
7 chapter 18.20 RCW, a nursing home licensed under chapter 18.51 RCW, or  
8 an adult family home licensed under chapter 70.128 RCW, shall promptly  
9 notify the administrator of the person's conviction status. The  
10 administrator may notify other facility staff consistent with RCW  
11 9A.44.130.

12 (3) Any person convicted of a sex offense as defined in RCW  
13 9.94A.030, or convicted of reckless burning or arson under chapter  
14 9A.48 RCW, residing in a boarding home licensed under chapter 18.20  
15 RCW, a nursing home licensed under chapter 18.51 RCW, or an adult  
16 family home licensed under chapter 70.128 RCW, on the effective date of  
17 this section shall promptly notify the administrator of the person's  
18 conviction status. The administrator may notify other facility staff  
19 consistent with RCW 9A.44.130.

20 (4) A boarding home licensed under chapter 18.20 RCW, a nursing  
21 home licensed under chapter 18.51 RCW, or an adult family home licensed  
22 under chapter 70.128 RCW, may refuse admission to a person who is  
23 required to register as a sex offender under RCW 9A.44.130; any person  
24 found guilty of a crime of arson in the first degree or reckless  
25 burning in the first or second degree under chapter 9A.48 RCW; any  
26 person committed as a sexually violent predator under chapter 71.09 RCW  
27 or as a sexual psychopath under chapter 71.06 RCW; any person found not  
28 guilty of a sex offense or arson or reckless burning offense by reason  
29 of insanity under chapter 10.77 RCW; and/or any person found  
30 incompetent to stand trial for a sex offense or arson or reckless  
31 burning offense and subsequently committed under chapter 71.05 or 71.34  
32 RCW if the facility reasonably believes that the resident endangers the  
33 health and safety of individuals in the facility.

34 (5)(a) A boarding home licensed under chapter 18.20 RCW, a nursing  
35 home licensed under chapter 18.51 RCW, or an adult family home licensed  
36 under chapter 70.128 RCW may immediately, subject to available  
37 placement but not to exceed ten days, transfer or discharge a resident  
38 if:



1 (i) The facility was not notified prior to admission that the  
2 resident was required to register as a sex offender under RCW  
3 9A.44.130; was convicted of a sex offense as defined in chapter 9.94A  
4 RCW; was convicted for felony arson or reckless burning under chapter  
5 9A.48 RCW; was committed as a sexually violent predator under chapter  
6 71.09 RCW or sexual psychopath under chapter 71.06 RCW; was found not  
7 guilty of a sexual offense or arson or reckless burning offense by  
8 reason of insanity; or was found incompetent to stand trial for a sex  
9 offense or arson or reckless burning offense and subsequently committed  
10 under chapter 71.05 or 71.34 RCW; and

11 (ii) The facility reasonably believes that the resident endangers  
12 the health or safety of individuals in the facility.

13 (b) A boarding home licensed under chapter 18.20 RCW, a nursing  
14 home licensed under chapter 18.51 RCW, or an adult family home licensed  
15 under chapter 70.128 RCW shall provide the resident written notice of  
16 posttransfer/discharge hearing rights under chapter 34.05 RCW. If the  
17 resident requests a posttransfer/discharge hearing, any hearing must be  
18 held within five business days of the transfer or discharge. A request  
19 for a hearing shall not delay or postpone the transfer or discharge.

20 (6) A boarding home licensed under chapter 18.20 RCW, a nursing  
21 home licensed under chapter 18.51 RCW, or an adult family home licensed  
22 under chapter 70.128 RCW, or its employees, are not liable for civil  
23 damages resulting directly or indirectly from a decision to admit,  
24 retain, transfer, or discharge the resident.

25 **Sec. 4.** RCW 70.129.110 and 1997 c 392 s 205 are each amended to  
26 read as follows:

27 (1) The facility must permit each resident to remain in the  
28 facility, and not transfer or discharge the resident from the facility  
29 unless:

30 (a) The transfer or discharge is necessary for the resident's  
31 welfare and the resident's needs cannot be met in the facility;

32 (b) The safety of individuals in the facility is endangered;

33 (c) The health of individuals in the facility would otherwise be  
34 endangered;

35 (d) The resident has failed to make the required payment for his or  
36 her stay; or

37 (e) The facility ceases to operate.

1 (2) All long-term care facilities shall fully disclose to potential  
2 residents or their legal representative the service capabilities of the  
3 facility prior to admission to the facility. If the care needs of the  
4 applicant who is medicaid eligible are in excess of the facility's  
5 service capabilities, the department shall identify other care settings  
6 or residential care options consistent with federal law.

7 (3) Before a long-term care facility transfers or discharges a  
8 resident, the facility must:

9 (a) First attempt through reasonable accommodations to avoid the  
10 transfer or discharge, unless agreed to by the resident;

11 (b) Notify the resident and representative and make a reasonable  
12 effort to notify, if known, an interested family member of the transfer  
13 or discharge and the reasons for the move in writing and in a language  
14 and manner they understand;

15 (c) Record the reasons in the resident's record; and

16 (d) Include in the notice the items described in subsection (5) of  
17 this section.

18 (4)(a) Except when specified in this subsection, the notice of  
19 transfer or discharge required under subsection (3) of this section  
20 must be made by the facility at least thirty days before the resident  
21 is transferred or discharged.

22 (b) Notice may be made as soon as practicable before transfer or  
23 discharge when:

24 (i) The safety of individuals in the facility would be endangered;

25 (ii) The health of individuals in the facility would be endangered;

26 (iii) An immediate transfer or discharge is required by the  
27 resident's urgent medical needs; or

28 (iv) A resident has not resided in the facility for thirty days.

29 (5) The written notice specified in subsection (3) of this section  
30 must include the following:

31 (a) The reason for transfer or discharge;

32 (b) The effective date of transfer or discharge;

33 (c) The location to which the resident is transferred or  
34 discharged, except when a resident is being transferred or discharged  
35 under section 3(5) of this act;

36 (d) The name, address, and telephone number of the state long-term  
37 care ombudsman;

1 (e) For residents with developmental disabilities, the mailing  
2 address and telephone number of the agency responsible for the  
3 protection and advocacy of developmentally disabled individuals  
4 established under part C of the developmental disabilities assistance  
5 and bill of rights act; and

6 (f) For residents who are mentally ill, the mailing address and  
7 telephone number of the agency responsible for the protection and  
8 advocacy of mentally ill individuals established under the protection  
9 and advocacy for mentally ill individuals act.

10 (6) A facility must provide sufficient preparation and orientation  
11 to residents to ensure safe and orderly transfer or discharge from the  
12 facility.

13 (7) A resident discharged in violation of this section has the  
14 right to be readmitted immediately upon the first availability of a  
15 gender-appropriate bed in the facility.

16 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.20 RCW  
17 to read as follows:

18 (1) A resident transferred or discharged under section 3(5)(a) of  
19 this act is entitled to a posttransfer/discharge administrative hearing  
20 under chapter 34.05 RCW. If the resident requests a  
21 posttransfer/discharge hearing, any hearing must be held within five  
22 business days of the transfer or discharge. A request for a hearing  
23 shall not delay or postpone the transfer or discharge.

24 (2) Neither the boarding home, nor its employees, are liable for  
25 any civil damages resulting directly or indirectly from a decision to  
26 admit, retain, transfer, or discharge the resident.

27 NEW SECTION. **Sec. 6.** A new section is added to chapter 18.51 RCW  
28 to read as follows:

29 (1) A resident transferred or discharged under section 3(5)(a) of  
30 this act is entitled to a posttransfer/discharge administrative hearing  
31 under chapter 34.05 RCW. If the resident requests a  
32 posttransfer/discharge hearing, any hearing must be held within five  
33 business days of the transfer or discharge. A request for a hearing  
34 shall not delay or postpone the transfer or discharge.

35 (2) Neither the nursing home, nor its employees, are liable for any

1 civil damages resulting directly or indirectly from a decision to  
2 admit, retain, transfer, or discharge the resident.

3 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.128 RCW  
4 to read as follows:

5 (1) A resident transferred or discharged under section 3(5)(a) of  
6 this act is entitled to a posttransfer/discharge administrative hearing  
7 under chapter 34.05 RCW. If the resident requests a  
8 posttransfer/discharge hearing, any hearing must be held within five  
9 business days of the transfer or discharge. A request for a hearing  
10 shall not delay or postpone the transfer or discharge.

11 (2) Neither the adult family home, nor its employees, are liable  
12 for any civil damages resulting directly or indirectly from a decision  
13 to admit, retain, transfer, or discharge the resident.

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