

FORMATTING NOTE:

In initiatives, legislative bills and other proposed measures, language that is to be deleted from current statutes is represented by a "strikethrough" character and language that is to be added is underlined. Because these special characters cannot be formatted in all Internet browsers, a different set of symbols is used for presenting these proposals on-line. The symbols are as follows:

- Text that is surrounded by (({- text here -})) is text that will be DELETED FROM the existing statute if the proposed measure is approved.
- Text that is surrounded by {+ text here +} is text that will be ADDED TO the existing statute if the proposed measure is approved.
- {+ NEW SECTION+} (found at the beginning of a section or paragraph) indicates that ALL of the text in that section will become law if the proposed measure is approved.

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INITIATIVE 216

AN ACT Relating to registration of bias/hate offenders; amending RCW 9A.44.140, 10.01.200, 43.43.540, 46.20.187, and 72.09.330; reenacting and amending RCW 70.48.470; adding a new section to chapter 9A.36 RCW; and prescribing penalties.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

{+ NEW SECTION. +} Sec. 1. A new section is added to chapter 9A.36 RCW to read as follows:

(1) Any adult or juvenile residing in this state who has been found to have committed or has been convicted of any bias/hate offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any bias/hate offense, shall register with the county sheriff for the county of the person's residence.

(2) The person shall provide the county sheriff with the following information when registering: (a) Name; (b) address; (c) date and place of birth; (d) place of employment; (e) crime for which convicted; (f) date and place of conviction; (g) aliases used; and (h) social security number.

(3)(a) Offenders shall register within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for bias/hate offenses:

(i) OFFENDERS IN CUSTODY. Bias/hate offenders who committed a bias/hate offense on, before, or after the effective date of this act and who, on or after the effective date of this act are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection (7) of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Bias/hate offenders who, on the effective date of this act, are not in custody but are under the jurisdiction of the

indeterminate sentence review board or under the department of correction's active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for bias/hate offenses committed before, on, or after the effective date of this act, must register within ten days of the effective date of this act. A change in supervision status of a bias/hate offender who was required to register under this subsection (3)(a)(ii) as of the effective date of this act shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Bias/hate offenders who, on or after the effective date of this act, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for bias/hate offenses committed before, on, or after the effective date of this act, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. Bias/hate offenders who, on the effective date of this act, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for bias/hate offenses committed before, on, or after the effective date of this act, must register within ten days of the effective date of this act. A change in supervision status of a bias/hate offender who was required to register under this subsection (3)(a)(iii) as of the effective date of this act, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Bias/hate offenders who are convicted of a bias/hate offense on or after the effective date of this act but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Bias/hate offenders who move to Washington state from another state or a foreign country who are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within thirty days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to bias/hate offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after the effective date of this act. Bias/hate offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing a bias/hate offense on, before, or after the effective date of this act, and who, on or after the effective date of this act is in custody, as a result of that finding,

of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a bias/hate offense on, before, or after the effective date of this act, but who was released before the effective date of this act shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify bias/hate offenders who were released before the effective date of this act. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (7) of this section.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (7) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (3)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any bias/hate offender of a duty to register as it existed prior to the effective date of this act.

(4)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send written notice of the change of address to the county sheriff at least fourteen days before moving. If any person required to register pursuant to this section moves to a new county, the person must send written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. If any person required to register pursuant to this section moves out of Washington state, the person must also send written notice within ten days of moving to the new state or a foreign country to the county sheriff with whom the person last registered in Washington state.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of

the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

(5) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints.

(6) For the purpose of this section and RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330, "bias/hate offense" means any offense punishable under RCW 9A.36.080.

(7) A person who knowingly fails to register or who moves without notifying the county sheriff as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony. If the crime was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

Sec. 2. RCW 9A.44.140 and 1998 c 220 s 3 are each amended to read as follows:

(1) The duty to register under RCW 9A.44.130 {+ or section 1 of this act +} shall end:

(a) For a person convicted of a class A felony, or a person convicted of any {+ bias/hate offense, +} sex offense{+ , +} or kidnapping offense who has one or more prior (({- conviction[s] -})) {+ convictions +} for a {+ bias/hate offense, +} sex offense{+ , +} or kidnapping offense: Such person may only be relieved of the duty to register under subsection (3) or (4) of this section.

(b) For a person convicted of a class B felony, and the person does not have one or more prior (({- conviction[s] -})) {+ convictions +} for a {+ bias/hate offense, +} sex offense{+ , +} or kidnapping offense: Fifteen years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent fifteen consecutive years in the community without being convicted of any new offenses.

(c) For a person convicted of a class C felony, {+ a bias/hate offense that is other than a felony, +} a violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to commit a class C felony, and the person does not have one or more prior (({- conviction[s] -})) {+ convictions +} for a {+ bias/hate offense, +} sex offense{+ , +} or kidnapping offense: Ten years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent ten consecutive years in the community without being convicted of any new offenses.

(2) The provisions of subsection (1) of this section shall apply equally to a person who has been found not guilty by reason of insanity under chapter 10.77 RCW of a {+ bias/hate offense, +} sex offense{+ , +} or kidnapping offense.

(3) Any person having a duty to register under RCW 9A.44.130 {+ or section 1 of this act +} may petition the superior court to be relieved of that duty, if the person has spent ten consecutive years in the community without being convicted of any new offenses. The petition shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register, or, in the case of convictions in other states, a foreign country, or a federal or military court, to the court in Thurston county. The prosecuting

attorney of the county shall be named and served as the respondent in any such petition. The court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after conviction, and may consider other factors. Except as provided in subsection (4) of this section, the court may relieve the petitioner of the duty to register only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of {+ section 1 of this act, +} RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

(4) An offender having a duty to register under RCW 9A.44.130 {+ or section 1 of this act +} for a {+ bias/hate offense, +} sex offense{+ , +} or kidnapping offense committed when the offender was a juvenile may petition the superior court to be relieved of that duty. The court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after adjudication, and may consider other factors. The court may relieve the petitioner of the duty to register for a {+ bias/hate offense, +} sex offense{+ , +} or kidnapping offense that was committed while the petitioner was fifteen years of age or older only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of {+ section 1 of this act, +} RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The court may relieve the petitioner of the duty to register for a {+ bias/hate offense, +} sex offense{+ , +} or kidnapping offense that was committed while the petitioner was under the age of fifteen if the petitioner (a) has not been adjudicated of any additional {+ bias/hate offenses, +} sex offenses{+ , +} or kidnapping offenses during the twenty-four months following the adjudication for the offense giving rise to the duty to register, and (b) the petitioner proves by a preponderance of the evidence that future registration of the petitioner will not serve the purposes of {+ section 1 of this act, +} RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

This subsection shall not apply to juveniles prosecuted as adults.

(5) Unless relieved of the duty to register pursuant to this section, a violation of RCW 9A.44.130 {+ or section 1 of this act +} is an ongoing offense for purposes of the statute of limitations under RCW 9A.04.080.

(6) Nothing in RCW 9.94A.220 relating to discharge of an offender shall be construed as operating to relieve the offender of his or her duty to register pursuant to RCW 9A.44.130 {+ or section 1 of this act +}.

Sec. 3. RCW 10.01.200 and 1997 c 113 s 5 are each amended to read as follows:

The court shall provide written notification to any defendant charged with a {+ bias/hate offense, +} sex offense{+ , +} or kidnapping offense of the registration requirements of RCW 9A.44.130 {+ and section 1 of this act +}. Such notice shall be included on any guilty plea forms and judgment and sentence forms provided to the defendant.

Sec. 4. RCW 43.43.540 and 1998 c 220 s 4 are each amended to read as follows:

The county sheriff shall forward the information, photographs, and fingerprints obtained pursuant to RCW 9A.44.130 {+ or section 1 of this

act +}, including any notice of change of address, to the Washington state patrol within five working days. The state patrol shall maintain a central registry of {+ bias/hate offenders, +} sex offenders{+ , +} and kidnapping offenders required to register under RCW 9A.44.130 {+ or section 1 of this act +} and shall adopt rules consistent with chapters 10.97, 10.98, and 43.43 RCW as are necessary to carry out the purposes of {+ section 1 of this act, +} RCW 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The Washington state patrol shall reimburse the counties for the costs of processing the offender registration, including taking the fingerprints and the photographs.

Sec. 5. RCW 46.20.187 and 1990 c 3 s 407 are each amended to read as follows:

The department, at the time a person renews his or her driver's license or identicard, or surrenders a driver's license from another jurisdiction pursuant to RCW 46.20.021 and makes an application for a driver's license or an identicard, shall provide the applicant with written information on the registration requirements of RCW 9A.44.130 {+ and section 1 of this act +}.

Sec. 6. RCW 70.48.470 and 1997 c 364 s 3 and 1997 c 113 § 7 are each reenacted and amended to read as follows:

(1) A person having charge of a jail shall notify in writing any confined person who is in the custody of the jail for a conviction of a sex offense or kidnapping offense as defined in RCW 9A.44.130 {+ or a bias/hate offense +} of the registration requirements of RCW 9A.44.130 {+ and section 1 of this act +} at the time of the inmate's release from confinement, and shall obtain written acknowledgment of such notification. The person shall also obtain from the inmate the county of the inmate's residence upon release from jail and, where applicable, the city.

(2) When a {+ bias/hate offender, +} sex offender{+ , or kidnapping offender +} under local government jurisdiction will reside in a county other than the county of conviction upon discharge or release, the chief law enforcement officer of the jail or his or her designee shall give notice of the inmate's discharge or release to the sheriff of the county and, where applicable, to the police chief of the city where the offender will reside.

Sec. 7. RCW 72.09.330 and 1997 c 113 s 8 are each amended to read as follows:

(1) The department shall provide written notification to an inmate convicted of a {+ bias/hate offense, +} sex offense{+ , +} or kidnapping offense of the registration requirements of RCW 9A.44.130 {+ and section 1 of this act +} at the time of the inmate's release from confinement and shall receive and retain a signed acknowledgement of receipt.

(2) The department shall provide written notification to an individual convicted of a {+ bias/hate offense, +} sex offense{+ , +} or kidnapping offense from another state of the registration requirements of RCW 9A.44.130 {+ and section 1 of this act +} at the time the department accepts supervision and has legal authority of the individual under the terms and conditions of the interstate compact agreement under RCW 9.95.270.

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