

Chapter 9A.44 RCW
SEX OFFENSES

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 9A.44.904 Construction—Chapter applicable to state registered
 domestic partnerships—2009 c 521.

Council for children and families: Chapter 43.121 RCW.

*Witnesses: **Rules of court:** ER 601 through 615.*

RCW 9A.44.010 Definitions. As used in this chapter:

- (1) "Abuse of a supervisory position" means:
 - (a) To use a direct or indirect threat or promise to exercise authority to the detriment or benefit of a minor; or
 - (b) To exploit a significant relationship in order to obtain the consent of a minor.
- (2) "Consent" means that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.
- (3) "Forcible compulsion" means physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that she or he or another person will be kidnapped.
- (4) "Frail elder or vulnerable adult" means a person sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself. "Frail elder or vulnerable adult" also includes a person who has been placed under a guardianship under RCW 11.130.265 or a conservatorship under RCW 11.130.360, a person over eighteen years of age who has a developmental disability under chapter 71A.10 RCW, a person admitted to a long-term care facility that is licensed or required to be licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and a person receiving services from a home health, hospice, or home care agency licensed or required to be licensed under chapter 70.127 RCW.
- (5) "Health care provider" for purposes of RCW 9A.44.050 and 9A.44.100 means a person who is, holds himself or herself out to be, or provides services as if he or she were: (a) A member of a health care profession under chapter 18.130 RCW; or (b) registered under chapter 18.19 RCW or licensed under chapter 18.225 RCW, regardless of whether the health care provider is licensed, certified, or registered by the state.
- (6) "Married" means one who is legally married to another, but does not include a person who is living separate and apart from his or her spouse and who has filed in an appropriate court for legal separation or for dissolution of his or her marriage.

(7) "Mental incapacity" is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause.

(8) "Person with a developmental disability," for purposes of RCW 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a developmental disability as defined in RCW 71A.10.020.

(9) "Person with a mental disorder" for the purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental disorder" as defined in RCW 71.05.020.

(10) "Person with a substance use disorder" for purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "substance use disorder" as defined in RCW 71.05.020.

(11) "Person with supervisory authority," for purposes of RCW 9A.44.050(1)(c) or (e) and 9A.44.100(1)(c) or (e), means any proprietor or employee of any public or private care or treatment facility who directly supervises developmentally disabled, mentally disordered, or chemically dependent persons at the facility.

(12) "Physically helpless" means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(13) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party.

(14) "Sexual intercourse" (a) has its ordinary meaning and occurs upon any penetration, however slight, and

(b) Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and

(c) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

(15) "Significant relationship" means a situation in which the perpetrator is:

(a) A person who undertakes the responsibility, professionally or voluntarily, to provide education, health, welfare, or organized recreational activities principally for minors;

(b) A person who in the course of his or her employment supervises minors; or

(c) A person who provides welfare, health or residential assistance, personal care, or organized recreational activities to frail elders or vulnerable adults, including a provider, employee, temporary employee, volunteer, or independent contractor who supplies services to long-term care facilities licensed or required to be licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW, but not including a consensual sexual partner.

(16) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100 means the active delivery of professional services by a health care provider which the health care provider holds himself or herself out to be qualified to provide. [2023 c 470 s 3007. Prior: 2020 c 312 s 707; 2007 c 20 s 3; 2005 c 262 s 1; 2001 c 251 s 28; prior: 1997 c 392 s 513; 1997 c 112 s 37; 1994 c 271 s 302; 1993 c 477 s 1; 1988 c 146 s

3; 1988 c 145 s 1; 1981 c 123 s 1; 1975 1st ex.s. c 14 s 1. Formerly RCW 9.79.140.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

Effective dates—2020 c 312: See note following RCW 11.130.915.

Effective date—2007 c 20: See note following RCW 9A.44.050.

Severability—2001 c 251: See RCW 18.225.900.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Intent—1994 c 271: "The legislature hereby reaffirms its desire to protect the children of Washington from sexual abuse and further reaffirms its condemnation of child sexual abuse that takes the form of causing one child to engage in sexual contact with another child for the sexual gratification of the one causing such activities to take place." [1994 c 271 s 301.]

Purpose—Severability—1994 c 271: See notes following RCW 9A.28.020.

Severability—Effective dates—1988 c 146: See notes following RCW 9A.44.050.

Effective date—1988 c 145: "This act shall take effect July 1, 1988." [1988 c 145 s 26.]

Savings—Application—1988 c 145: "This act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, which is already in existence on July 1, 1988, and shall apply only to offenses committed on or after July 1, 1988." [1988 c 145 s 25.]

RCW 9A.44.020 Testimony—Evidence—Written motion—Admissibility.

(1) In order to convict a person of any crime defined in this chapter it shall not be necessary that the testimony of the alleged victim be corroborated.

(2) Evidence of the victim's past sexual behavior including but not limited to the victim's marital history; divorce history; general reputation for promiscuity, nonchastity, or sexual mores contrary to community standards; or, unless it is related to the alleged offense, social media account, including any text, image, video, or picture, which depict sexual content, sexual history, nudity or partial nudity, intimate sexual activity, communications about sexual activity, communications about sex, sexual fantasies, and other information that appeals to a prurient interest is inadmissible on the issue of credibility and is inadmissible to prove the victim's consent except

as provided in subsection (3) of this section, but when the perpetrator and the victim have engaged in sexual intercourse with each other in the past, and when the past behavior is material to the issue of consent, evidence concerning the past behavior between the perpetrator and the victim may be admissible on the issue of consent to the offense.

(3) In any prosecution for the crime of rape, trafficking pursuant to RCW 9A.40.100, or any of the offenses in chapter 9.68A RCW, or for an attempt to commit, or an assault with an intent to commit any such crime evidence of the victim's past sexual behavior including but not limited to the victim's marital behavior; divorce history; general reputation for promiscuity, nonchastity, or sexual mores contrary to community standards; or, unless it is related to the alleged offense, social media account, including any text, image, video, or picture, which depict sexual content, sexual history, nudity or partial nudity, intimate sexual activity, communications about sexual activity, communications about sex, sexual fantasies, and other information that appeals to a prurient interest is not admissible if offered to attack the credibility of the victim and is admissible on the issue of consent, except where prohibited in the underlying criminal offense, only pursuant to the following procedure:

(a) A written pretrial motion shall be made in advance of the trial date by the defendant to the court and prosecutor stating that the defense has an offer of proof of the relevancy of evidence of the past sexual behavior of the victim proposed to be presented and its relevancy on the issue of the consent of the victim.

(b) The written motion shall be accompanied by an affidavit or affidavits in which the offer of proof shall be stated.

(c) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury before the jury is empaneled, if any, and the hearing shall be closed except to the necessary witnesses, the defendant, counsel, and those who have a direct interest in the case or in the work of the court.

(d) At the conclusion of the hearing, if the court finds that the evidence proposed to be offered by the defendant regarding the past sexual behavior of the victim is relevant to the issue of the victim's consent; is not inadmissible because its probative value is substantially outweighed by the probability that its admission will create a substantial danger of undue prejudice; and that its exclusion would result in denial of substantial justice to the defendant; the court shall make an order stating what evidence may be introduced by the defendant, which order may include the nature of the questions to be permitted. The defendant may then offer evidence pursuant to the order of the court.

(e) The victim, the victim's attorney, or a lawful representative of the victim may assert and seek enforcement of the procedures under this section.

(4) Nothing in this section shall be construed to prohibit cross-examination of the victim on the issue of past sexual behavior when the prosecution presents evidence in its case in chief tending to prove the nature of the victim's past sexual behavior, but the court may require a hearing pursuant to subsection (3) of this section concerning such evidence. [2024 c 297 s 12; 2023 c 197 s 10; 2013 c 302 s 7; 1975 1st ex.s. c 14 s 2. Formerly RCW 9.79.150.]

Effective date—2024 c 297: See note following RCW 7.68.127.

Effective date—2013 c 302: See note following RCW 9.68A.090.

RCW 9A.44.025 Depictions of victim created during forensic examination—Confidentiality. (1) In a criminal proceeding, a depiction of a victim's genitals that was created during a sexual assault medical forensic examination, regardless of its format:

(a) Shall not be shown in open judicial proceedings; and
(b) Must be filed as a confidential document within the court file.

(2) An expert witness in a criminal proceeding may inspect, view, examine, and provide testimony on a depiction of a victim's genitals that was created during a sexual assault medical forensic examination.

(3) All depictions of a victim that was created during a sexual assault medical forensic examination must be filed as a confidential document within the court file. [2024 c 297 s 14.]

Effective date—2024 c 297: See note following RCW 7.68.127.

RCW 9A.44.026 Depiction of victim created during forensic examination—Sealing and destruction of exhibit. (1) Whenever a depiction of a victim or a victim's genitals that was created during a sexual assault medical forensic examination, regardless of its format, is marked as an exhibit in a criminal proceeding, the prosecutor shall seek an order sealing the exhibit at the close of the trial. Any exhibits sealed under this section shall be sealed with evidence tape in a manner that prevents access to, or viewing of, the depiction of a victim or a victim's genitals that was created during a sexual assault medical forensic examination and shall be labeled so as to identify its contents. Anyone seeking to view such an exhibit must obtain permission from the superior court after providing at least 10 days' notice to the prosecuting attorney. Appellate attorneys for the defendant and the state shall be given access to the exhibit, which must remain in the care and custody of either a law enforcement agency or the court. Any other person moving to view such an exhibit must demonstrate to the court that the person's reason for viewing the exhibit is of sufficient importance to justify another violation of the victim's privacy.

(2) Whenever the clerk of the court receives an exhibit of a depiction of a victim or a victim's genitals that was created during a sexual assault medical forensic examination, the clerk shall store the exhibit in a secure location, such as a safe. The clerk may arrange for the transfer of such exhibits to a law enforcement agency evidence room for safekeeping provided the agency agrees not to destroy or dispose of the exhibits without an order of the court.

(3) If the criminal proceeding ends in a conviction, the clerk of the court shall destroy any exhibit containing a depiction of a victim or a victim's genitals that was created during a sexual assault medical forensic examination five years after the judgment is final, as determined by the provisions of RCW 10.73.090(3). Before any destruction, the clerk shall contact the prosecuting attorney and verify that there is no collateral attack on the judgment pending in any court. If the criminal proceeding ends in a mistrial, the clerk shall either maintain the exhibit or return it to the law enforcement agency that investigated the criminal charges for safekeeping until

the matter is set for retrial. If the criminal proceeding ends in an acquittal, the clerk shall return the exhibit to the law enforcement agency that investigated the criminal charges for either safekeeping or destruction. [2024 c 297 s 15.]

Effective date—2024 c 297: See note following RCW 7.68.127.

RCW 9A.44.030 Defenses to prosecution under this chapter. (1)

In any prosecution under this chapter in which lack of consent is based solely upon the victim's mental incapacity or upon the victim's being physically helpless, it is a defense which the defendant must prove by a preponderance of the evidence that at the time of the offense the defendant reasonably believed that the victim was not mentally incapacitated and/or physically helpless.

(2) In any prosecution under this chapter in which the offense or degree of the offense depends on the victim's age, it is no defense that the perpetrator did not know the victim's age, or that the perpetrator believed the victim to be older, as the case may be: PROVIDED, That it is a defense which the defendant must prove by a preponderance of the evidence that at the time of the offense the defendant reasonably believed the alleged victim to be the age identified in subsection (3) of this section based upon declarations as to age by the alleged victim.

(3) The defense afforded by subsection (2) of this section requires that for the following defendants, the reasonable belief be as indicated:

(a) For a defendant charged with rape of a child in the first degree, that the victim was at least twelve, or was less than twenty-four months younger than the defendant;

(b) For a defendant charged with rape of a child in the second degree, that the victim was at least fourteen, or was less than thirty-six months younger than the defendant;

(c) For a defendant charged with rape of a child in the third degree, that the victim was at least sixteen, or was less than forty-eight months younger than the defendant;

(d) For a defendant charged with sexual misconduct with a minor in the first degree, that the victim was at least eighteen, or was less than sixty months younger than the defendant;

(e) For a defendant charged with child molestation in the first degree, that the victim was at least twelve, or was less than thirty-six months younger than the defendant;

(f) For a defendant charged with child molestation in the second degree, that the victim was at least fourteen, or was less than thirty-six months younger than the defendant;

(g) For a defendant charged with child molestation in the third degree, that the victim was at least sixteen, or was less than thirty-six months younger than the defendant;

(h) For a defendant charged with sexual misconduct with a minor in the second degree, that the victim was at least eighteen, or was less than sixty months younger than the defendant. [1988 c 145 s 20; 1975 1st ex.s. c 14 s 3. Formerly RCW 9.79.160.]

Effective date—Savings—Application—1988 c 145: See notes following RCW 9A.44.010.

RCW 9A.44.040 Rape in the first degree. (1) A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person:

(a) By forcible compulsion where the perpetrator or an accessory:

(i) Uses or threatens to use a deadly weapon or what appears to be a deadly weapon; or

(ii) Kidnaps the victim; or

(iii) Inflicts serious physical injury, including but not limited to physical injury which renders the victim unconscious; or

(iv) Feloniously enters into the building or vehicle where the victim is situated, or where the sexual intercourse occurs; or

(b) After the perpetrator or an accessory knowingly furnishes the victim with a legend drug, controlled substance, or controlled substance analog without the victim's knowledge and consent which renders the victim incapable of consent to sexual intercourse due to physical helplessness or mental incapacitation.

(2) Rape in the first degree is a class A felony.

(3) For purposes of this section:

(a) "Legend drug" has the same meaning as "legend drugs" as defined in RCW 69.41.010.

(b) "Controlled substance" has the same meaning as defined in RCW 69.50.101.

(c) "Controlled substance analog" has the same meaning as defined in RCW 69.50.101. [2024 c 297 s 13; 1998 c 242 s 1. Prior: 1983 c 118 s 1; 1983 c 73 s 1; 1982 c 192 s 11; 1982 c 10 s 3; prior: (1) 1981 c 137 s 36; 1979 ex.s. c 244 s 1; 1975 1st ex.s. c 247 s 1; 1975 1st ex.s. c 14 s 4. (2) 1981 c 136 s 57 repealed by 1982 c 10 s 18. Formerly RCW 9.79.170.]

Effective date—2024 c 297: See note following RCW 7.68.127.

Severability—1983 c 73: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 73 s 2.]

Severability—1982 c 10: See note following RCW 6.13.080.

Effective date—1981 c 136: See RCW 72.09.900.

RCW 9A.44.045 First degree rape—Penalties. No person convicted of rape in the first degree shall be granted a deferred or suspended sentence except for the purpose of commitment to an inpatient treatment facility: PROVIDED, That every person convicted of rape in the first degree shall be confined for a minimum of three years: PROVIDED FURTHER, That the *board of prison terms and paroles shall have authority to set a period of confinement greater than three years but shall never reduce the minimum three-year period of confinement; nor shall the board release the convicted person during the first three years of confinement as a result of any type of good time calculation; nor shall the department of corrections permit the convicted person to participate in any work release program or furlough program during the first three years of confinement. This section applies only to offenses committed prior to July 1, 1984. [1982 c 192 s 12.]

***Reviser's note:** The "board of prison terms and paroles" was redesignated the "indeterminate sentence review board" by 1986 c 224, effective July 1, 1986.

RCW 9A.44.050 Rape in the second degree. (1) A person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, the person engages in sexual intercourse with another person:

- (a) By forcible compulsion;
- (b) When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated;
- (c) When the victim is a person with a developmental disability and the perpetrator is a person who:
 - (i) Has supervisory authority over the victim; or
 - (ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense;
- (d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual intercourse occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual intercourse with the knowledge that the sexual intercourse was not for the purpose of treatment;
- (e) When the victim is a resident of a facility for persons with a mental disorder or substance use disorder and the perpetrator is a person who has supervisory authority over the victim; or
- (f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who:
 - (i) Has a significant relationship with the victim; or
 - (ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

(2) Rape in the second degree is a class A felony. [2023 c 470 s 3008; 2021 c 142 s 1; 2007 c 20 s 1; 1997 c 392 s 514; 1993 c 477 s 2; 1990 c 3 s 901; 1988 c 146 s 1; 1983 c 118 s 2; 1979 ex.s. c 244 s 2; 1975 1st ex.s. c 14 s 5. Formerly RCW 9.79.180.]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

Effective date—2021 c 142: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 26, 2021]." [2021 c 142 s 11.]

Effective date—2007 c 20: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 10, 2007]." [2007 c 20 s 4.]

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Severability—1988 c 146: "If any provision of this act or its application to any person or circumstance is held invalid, the

remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 146 s 5.]

Effective dates—1988 c 146: "Section 4 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [March 21, 1988]. The remainder of this act shall take effect July 1, 1988." [1988 c 146 s 6.]

RCW 9A.44.060 Rape in the third degree. (1) A person is guilty of rape in the third degree when, under circumstances not constituting rape in the first or second degrees, such person engages in sexual intercourse with another person:

(a) Where the victim did not consent as defined in *RCW 9A.44.010(7), to sexual intercourse with the perpetrator; or

(b) Where there is threat of substantial unlawful harm to property rights of the victim.

(2) Rape in the third degree is a class C felony. [2019 c 87 s 3; 2013 c 94 s 1; 1999 c 143 s 34; 1979 ex.s. c 244 s 3; 1975 1st ex.s. c 14 s 6. Formerly RCW 9.79.190.]

***Reviser's note:** RCW 9A.44.010 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (7) to subsection (2), effective January 1, 2022.

Declaration—2019 c 87: See note following RCW 9A.04.080.

RCW 9A.44.073 Rape of a child in the first degree. (1) A person is guilty of rape of a child in the first degree when the person has sexual intercourse with another who is less than twelve years old and the perpetrator is at least twenty-four months older than the victim.

(2) Rape of a child in the first degree is a class A felony. [2021 c 142 s 2; 1988 c 145 s 2.]

Effective date—2021 c 142: See note following RCW 9A.44.050.

Effective date—Savings—Application—1988 c 145: See notes following RCW 9A.44.010.

RCW 9A.44.076 Rape of a child in the second degree. (1) A person is guilty of rape of a child in the second degree when the person has sexual intercourse with another who is at least twelve years old but less than fourteen years old and the perpetrator is at least thirty-six months older than the victim.

(2) Rape of a child in the second degree is a class A felony. [2021 c 142 s 3; 1990 c 3 s 903; 1988 c 145 s 3.]

Effective date—2021 c 142: See note following RCW 9A.44.050.

Effective date—Savings—Application—1988 c 145: See notes following RCW 9A.44.010.

RCW 9A.44.079 Rape of a child in the third degree. (1) A person is guilty of rape of a child in the third degree when the person has sexual intercourse with another who is at least fourteen years old but less than sixteen years old and the perpetrator is at least forty-eight months older than the victim.

(2) Rape of a child in the third degree is a class C felony.
[2021 c 142 s 4; 1988 c 145 s 4.]

Effective date—2021 c 142: See note following RCW 9A.44.050.

Effective date—Savings—Application—1988 c 145: See notes following RCW 9A.44.010.

RCW 9A.44.083 Child molestation in the first degree. (1) A person is guilty of child molestation in the first degree when the person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is less than twelve years old and the perpetrator is at least thirty-six months older than the victim.

(2) Child molestation in the first degree is a class A felony.
[2021 c 142 s 5; 1994 c 271 s 303; 1990 c 3 s 902; 1988 c 145 s 5.]

Effective date—2021 c 142: See note following RCW 9A.44.050.

Intent—1994 c 271: See note following RCW 9A.44.010.

Purpose—Severability—1994 c 271: See notes following RCW 9A.28.020.

Effective date—Savings—Application—1988 c 145: See notes following RCW 9A.44.010.

RCW 9A.44.086 Child molestation in the second degree. (1) A person is guilty of child molestation in the second degree when the person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is at least twelve years old but less than fourteen years old and the perpetrator is at least thirty-six months older than the victim.

(2) Child molestation in the second degree is a class B felony.
[2021 c 142 s 6; 1994 c 271 s 304; 1988 c 145 s 6.]

Effective date—2021 c 142: See note following RCW 9A.44.050.

Intent—1994 c 271: See note following RCW 9A.44.010.

Purpose—Severability—1994 c 271: See notes following RCW 9A.28.020.

Effective date—Savings—Application—1988 c 145: See notes following RCW 9A.44.010.

RCW 9A.44.089 Child molestation in the third degree. (1) A person is guilty of child molestation in the third degree when the

person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is at least fourteen years old but less than sixteen years old and the perpetrator is at least forty-eight months older than the victim.

(2) Child molestation in the third degree is a class C felony. [2021 c 142 s 7; 1994 c 271 s 305; 1988 c 145 s 7.]

Effective date—2021 c 142: See note following RCW 9A.44.050.

Intent—1994 c 271: See note following RCW 9A.44.010.

Purpose—Severability—1994 c 271: See notes following RCW 9A.28.020.

Effective date—Savings—Application—1988 c 145: See notes following RCW 9A.44.010.

RCW 9A.44.093 Sexual misconduct with a minor in the first degree. (1) A person is guilty of sexual misconduct with a minor in the first degree when: (a) The person has, or knowingly causes another person under the age of eighteen to have, sexual intercourse with another person who is at least sixteen years old but less than eighteen years old, if the perpetrator is at least sixty months older than the victim, is in a significant relationship to the victim, and abuses a supervisory position within that relationship in order to engage in or cause another person under the age of eighteen to engage in sexual intercourse with the victim; (b) the person is a school employee who has, or knowingly causes another person under the age of eighteen to have, sexual intercourse with an enrolled student of the school who is at least sixteen years old and not more than twenty-one years old, if the employee is at least sixty months older than the student; or (c) the person is a foster parent who has, or knowingly causes another person under the age of eighteen to have, sexual intercourse with his or her foster child who is at least sixteen.

(2) Sexual misconduct with a minor in the first degree is a class C felony.

(3) For the purposes of this section:

(a) "Enrolled student" means any student enrolled at or attending a program hosted or sponsored by a common school as defined in RCW 28A.150.020, or a student enrolled at or attending a program hosted or sponsored by a private school under chapter 28A.195 RCW, or any person who receives home-based instruction under chapter 28A.200 RCW.

(b) "School employee" means an employee of a common school defined in RCW 28A.150.020, or a grade kindergarten through twelve employee of a private school under chapter 28A.195 RCW, who is not enrolled as a student of the common school or private school. [2021 c 142 s 8; 2009 c 324 s 1; 2005 c 262 s 2; 2001 2nd sp.s. c 12 s 357; 1994 c 271 s 306; 1988 c 145 s 8.]

Effective date—2021 c 142: See note following RCW 9A.44.050.

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Application—2001 2nd sp.s. c 12 ss 301-363: See note following RCW 9.94A.030.

Intent—1994 c 271: See note following RCW 9A.44.010.

Purpose—Severability—1994 c 271: See notes following RCW 9A.28.020.

Effective date—Savings—Application—1988 c 145: See notes following RCW 9A.44.010.

RCW 9A.44.096 Sexual misconduct with a minor in the second degree. (1) A person is guilty of sexual misconduct with a minor in the second degree when: (a) The person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another person who is at least sixteen years old but less than eighteen years old, if the perpetrator is at least sixty months older than the victim, is in a significant relationship to the victim, and abuses a supervisory position within that relationship in order to engage in or cause another person under the age of eighteen to engage in sexual contact with the victim; (b) the person is a school employee who has, or knowingly causes another person under the age of eighteen to have, sexual contact with an enrolled student of the school who is at least sixteen years old and not more than twenty-one years old, if the employee is at least sixty months older than the student; or (c) the person is a foster parent who has, or knowingly causes another person under the age of eighteen to have, sexual contact with his or her foster child who is at least sixteen.

(2) Sexual misconduct with a minor in the second degree is a gross misdemeanor.

(3) For the purposes of this section:

(a) "Enrolled student" means any student enrolled at or attending a program hosted or sponsored by a common school as defined in RCW 28A.150.020, or a student enrolled at or attending a program hosted or sponsored by a private school under chapter 28A.195 RCW, or any person who receives home-based instruction under chapter 28A.200 RCW.

(b) "School employee" means an employee of a common school defined in RCW 28A.150.020, or a grade kindergarten through twelve employee of a private school under chapter 28A.195 RCW, who is not enrolled as a student of the common school or private school. [2021 c 142 s 9; 2009 c 324 s 2; 2005 c 262 s 3; 2001 2nd sp.s. c 12 s 358; 1994 c 271 s 307; 1988 c 145 s 9.]

Effective date—2021 c 142: See note following RCW 9A.44.050.

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Application—2001 2nd sp.s. c 12 ss 301-363: See note following RCW 9.94A.030.

Intent—1994 c 271: See note following RCW 9A.44.010.

Purpose—Severability—1994 c 271: See notes following RCW 9A.28.020.

Effective date—Savings—Application—1988 c 145: See notes following RCW 9A.44.010.

RCW 9A.44.100 Indecent liberties. (1) A person is guilty of indecent liberties when he or she knowingly causes another person to have sexual contact with him or her or another:

(a) By forcible compulsion;

(b) When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless;

(c) When the victim is a person with a developmental disability and the perpetrator is a person who:

(i) Has supervisory authority over the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual contact occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual contact with the knowledge that the sexual contact was not for the purpose of treatment;

(e) When the victim is a resident of a facility for persons with a mental disorder or substance use disorder and the perpetrator is a person who has supervisory authority over the victim; or

(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who:

(i) Has a significant relationship with the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

(2) (a) Except as provided in (b) of this subsection, indecent liberties is a class B felony.

(b) Indecent liberties by forcible compulsion is a class A felony. [2023 c 470 s 3009; 2021 c 142 s 10; 2013 c 94 s 2; 2007 c 20 s 2; 2003 c 53 s 67; 2001 2nd sp.s. c 12 s 359; 1997 c 392 s 515; 1993 c 477 s 3; 1988 c 146 s 2; 1988 c 145 s 10; 1986 c 131 s 1; 1975 1st ex.s. c 260 s 9A.88.100. Formerly RCW 9A.88.100.]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

Effective date—2021 c 142: See note following RCW 9A.44.050.

Effective date—2007 c 20: See note following RCW 9A.44.050.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Application—2001 2nd sp.s. c 12 ss 301-363: See note following RCW 9.94A.030.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Severability—Effective dates—1988 c 146: See notes following RCW 9A.44.050.

Effective date—Savings—Application—1988 c 145: See notes following RCW 9A.44.010.

RCW 9A.44.105 Sexually violating human remains. (1) Any person who has sexual intercourse or sexual contact with a dead human body is guilty of a class C felony.

(2) As used in this section:

(a) "Sexual intercourse" (i) has its ordinary meaning and occurs upon any penetration, however slight; and (ii) also means any penetration of the vagina or anus however slight, by an object, when committed on a dead human body, except when such penetration is accomplished as part of a procedure authorized or required under chapter 68.50 RCW or other law; and (iii) also means any act of sexual contact between the sex organs of a person and the mouth or anus of a dead human body.

(b) "Sexual contact" means any touching by a person of the sexual or other intimate parts of a dead human body done for the purpose of gratifying the sexual desire of the person. [1994 c 53 s 1.]

RCW 9A.44.115 Voyeurism. (1) As used in this section:

(a) "Intimate areas" means any portion of a person's body or undergarments that is covered by clothing and intended to be protected from public view;

(b) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, digital image, or any other recording or transmission of the image of a person;

(c) "Place where he or she would have a reasonable expectation of privacy" means:

(i) A place where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed or filmed by another; or

(ii) A place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance;

(d) "Surveillance" means secret observation of the activities of another person for the purpose of spying upon and invading the privacy of the person;

(e) "Views" means the intentional looking upon of another person for more than a brief period of time, in other than a casual or cursory manner, with the unaided eye or with a device designed or intended to improve visual acuity.

(2) (a) A person commits the crime of voyeurism in the first degree if, for the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly views, photographs, or films:

(i) Another person without that person's knowledge and consent while the person being viewed, photographed, or filmed is in a place where he or she would have a reasonable expectation of privacy; or

(ii) The intimate areas of another person without that person's knowledge and consent and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.

(b) Voyeurism in the first degree is a class C felony.

(3) (a) A person commits the crime of voyeurism in the second degree if he or she intentionally photographs or films another person for the purpose of photographing or filming the intimate areas of that person with the intent to distribute or disseminate the photograph or film, without that person's knowledge and consent, and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.

(b) Voyeurism in the second degree is a gross misdemeanor.

(c) Voyeurism in the second degree is not a sex offense for the purposes of sentencing or sex offender registration requirements under this chapter.

(4) This section does not apply to viewing, photographing, or filming by personnel of the department of corrections or of a local jail or correctional facility for security purposes or during investigation of alleged misconduct by a person in the custody of the department of corrections or the local jail or correctional facility.

(5) If a person is convicted of a violation of this section, the court may order the destruction of any photograph, motion picture film, digital image, videotape, or any other recording of an image that was made by the person in violation of this section. [2017 c 292 s 1; 2003 c 213 s 1; 1998 c 221 s 1.]

Effective date—2003 c 213: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 12, 2003]." [2003 c 213 s 2.]

RCW 9A.44.120 Admissibility of child's statement—Conditions.

(1) A statement not otherwise admissible by statute or court rule, is admissible in evidence in dependency proceedings under Title 13 RCW and criminal proceedings, including juvenile offense adjudications, in the courts of the state of Washington if:

(a) (i) It is made by a child when under the age of ten describing any act of sexual contact performed with or on the child by another, describing any attempted act of sexual contact with or on the child by another, or describing any act of physical abuse of the child by another that results in substantial bodily harm as defined by RCW 9A.04.110; or

(ii) It is made by a child when under the age of 18 describing any of the following acts or attempted acts performed with or on the child: Trafficking under RCW 9A.40.100; commercial sexual abuse of a minor under RCW 9.68A.100; promoting commercial sexual abuse of a minor under RCW 9.68A.101; or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102;

(b) The court finds, in a hearing conducted outside the presence of the jury, that the time, content, and circumstances of the statement provide sufficient indicia of reliability; and

(c) The child either:

(i) Testifies at the proceedings; or

(ii) Is unavailable as a witness, except that when the child is unavailable as a witness, such statement may be admitted only if there is corroborative evidence of the act.

(2) A statement may not be admitted under this section unless the proponent of the statement makes known to the adverse party his or her intention to offer the statement and the particulars of the statement sufficiently in advance of the proceedings to provide the adverse party with a fair opportunity to prepare to meet the statement. [2024 c 298 s 17; 2019 c 90 s 1; 1995 c 76 s 1; 1991 c 169 s 1; 1985 c 404 s 1; 1982 c 129 s 2.]

Effective date—2024 c 298: See note following RCW 9A.40.100.

Severability—1982 c 129: See note following RCW 9A.04.080.

RCW 9A.44.128 Definitions applicable to RCW 9A.44.130 through 9A.44.145, 10.01.200, 43.43.540, 70.48.470, and 72.09.330. For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200, 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

(1) "Adult" means a person who is 18 years of age or older on the offense date or who is convicted of and sentenced for an offense in adult court pursuant to RCW 13.04.030(1)(e)(v) or 13.40.110.

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

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

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

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

(6) "Fixed residence" means a building that a person lawfully and habitually uses as living quarters a majority of the week. Uses as living quarters means to conduct activities consistent with the common understanding of residing, such as sleeping; eating; keeping personal belongings; receiving mail; and paying utilities, rent, or mortgage. A nonpermanent structure including, but not limited to, a motor home, travel trailer, camper, or boat may qualify as a residence provided it is lawfully and habitually used as living quarters a majority of the week, primarily kept at one location with a physical address, and the location it is kept at is either owned or rented by the person or used by the person with the permission of the owner or renter. A shelter program may qualify as a residence provided it is a shelter program designed to provide temporary living accommodations for the homeless, provides an offender with a personally assigned living space, and the offender is permitted to store belongings in the living space.

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

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

(9) "Kidnapping offense" means:

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

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

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

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

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

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

(12) "Sex offense" means:

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

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

(c) Any violation under RCW 9A.40.100(1)(b)(ii) (trafficking);

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

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

(f) Any violation under **RCW 9A.40.100(1)(a)(i)(A) (III) or (IV) or (a)(i)(B);

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

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

(i) Any federal conviction classified as a sex offense under 34 U.S.C. Sec. 20911 or, prior to September 1, 2017, 42 U.S.C. Sec. 16911 (SORNA);

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

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

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

(13) "Student" means a person who is enrolled, on a full-time or part-time basis, in any school or institution of higher education. [2023 c 470 s 3011; 2023 c 150 s 4; 2015 c 261 s 2; 2014 c 188 s 2; 2013 c 302 s 8; 2012 c 134 s 2; 2011 c 337 s 2; 2010 c 267 s 1.]

Reviser's note: *(1) RCW 43.43.830 was amended by 2025 c 60 s 1, changing subsection (7) to subsection (9).

** (2) RCW 9A.40.100 was amended by 2024 c 298 s 1, deleting subsection (1)(a)(i)(A)(III) and (IV) and (B), effective July 1, 2025.

(3) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

(4) This section was amended by 2023 c 150 s 4 and by 2023 c 470 s 3011, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

Findings—Intent—2023 c 150: See note following RCW 9A.44.130.

Effective date—2013 c 302: See note following RCW 9.68A.090.

Application—2010 c 267: "The provisions of this act apply to persons convicted before, on, or after June 10, 2010." [2010 c 267 s 15.]

RCW 9A.44.130 Registration of sex offenders and kidnapping offenders—Procedures—Definition—Penalties. (1)(a) Any adult residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section.

(b) Any person who is not an adult residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state shall register with the county

sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section if the person:

(i) Committed a class A or class B sex offense when the person was age 16 or 17 and did not receive a special sex offender disposition alternative under RCW 13.40.162;

(ii) Committed rape in the first degree when the person was age 14 or 15;

(iii) Committed rape in the second degree when the person was age 14 or 15 and the person did not receive a special sex offender disposition alternative under RCW 13.40.162;

(iv) Committed a sex offense and, on the offense date, the juvenile had a prior conviction for a sex offense as defined in RCW 9A.44.128 or had a deferred disposition for a sex offense pursuant to RCW 13.40.127;

(v) Has a special sex offender disposition alternative under RCW 13.40.162 revoked for:

(A) A class A or class B sex offense that was committed when the person was age 16 or 17; or

(B) A rape in the second degree offense that was committed when the person was age 14 or 15;

(vi) Has an out-of-state, tribal, or federal conviction for a sex offense;

(vii) Committed a kidnapping offense; or

(viii) Is found by the court based on clear, cogent, and convincing evidence to:

(A) Be age 14 through 17 on the offense date;

(B) Not have received a special sex offender disposition alternative under RCW 13.40.162 for the offense triggering possible registration or have had a special sex offender disposition alternative under RCW 13.40.162 revoked for that offense;

(C) Have been adjudicated of multiple sex offenses involving two or more distinct victims in separate counts or separate causes;

(D) Present a serious threat to public safety after the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition; and

(E) Require registration in order to lessen the serious threat to public safety.

(c) When a person required to register under this section is in custody 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 as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

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

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

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

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

(2) (a) A person required to register under this section must provide the following information when registering: (i) Name and any

aliases used; (ii) complete and accurate residential address or, if the person lacks a fixed residence, where he or she plans to stay; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) social security number; (viii) photograph; and (ix) fingerprints.

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

(c) A photograph or copy of an individual's fingerprints, which may include palmprints may be taken at any time to update an individual's file.

(3) Any person required to register under this section who intends to travel outside the United States must provide, by certified mail, with return receipt requested, or in person, signed written notice of the plan to travel outside the country to the county sheriff of the county with whom the person is registered at least twenty-one days prior to travel. The notice shall include the following information: (a) Name; (b) passport number and country; (c) destination; (d) itinerary details including departure and return dates; (e) means of travel; and (f) purpose of travel. If the offender subsequently cancels or postpones travel outside the United States, the offender must notify the county sheriff not later than three days after cancellation or postponement of the intended travel outside the United States or on the departure date provided in the notification, whichever is earlier. The county sheriff shall notify the United States marshals service as soon as practicable after receipt of the notification. In cases of unexpected travel due to family or work emergencies, or for offenders who travel routinely across international borders for work-related purposes, the notice must be submitted in person at least twenty-four hours prior to travel to the sheriff of the county where such offenders are registered with a written explanation of the circumstances that make compliance with this subsection (3) impracticable.

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

(i) OFFENDERS IN CUSTODY. Sex offenders or kidnapping offenders who are in custody 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 at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within three business days from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register.

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

the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

When a person required to register under this section is in the custody of the state department of corrections or a local corrections or probations agency and has been approved for partial confinement as defined in RCW 9.94A.030, the person must register at the time of transfer to partial confinement with the official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county in which the offender is in partial confinement. The offender must also register within three business days from the time of the termination of partial confinement or release from confinement 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.

(ii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders or kidnapping offenders who are in the custody of the United States bureau of prisons or other federal or military correctional agency must register within three business days from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation.

(iii) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense and kidnapping offenders who are convicted for a kidnapping offense but who are not sentenced to serve a term of confinement immediately upon sentencing shall report to the county sheriff to register within three business days of being sentenced.

(iv) OFFENDERS WHO ARE NEW RESIDENTS, TEMPORARY RESIDENTS, OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country must register within three business days of establishing residence or reestablishing residence if the person is a former Washington resident. If the offender is under the jurisdiction of an agency of this state when the offender moves to Washington, the agency shall provide notice to the offender of the duty to register.

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

(v) 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 sex offense or a kidnapping offense and who is in custody, as a result of that finding, of the state department of social and health services, must register within three business days 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.

(vi) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is

required to register with the county sheriff not more than three business days after entering the county and provide the information required in subsection (2)(a) of this section.

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

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

(b) 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 RCW 9A.44.132, or arraignment on charges for a violation of RCW 9A.44.132, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under RCW 9A.44.132 who asserts as a defense the lack of notice of the duty to register shall register within three business days following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(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.

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

(b) If any person required to register pursuant to this section moves to a new county, within three business days of moving the person must register with the county sheriff of the county into which the person has moved and provide, by certified mail, with return receipt requested or in person, signed written notice of the change of address to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered is responsible for address verification pursuant to RCW 9A.44.135 until the person completes registration of his or her new residence address.

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

information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

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

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within three business days of ceasing to have a fixed residence and has subsequently complied with the requirements of subsection (4)(a)(vi) or (vii) of this section and this subsection. To prevail, the person must prove the defense by a preponderance of the evidence.

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

(8) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section. [2023 c 150 s 5; 2017 c 174 s 3; 2015 c 261 s 3; 2011 c 337 s 3. Prior: 2010 c 267 s 2; 2010 c 265 s 1; 2008 c 230 s 1; prior: 2006 c 129 s 2; (2006 c 129 s 1 expired September 1, 2006); 2006 c 128 s 2; (2006 c 128 s 1 expired September 1, 2006); 2006 c 127 s 2; 2006 c 126 s 2; (2006 c 126 s 1 expired September 1, 2006); 2005 c 380 s 1; prior: 2003 c 215 s 1; 2003 c 53 s 68; 2002 c 31 s 1; prior: 2001 c 169 s 1; 2001 c 95 s 2; 2000 c 91 s 2; prior: 1999 sp.s. c 6 s 2; 1999 c 352 s 9; prior: 1998 c 220 s 1; 1998 c 139 s 1; prior: 1997 c 340 s 3; 1997 c 113 s 3; 1996 c 275 s 11; prior: 1995 c 268 s 3; 1995 c 248 s 1; 1995 c 195 s 1; 1994 c 84 s 2; 1991 c 274 s 2; 1990 c 3 s 402.]

Findings—Intent—2023 c 150: "(1) The legislature finds that successful rehabilitation of youth adjudicated of sex offenses is the best path to reducing recidivism.

(2) The legislature finds that researchers from the Johns Hopkins University and other academic institutions found that treatment for

minors convicted of sexual offenses would provide increased public safety, while registration and notification policies for minors convicted of sexual offenses failed to improve community safety. The legislature finds that requiring youth to register as sex offenders is associated with mental health struggles, including depression, anxiety, and suicidal ideation, as well as the increased likelihood of becoming a target of sexual abuse by adults.

(3) The legislature finds that while adults can petition for relief of registration for offenses committed as minors, the legal process is overly cumbersome, expensive, and challenging to the point that many never request removal and remain on the registry their entire lives.

(4) The legislature declares that the response to sex offenses committed by youth should be developmentally appropriate and driven by research. The legislature therefore intends to increase community safety by reforming juvenile sex offender registration policy and related areas to redirect the focus toward practices that increase prevention and promote successful intervention strategies." [2023 c 150 s 1.]

Application—2010 c 267: See note following RCW 9A.44.128.

Delayed effective date—2008 c 230 ss 1-3: "Sections 1 through 3 of this act take effect ninety days after adjournment sine die of the 2010 legislative session." [2008 c 230 s 5.]

Effective date—2006 c 129 s 2: "Section 2 of this act takes effect September 1, 2006." [2006 c 129 s 4.]

Expiration date—2006 c 129 s 1: "Section 1 of this act expires September 1, 2006." [2006 c 129 s 3.]

Effective date—2006 c 128 s 2: "Section 2 of this act takes effect September 1, 2006." [2006 c 128 s 8.]

Expiration date—2006 c 128 s 1: "Section 1 of this act expires September 1, 2006." [2006 c 128 s 7.]

Severability—2006 c 127: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2006 c 127 s 1.]

Effective date—2006 c 127: "This act takes effect September 1, 2006." [2006 c 127 s 3.]

Effective date—2006 c 126 s 2: "Section 2 of this act takes effect September 1, 2006." [2006 c 126 s 10.]

Expiration date—2006 c 126 s 1: "Section 1 of this act expires September 1, 2006." [2006 c 126 s 8.]

Effective date—2006 c 126 ss 1 and 3-7: "Sections 1 and 3 through 7 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state

government and its existing public institutions, and take effect immediately [March 20, 2006]." [2006 c 126 s 9.]

Effective date—2005 c 380: "This act takes effect September 1, 2006." [2005 c 380 s 4.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Application—2002 c 31: "This act applies to all persons convicted of communication with a minor either on, before, or after July 1, 2001, unless otherwise relieved of the duty to register under RCW 9A.44.140." [2002 c 31 s 2.]

Severability—2002 c 31: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2002 c 31 s 3.]

Effective date—2002 c 31: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 12, 2002]." [2002 c 31 s 4.]

Effective date—2001 c 95: See note following RCW 9.94A.030.

Intent—1999 sp.s. c 6: "It is the intent of this act to revise the law on registration of sex and kidnapping offenders in response to the case of *State v. Pickett*, Docket number 41562-0-I. The legislature intends that all sex and kidnapping offenders whose history requires them to register shall do so regardless of whether the person has a fixed residence. The lack of a residential address is not to be construed to preclude registration as a sex or kidnapping offender. The legislature intends that persons who lack a residential address shall have an affirmative duty to report to the appropriate county sheriff, based on the level of risk of offending." [1999 sp.s. c 6 s 1.]

Effective date—1999 sp.s. c 6: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 7, 1999]." [1999 sp.s. c 6 s 3.]

Severability—1998 c 220: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1998 c 220 s 7.]

Findings—1997 c 113: See note following RCW 4.24.550.

Finding—1996 c 275: See note following RCW 9.94A.505.

Purpose—1995 c 268: See note following RCW 9.94A.030.

Intent—1994 c 84: "This act is intended to clarify existing law and is not intended to reflect a substantive change in the law." [1994 c 84 s 1.]

Finding and intent—1991 c 274: "The legislature finds that sex offender registration has assisted law enforcement agencies in protecting their communities. This act is intended to clarify and amend the deadlines for sex offenders to register. This act's clarification or amendment of RCW 9A.44.130 does not relieve the obligation of sex offenders to comply with the registration requirements of RCW 9A.44.130 as that statute exists before July 28, 1991." [1991 c 274 s 1.]

Finding—Policy—1990 c 3 s 402: "The legislature finds that sex offenders often pose a high risk of reoffense, and that law enforcement's efforts to protect their communities, conduct investigations, and quickly apprehend offenders who commit sex offenses, are impaired by the lack of information available to law enforcement agencies about convicted sex offenders who live within the law enforcement agency's jurisdiction. Therefore, this state's policy is to assist local law enforcement agencies' efforts to protect their communities by regulating sex offenders by requiring sex offenders to register with local law enforcement agencies as provided in RCW 9A.44.130." [1990 c 3 s 401.]

RCW 9A.44.132 Failure to register as sex offender or kidnapping offender. (1) A person commits the crime of failure to register as a sex offender if the person has a duty to register under RCW 9A.44.130 for a felony sex offense and knowingly fails to comply with any of the requirements of RCW 9A.44.130.

(a) The failure to register as a sex offender pursuant to this subsection is a class C felony if the person has a duty to register under RCW 9A.44.130(1) (a) and:

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

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

(b) If a person has a duty to register under RCW 9A.44.130(1) (a) and has been convicted of a felony failure to register as a sex offender in this state or pursuant to the laws of another state, or pursuant to federal law, on two or more prior occasions, the failure to register under this subsection is a class B felony.

(c) The failure to register as a sex offender is a gross misdemeanor if the person has a duty to register under RCW 9A.44.130(1) (b).

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

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

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

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

(4) Unless relieved of the duty to register pursuant to RCW 9A.44.141 and 9A.44.142, a violation of this section is an ongoing offense for purposes of the statute of limitations under RCW 9A.04.080. [2023 c 150 s 6; 2019 c 443 s 4; 2015 c 261 s 5; 2011 c 337 s 5; 2010 c 267 s 3.]

Findings—Intent—2023 c 150: See note following RCW 9A.44.130.

Short title—Findings—2019 c 443: See notes following RCW 43.43.754.

Application—2010 c 267: See note following RCW 9A.44.128.

RCW 9A.44.135 Address verification. (1) When an offender registers with the county sheriff pursuant to RCW 9A.44.130, the county sheriff shall notify the police chief or town marshal of the jurisdiction in which the offender has registered to live. If the offender registers to live in an unincorporated area of the county, the sheriff shall make reasonable attempts to verify that the offender is residing at the registered address. If the offender registers to live in an incorporated city or town, the police chief or town marshal shall make reasonable attempts to verify that the offender is residing at the registered address. Reasonable attempts include verifying an offender's address pursuant to the grant program established under RCW 36.28A.230. If the sheriff or police chief or town marshal does not participate in the grant program established under RCW 36.28A.230, reasonable attempts require a yearly mailing by certified mail, with return receipt requested, a nonforwardable verification form to the offender at the offender's last registered address sent by the chief law enforcement officer of the jurisdiction where the offender is registered to live. For offenders who have been previously designated sexually violent predators under chapter 71.09 RCW or the equivalent procedure in another jurisdiction, even if the designation has subsequently been removed, this mailing must be sent every ninety days.

The offender must sign the verification form, state on the form whether he or she still resides at the last registered address, and return the form to the chief law enforcement officer of the jurisdiction where the offender is registered to live within ten days after receipt of the form.

(2) The chief law enforcement officer of the jurisdiction where the offender has registered to live shall make reasonable attempts to locate any sex offender who fails to return the verification form or who cannot be located at the registered address.

If the offender fails to return the verification form or the offender is not at the last registered address, the chief law enforcement officer of the jurisdiction where the offender has registered to live shall promptly forward this information to the

county sheriff and to the Washington state patrol for inclusion in the central registry of sex offenders.

(3) When an offender notifies the county sheriff of a change to his or her residence address pursuant to RCW 9A.44.130, and the new address is in a different law enforcement jurisdiction, the county sheriff shall notify the police chief or town marshal of the jurisdiction from which the offender has moved.

(4) County sheriffs and police chiefs or town marshals may enter into agreements for the purposes of delegating the authority and obligation to fulfill the requirements of this section. [2010 c 265 s 2; 2000 c 91 s 1; 1999 c 196 s 15; 1998 c 220 s 2; 1995 c 248 s 3.]

Construction—Short title—1999 c 196: See RCW 72.09.904 and 72.09.905.

Severability—1999 c 196: See note following RCW 9.94A.010.

Severability—1998 c 220: See note following RCW 9A.44.130.

RCW 9A.44.138 Attendance, employment of registered sex offenders and kidnapping offenders at schools and institutions of higher education—Notice to designated recipients—Information exempt from disclosure. (1) Upon receiving notice from a registered person pursuant to RCW 9A.44.130 that the person will be attending a school enrolling students in grades kindergarten through twelve or an institution of higher education, or will be employed with an institution of higher education, the sheriff must promptly notify the designated recipient of the school or institution of the person's: (a) Name and any aliases used; (b) complete residential address; (c) date and place of birth; (d) place of employment; (e) crime for which convicted; (f) date and place of conviction; (g) photograph; and (h) risk level classification.

(2) Except as provided in subsection (3) of this section, a designated recipient receiving notice under this section must disclose the information received from the sheriff as follows:

(a) If the student is classified as a risk level II or III, the designated recipient shall provide the information received to every teacher of the student and to any other personnel who, in the judgment of the designated recipient, supervises the student or for security purposes should be aware of the student's record;

(b) If the student is classified as a risk level I, the designated recipient shall provide the information received only to personnel who, in the judgment of the designated recipient, for security purposes should be aware of the student's record.

(3) When the designated recipient is the administrator of a school district, the designated recipient must disclose the information to the principal of the school that the registered person will be attending, whether the school is a common school as defined in RCW 28A.150.020 or a school that is the subject of a state-tribal education compact under chapter 28A.715 RCW. The principal must then disclose the information as provided in subsection (2) of this section.

(4) The sheriff shall notify the applicable designated recipient whenever a student's risk level classification is changed or the sheriff is notified of a change in the student's address.

(5) Any information received by school or institution personnel under this section is exempt from disclosure under chapter 42.56 RCW and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

(6) For the purposes of this section, "designated recipient" means: (a) The superintendent of the school district, or his or her designee, of a common school as defined in RCW 28A.150.020 or a school that is the subject of a state-tribal education compact under chapter 28A.715 RCW; (b) the administrator of a charter public school governed by chapter 28A.710 RCW; (c) the administrator of a private school approved under chapter 28A.195 RCW; or (d) the director of the department of public safety at an institution of higher education. [2020 c 167 s 5; 2011 c 337 s 4.]

RCW 9A.44.140 Registration of sex offenders and kidnapping offenders—Duty to register. The duty to register under RCW 9A.44.130 shall continue for the duration provided in this section.

(1) For an adult convicted in this state of a class A felony, or an adult convicted of any sex offense or kidnapping offense who has one or more prior convictions for a sex offense or kidnapping offense, the duty to register shall continue indefinitely.

(2) For an adult convicted in this state of a class B felony who does not have one or more prior convictions for a sex offense or kidnapping offense, the duty to register shall end 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 adult has spent fifteen consecutive years in the community without being convicted of a disqualifying offense during that time period.

(3) For an adult convicted in this state of a class C 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 adult does not have one or more prior convictions for a sex offense or kidnapping offense, the duty to register shall end 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 adult has spent ten consecutive years in the community without being convicted of a disqualifying offense during that time period.

(4) (a) For a person required to register under RCW 9A.44.130(1)(b), the duty to register will end three years after the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition if the person is required to register for a class A offense committed at age 15, 16, or 17.

(b) For a person required to register under RCW 9A.44.130(1)(b) who does not meet the description provided in subsection (4)(a) of this section [(a) of this subsection], the duty to register will end two years after the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition.

(5) Except as provided in RCW 9A.44.142, for a person required to register for a federal, tribal, or out-of-state conviction, the duty to register shall continue indefinitely.

(6) For a person who is or has been determined to be a sexually violent predator pursuant to chapter 71.09 RCW, the duty to register shall continue for the person's lifetime.

(7) Nothing in this section prevents a person from being relieved of the duty to register under RCW 9A.44.142, 9A.44.143, and 13.40.162.

(8) Nothing in RCW 9.94A.637 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.

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

(10) The provisions of this section and RCW 9A.44.141 through 9A.44.143 apply equally to a person who has been found not guilty by reason of insanity under chapter 10.77 RCW of a sex offense or kidnapping offense. [2023 c 150 s 7; 2020 c 249 s 2; 2015 c 261 s 6; 2010 c 267 s 4; 2002 c 25 s 1; 2001 c 170 s 2; 2000 c 91 s 3; 1998 c 220 s 3; 1997 c 113 s 4; 1996 c 275 s 12. Prior: 1995 c 268 s 4; 1995 c 248 s 2; 1995 c 195 s 2; 1991 c 274 s 3; 1990 c 3 s 408.]

Findings—Intent—2023 c 150: See note following RCW 9A.44.130.

Application—2010 c 267: See note following RCW 9A.44.128.

Effective date—2002 c 25: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 12, 2002]." [2002 c 25 s 3.]

Intent—2001 c 170: "The legislature intends to amend the lifetime sex offender registration requirement so that it is narrowly tailored to meet the requirements of the Jacob Wetterling act." [2001 c 170 s 1.]

Severability—1998 c 220: See note following RCW 9A.44.130.

Findings—1997 c 113: See note following RCW 4.24.550.

Finding—1996 c 275: See note following RCW 9.94A.505.

Purpose—1995 c 268: See note following RCW 9.94A.030.

Finding and intent—1991 c 274: See note following RCW 9A.44.130.

RCW 9A.44.141 Investigation—End of duty to register—Removal from registry—Civil liability. (1) Upon the request of a person who is listed in the Washington state patrol central registry of sex offenders and kidnapping offenders, the county sheriff shall investigate whether a person's duty to register has ended by operation of law pursuant to RCW 9A.44.140.

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

(b) If the county sheriff determines the person's duty to register has ended by operation of law, the county sheriff shall

request the Washington state patrol remove the person's name from the central registry.

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

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

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

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

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

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470, or units of local government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for removing or requesting the removal of a person from the central registry of sex offenders and kidnapping offenders or the failure to remove or request removal of a person within the time frames provided in RCW 9A.44.140. [2015 c 261 s 7; 2011 c 337 s 6; 2010 c 267 s 5.]

Application—2010 c 267: See note following RCW 9A.44.128.

RCW 9A.44.142 Relief from duty to register—Petition—Exceptions.

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

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

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

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

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

(i) Determined to be a sexually violent predator pursuant to chapter 71.09 RCW; or

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

(b) Any person who may not be relieved of the duty to register may petition the court to be exempted from any community notification requirements that the person may be subject to fifteen years after the

later of the entry of the judgment and sentence or the last date of release from confinement, including full-time residential treatment, pursuant to the conviction, if the person has spent the time in the community without being convicted of a disqualifying offense.

(3) A petition for relief from registration or exemption from notification under this section 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, tribal, or military court, to the court in the county where the person is registered at the time the petition is sought. The prosecuting attorney of the county shall be named and served as the respondent in any such petition. The prosecuting attorney must make reasonable efforts to notify the victim via the victim's choice of telephone, letter, or email, if known.

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

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

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

(ii) Any subsequent criminal history;

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

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

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

(vi) Participation in sex offender treatment;

(vii) Participation in other treatment and rehabilitative programs;

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

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

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

(xi) Any updated polygraph examination;

(xii) Any input of the victim;

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

(5) If a person is relieved of the duty to register pursuant to this section, the relief of registration does not constitute a certificate of rehabilitation, or the equivalent of a certificate of rehabilitation, for the purposes of restoration of firearm possession under RCW 9A.41.040. [2017 c 86 s 1; 2015 c 261 s 8; 2011 c 337 s 7; 2010 c 267 s 6.]

Application—2010 c 267: See note following RCW 9A.44.128.

RCW 9A.44.143 Relief from duty to register for sex offense or kidnapping offense committed when offender was a juvenile and who has not been determined to be a sexually violent predator—Petition—Exception. (1) An offender having a duty to register under RCW 9A.44.130 for a sex offense or kidnapping offense committed when the offender was a juvenile, and who has not been determined to be a sexually violent predator pursuant to chapter 71.09 RCW may petition

the superior court to be relieved of that duty as provided in this section.

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

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

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

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

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

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

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

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

(4) A petition for relief from registration under this section 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 the county in which the juvenile is registered at the time a petition is sought. The prosecuting attorney of the county shall be named and served as the respondent in any such petition. The prosecuting attorney must make reasonable efforts to notify the victim via the victim's choice of telephone, letter, or email, if known.

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

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

(b) Any subsequent criminal history;

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

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

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

(f) Participation in sex offender treatment;

(g) Participation in other treatment and rehabilitative programs;

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

- (i) The offender's community and personal support system;
 - (j) Any risk assessments or evaluations prepared by a qualified professional;
 - (k) Any updated polygraph examination;
 - (l) Any input of the victim;
 - (m) Any other factors the court may consider relevant.
- (6) If a person is relieved of the duty to register pursuant to this section, the relief of registration does not constitute a certificate of rehabilitation, or the equivalent of a certificate of rehabilitation, for the purposes of restoration of firearm possession under RCW 9A.41.040.
- (7) A juvenile prosecuted and convicted of a sex offense or kidnapping offense as an adult pursuant to RCW 13.40.110 or 13.04.030 may not petition to the superior court under this section and must follow the provisions of RCW 9A.44.142.
- (8) An adult prosecuted for an offense committed as a juvenile once the juvenile court has lost jurisdiction due to the passage of time between the date of the offense and the date of filing of charges may petition the superior court under the provisions of this section. [2017 c 86 s 2; 2015 c 261 s 9; 2011 c 338 s 1; 2010 c 267 s 7.]

Application—2010 c 267: See note following RCW 9A.44.128.

RCW 9A.44.144 Relief from duty to register—Juvenile offenders.

- (1) For a person who is not an adult, any existing legal obligation to register as a sex offender is extinguished on November 1, 2023, if the person no longer has a duty to register under RCW 9A.44.130(1)(b).
- (2) For a person who has an existing legal obligation to register under RCW 9A.44.130(1)(b), the obligation shall extinguish two or three years after the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition according to the applicable registration period required under RCW 9A.44.140(4).
- (3) By December 1, 2023, each registering agency shall conduct an individual review and remove all persons from the sex offender registry whose obligation to register is based on an offense committed while the person was under 18 years of age, unless the individual has a legal obligation to register under subsection (2) of this section. [2023 c 150 s 10.]

Effective date—2023 c 150 s 10: "Section 10 of this act takes effect November 1, 2023." [2023 c 150 s 12.]

Findings—Intent—2023 c 150: See note following RCW 9A.44.130.

RCW 9A.44.145 Notification to offenders of changed requirements and ability to petition for relief from registration. (1) The state patrol shall notify:

- (a) Registered sex and kidnapping offenders of any change to the registration requirements, including the extinguishment of a legal obligation to register under RCW 9A.44.144;
- (b) No less than annually, an offender having a duty to register under RCW 9A.44.143 for a sex offense or kidnapping offense committed

when the offender was a juvenile of their ability to petition for relief from registration as provided in RCW 9A.44.140; and

(c) A school's or institution's designated recipient of records under RCW 9A.44.138 regarding the extinguishment of a student's legal obligation to register under RCW 9A.44.144.

(2) For economic efficiency, the state patrol may combine the notices in this section into one notice. [2023 c 150 s 11; 2010 c 267 s 8; 2009 c 210 s 1; 1998 c 139 s 2.]

Findings—Intent—2023 c 150: See note following RCW 9A.44.130.

Application—2010 c 267: See note following RCW 9A.44.128.

RCW 9A.44.148 Application of RCW 9A.44.128 through 9A.44.145—Duty to register under law as it existed prior to July 28, 1991. (1) RCW 9A.44.128 through 9A.44.145 apply to offenders who committed their crimes and were adjudicated within the following time frames:

(a) Sex offenders convicted of a sex offense on or after July 28, 1991, for a sex offense committed on or after February 28, 1990;

(b) Kidnapping offenders convicted of a kidnapping offense on or after July 27, 1997, for a kidnapping offense committed on or after July 27, 1997;

(c) Sex offenders who, on or after July 28, 1991, were in the custody or under the jurisdiction of the department of corrections, the department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as the result of a sex offense, regardless of when the sex offense was committed;

(d) Kidnapping offenders who, on or after July 27, 1997, were in the custody or under the jurisdiction of the department of corrections, the department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as the result of a kidnapping offense, regardless of when the kidnapping offense was committed;

(e) Any person who is or has been determined to be a sexually violent predator pursuant to chapter 71.09 RCW;

(f) Sex offenders who, on or after July 23, 1995, were in the custody or under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board as the result of a sex offense, regardless of when the sex offense was committed;

(g) Kidnapping offenders who, on or after July 27, 1997, were in the custody or under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board as the result of a kidnapping offense, regardless of when the kidnapping offense was committed;

(h) Sex offenders who move to Washington state from another state, tribe, or a foreign country and who were convicted of a sex offense under the laws of this state, another state, a foreign country, tribe, or other federal or military tribunal, regardless of when the sex offense was committed or the conviction occurred;

(i) Kidnapping offenders who move to Washington state from another state, tribe, or a foreign country and who were convicted of a kidnapping offense under the laws of this state, another state, a foreign country, tribe, or other federal or military tribunal,

regardless of when the kidnapping offense was committed or the conviction occurred;

(j) Any adult or juvenile found not guilty by reason of insanity under chapter 10.77 RCW of committing a sex offense or of committing a kidnapping offense, regardless of when the offense was committed.

(2) The provisions of this section do not relieve any sex offender of the duty to register under the law as it existed prior to July 28, 1991. [2015 c 261 s 4.]

RCW 9A.44.150 Testimony of child by closed-circuit television.

(1) On motion of the prosecuting attorney in a criminal proceeding, the court may order that a child under the age of 18 may testify in a room outside the presence of the defendant and the jury while one-way closed-circuit television equipment simultaneously projects the child's testimony into another room so the defendant and the jury can watch and hear the child testify if:

(a) The testimony will:

(i) Describe an act or attempted act of sexual contact performed with or on the child witness by another person or with or on a child other than the child witness by another person;

(ii) Describe an act or attempted act of physical abuse against the child witness by another person or against a child other than the child witness by another person;

(iii) Describe a violation of RCW 9A.40.100 (trafficking) or any offense identified in chapter 9.68A RCW (sexual exploitation of children); or

(iv) Describe a violent offense as defined by RCW 9.94A.030 committed against a person known by or familiar to the child witness or by a person known by or familiar to the child witness;

(b) The testimony is taken during the criminal proceeding;

(c) The court finds by substantial evidence, in a hearing conducted outside the presence of the jury, that:

(i) The particular child involved would be traumatized;

(ii) The source of the trauma is not the courtroom generally, but the presence of the defendant; and

(iii) The emotional or mental distress suffered by the child would be more than de minimis, such that the child could not reasonably communicate at the trial. If the defendant is excluded from the presence of the child, the jury must also be excluded;

(d) As provided in (a) and (b) of this subsection, the court may allow a child witness to testify in the presence of the defendant but outside the presence of the jury, via closed-circuit television, if the court finds, upon motion and hearing outside the presence of the jury, that: (i) The particular child involved would be traumatized; (ii) the source of the trauma is not the courtroom generally, but the presence of the jury; and (iii) the emotional or mental distress suffered by the child would be more than de minimis, regardless of whether or not the child could reasonably communicate at the trial in front of the jury. If the child is able to communicate in front of the defendant but not the jury the defendant will remain in the room with the child while the jury is excluded from the room;

(e) The court finds that the prosecutor has made all reasonable efforts to prepare the child witness for testifying, including informing the child or the child's parent or guardian about community counseling services, giving court tours, and explaining the trial process. If the prosecutor fails to demonstrate that preparations were

implemented or the prosecutor in good faith attempted to implement them, the court shall deny the motion;

(f) The court balances the strength of the state's case without the testimony of the child witness against the defendant's constitutional rights and the degree of infringement of the closed-circuit television procedure on those rights;

(g) The court finds that no less restrictive method of obtaining the testimony exists that can adequately protect the child witness from suffering emotional or mental distress that would be more than de minimis;

(h) When the court allows the child witness to testify outside the presence of the defendant, the defendant can communicate constantly with the defense attorney by electronic transmission and be granted reasonable court recesses during the child's testimony for person-to-person consultation with the defense attorney;

(i) The court can communicate with the attorneys by an audio system so that the court can rule on objections and otherwise control the proceedings;

(j) All parties in the room with the child witness are on camera and can be viewed by all other parties. If viewing all participants is not possible, the court shall describe for the viewers the location of the prosecutor, defense attorney, and other participants in relation to the child;

(k) The court finds that the television equipment is capable of making an accurate reproduction and the operator of the equipment is competent to operate the equipment; and

(l) The court imposes reasonable guidelines upon the parties for conducting the filming to avoid trauma to the child witness or abuse of the procedure for tactical advantage.

The prosecutor, defense attorney, and a neutral and trained victim's advocate, if any, shall always be in the room where the child witness is testifying. The court in the court's discretion depending on the circumstances and whether the jury or defendant or both are excluded from the room where the child is testifying, may remain or may not remain in the room with the child.

(2) During the hearing conducted under subsection (1) of this section to determine whether the child witness may testify outside the presence of the defendant and/or the jury, the court may conduct the observation and examination of the child outside the presence of the defendant if:

(a) The prosecutor alleges and the court concurs that the child witness will be unable to testify in front of the defendant or that

(i) the particular child involved would be traumatized; (ii) the source of the trauma is not the courtroom generally, but the presence of the defendant; and (iii) the emotional or mental distress suffered by the child would be more than de minimis;

(b) The defendant can observe and hear the child witness by closed-circuit television;

(c) The defendant can communicate constantly with the defense attorney during the examination of the child witness by electronic transmission and be granted reasonable court recesses during the child's examination for person-to-person consultation with the defense attorney; and

(d) The court finds the closed-circuit television is capable of making an accurate reproduction and the operator of the equipment is competent to operate the equipment. Whenever possible, all the parties in the room with the child witness shall be on camera so that the

viewers can see all the parties. If viewing all participants is not possible, then the court shall describe for the viewers the location of the prosecutor, defense attorney, and other participants in relation to the child.

(3) The court shall make particularized findings on the record articulating the factors upon which the court based its decision to allow the child witness to testify via closed-circuit television pursuant to this section. The factors the court may consider include, but are not limited to, a consideration of the child's age, physical health, emotional stability, expressions by the child of fear of testifying in open court or in front of the defendant, the relationship of the defendant to the child, and the court's observations of the child's inability to reasonably communicate in front of the defendant or in open court. The court's findings shall identify the impact the factors have upon the child's ability to testify in front of the jury or the defendant or both and the specific nature of the emotional or mental trauma the child would suffer. The court shall determine whether the source of the trauma is the presence of the defendant, the jury, or both, and shall limit the use of the closed-circuit television accordingly.

(4) This section does not apply if the defendant is an attorney pro se unless the defendant has a court-appointed attorney assisting the defendant in the defense.

(5) This section may not preclude the presence of both the child witness and the defendant in the courtroom together for purposes of establishing or challenging the identification of the defendant when identification is a legitimate issue in the proceeding.

(6) The Washington supreme court may adopt rules of procedure regarding closed-circuit television procedures.

(7) All recorded tapes of testimony produced by closed-circuit television equipment shall be subject to any protective order of the court for the purpose of protecting the privacy of the child witness.

(8) Nothing in this section creates a right of the child witness to a closed-circuit television procedure in lieu of testifying in open court.

(9) The state shall bear the costs of the closed-circuit television procedure.

(10) A child witness may or may not be a victim in the proceeding.

(11) Nothing in this section precludes the court, under other circumstances arising under subsection (1)(a) of this section, from allowing a child to testify outside the presence of the defendant and the jury so long as the testimony is presented in accordance with the standards and procedures required in this section. [2024 c 298 s 18; 2013 c 302 s 9; 2005 c 455 s 1; 1990 c 150 s 2.]

Effective date—2024 c 298: See note following RCW 9A.40.100.

Effective date—2013 c 302: See note following RCW 9.68A.090.

Legislative declaration—1990 c 150: "The legislature declares that protection of child witnesses in sexual assault and physical abuse cases is a substantial and compelling interest of the state. Sexual and physical abuse cases are some of the most difficult cases to prosecute, in part because frequently no witnesses exist except the child victim. When abuse is prosecuted, a child victim may suffer

serious emotional and mental trauma from exposure to the abuser or from testifying in open court. In rare cases, the child is so traumatized that the child is unable to testify at trial and is unavailable as a witness or the child's ability to communicate in front of the jury or defendant is so reduced that the truth-seeking function of trial is impaired. In other rare cases, the child is able to proceed to trial but suffers long-lasting trauma as a result of testifying in court or in front of the defendant. The creation of procedural devices designed to enhance the truth-seeking process and to shield child victims from the trauma of exposure to the abuser and the courtroom is a compelling state interest." [1990 c 150 s 1.]

Severability—1990 c 150: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 150 s 3.]

RCW 9A.44.160 Custodial sexual misconduct in the first degree.

(1) A person is guilty of custodial sexual misconduct in the first degree when the person has sexual intercourse with another person:

(a) When:

(i) The victim is a resident of a state, county, or city adult or juvenile correctional facility, including but not limited to jails, prisons, detention centers, or work release facilities, or is under correctional supervision; and

(ii) The perpetrator is an employee or contract personnel of a correctional agency and the perpetrator has, or the victim reasonably believes the perpetrator has, the ability to influence the terms, conditions, length, or fact of incarceration or correctional supervision; or

(b) When the victim is being detained, under arrest, or in the custody of a law enforcement officer and the perpetrator is a law enforcement officer.

(2) Consent of the victim is not a defense to a prosecution under this section.

(3) Custodial sexual misconduct in the first degree is a class B felony. [2023 c 7 s 1; 1999 c 45 s 1.]

Short title—2023 c 7: "This act may be known and cited as Kimberly Bender's law." [2023 c 7 s 4.]

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

(1) A person is guilty of custodial sexual misconduct in the second degree when the person has sexual contact with another person:

(a) When:

(i) The victim is a resident of a state, county, or city adult or juvenile correctional facility, including but not limited to jails, prisons, detention centers, or work release facilities, or is under correctional supervision; and

(ii) The perpetrator is an employee or contract personnel of a correctional agency and the perpetrator has, or the victim reasonably believes the perpetrator has, the ability to influence the terms, conditions, length, or fact of incarceration or correctional supervision; or

(b) When the victim is being detained, under arrest, or in the custody of a law enforcement officer and the perpetrator is a law enforcement officer.

(2) Consent of the victim is not a defense to a prosecution under this section.

(3) Custodial sexual misconduct in the second degree is a class C felony. [2023 c 7 s 2; 1999 c 45 s 2.]

Short title—2023 c 7: See note following RCW 9A.44.160.

RCW 9A.44.180 Custodial sexual misconduct—Defense. It is an affirmative defense to prosecution under RCW 9A.44.160 or 9A.44.170, to be proven by the defendant by a preponderance of the evidence, that the act of sexual intercourse or sexual contact resulted from forcible compulsion by the other person. [1999 c 45 s 3.]

RCW 9A.44.190 Criminal trespass against children—Definitions. As used in this section and RCW 9A.44.193 and 9A.44.196:

(1) "Covered entity" means any public facility or private facility whose primary purpose, at any time, is to provide for the education, care, or recreation of a child or children, including but not limited to community and recreational centers, playgrounds, schools, swimming pools, and state or municipal parks.

(2) "Child" means a person under the age of eighteen, unless the context clearly indicates that the term is otherwise defined in statute.

(3) "Public facility" means a facility operated by a unit of local or state government, or by a nonprofit organization.

(4) "Schools" means public and private schools, but does not include home-based instruction as defined in RCW 28A.225.010.

(5) "Covered offender" means a person required to register under RCW 9A.44.130 who is eighteen years of age or older, who is not under the jurisdiction of the juvenile rehabilitation authority or currently serving a special sex offender disposition alternative, whose risk level classification has been assessed at a risk level II or a risk level III pursuant to RCW 72.09.345, and who, at any time, has been convicted of one or more of the following offenses:

(a) Rape of a child in the first, second, and third degree; child molestation in the first, second, and third degree; indecent liberties against a child under age fifteen; sexual misconduct with a minor in the first and second degree; incest in the first and second degree; luring with sexual motivation; possession of depictions of minors engaged in sexually explicit conduct; dealing in depictions of minors engaged in sexually explicit conduct; bringing into the state depictions of minors engaged in sexually explicit conduct; sexual exploitation of a minor; communicating with a minor for immoral purposes; *patronizing a juvenile prostitute;

(b) Any felony in effect at any time prior to March 20, 2006, that is comparable to an offense listed in (a) of this subsection, including, but not limited to, statutory rape in the first and second degrees [degree] and carnal knowledge;

(c) Any felony offense for which:

(i) There was a finding that the offense was committed with sexual motivation; and

(ii) The victim of the offense was less than sixteen years of age at the time of the offense;

(d) An attempt, conspiracy, or solicitation to commit any of the offenses listed in (a) through (c) of this subsection;

(e) Any conviction from any other jurisdiction which is comparable to any of the offenses listed in (a) through (d) of this subsection. [2006 c 126 s 4; 2006 c 125 s 2.]

***Reviser's note:** The term "patronizing a juvenile prostitute" was changed to "commercial sexual abuse of a minor" by 2007 c 368 s 2.

Effective date—2006 c 126 ss 1 and 3-7: See note following RCW 9A.44.130.

Intent—2006 c 125: "It is the intent of the legislature to give public and private entities that provide services to children the tools necessary to prevent convicted child sex offenders from contacting children when those children are within the legal premises of the covered public and private entities." [2006 c 126 s 3; 2006 c 125 s 1.]

Severability—2006 c 125: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2006 c 125 s 6.]

Effective date—2006 c 125: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 20, 2006]." [2006 c 125 s 7.]

RCW 9A.44.193 Criminal trespass against children—Covered entities. (1) An owner, manager, or operator of a covered entity may order a covered offender from the legal premises of a covered entity as provided under this section. To do this, the owner, manager, or operator of a covered entity must first provide the covered offender, or cause the covered offender to be provided, personal service of a written notice that informs the covered offender that:

(a) The covered offender must leave the legal premises of the covered entity and may not return without the written permission of the covered entity; and

(b) If the covered offender refuses to leave the legal premises of the covered entity, or thereafter returns and enters within the legal premises of the covered entity without written permission, the offender may be charged and prosecuted for a felony offense as provided in RCW 9A.44.196.

(2) A covered entity may give written permission of entry and use to a covered offender to enter and remain on the legal premises of the covered entity at particular times and for lawful purposes, including, but not limited to, conducting business, voting, or participating in educational or recreational activities. Any written permission of entry and use of the legal premises of a covered entity must be clearly stated in a written document and must be personally served on the covered offender. If the covered offender violates the conditions of entry and use contained in a written document personally served on the offender by the covered entity, the covered offender may be

charged and prosecuted for a felony offense as provided in RCW 9A.44.196.

(3) An owner, employee, or agent of a covered entity shall be immune from civil liability for damages arising from excluding or failing to exclude a covered offender from a covered entity or from imposing or failing to impose conditions of entry and use on a covered offender.

(4) A person provided with written notice from a covered entity under this section may file a petition with the district court alleging that he or she does not meet the definition of "covered offender" in RCW 9A.44.190. The district court must conduct a hearing on the petition within thirty days of the petition being filed. In the hearing on the petition, the person has the burden of proving that he or she is not a covered offender. If the court finds, by a preponderance of the evidence, that the person is not a covered offender, the court shall order the covered entity to rescind the written notice and shall order the covered entity to pay the person's costs and reasonable attorneys' fees. [2006 c 126 s 5; 2006 c 125 s 3.]

Effective date—2006 c 126 ss 1 and 3-7: See note following RCW 9A.44.130.

Intent—Severability—Effective date—2006 c 125: See notes following RCW 9A.44.190.

RCW 9A.44.196 Criminal trespass against children. (1) A person is guilty of the crime of criminal trespass against children if he or she:

(a) Is a covered offender as defined in RCW 9A.44.190; and

(b) (i) Is personally served with written notice complying with the requirements of RCW 9A.44.193 that excludes the covered offender from the legal premises of the covered entity and remains upon or reenters the legal premises of the covered entity; or

(ii) Is personally served with written notice complying with the requirements of RCW 9A.44.193 that imposes conditions of entry and use on the covered offender and violates the conditions of entry and use.

(2) Criminal trespass against children is a class C felony. [2006 c 126 s 6; 2006 c 125 s 4.]

Effective date—2006 c 126 ss 1 and 3-7: See note following RCW 9A.44.130.

Intent—Severability—Effective date—2006 c 125: See notes following RCW 9A.44.190.

RCW 9A.44.210 Court initiated issuance of sexual assault no-contact orders—Terms, conditions, requirements, etc. (1) (a) When any person charged with or arrested for a sex offense as defined in RCW 9.94A.030, a violation of RCW 9A.44.096, a violation of RCW 9.68A.090, or a gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030, is released from custody before arraignment or trial on bail or personal

recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the court authorizing release may issue, by telephone, a sexual assault no-contact order prohibiting the person charged or arrested from having contact with the victim or from knowingly coming within, or knowingly remaining within, a specified distance of a location.

(b) In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(c) The sexual assault no-contact order shall also be issued in writing as soon as possible.

(2)(a) At the time of arraignment or whenever a motion is brought to modify the conditions of the defendant's release, the court shall determine whether a sexual assault no-contact order shall be issued or extended. If a sexual assault no-contact order is issued or extended, the court may also include in the conditions of release a requirement that the defendant submit to electronic monitoring. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon conviction, the court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring.

(b) A sexual assault no-contact order issued by the court in conjunction with criminal charges shall terminate if the defendant is acquitted or the charges are dismissed, unless the victim files an independent action for a sexual assault protection order. If the victim files an independent action for a sexual assault protection order, the order may be continued by the court until a full hearing is conducted pursuant to chapter 7.105 RCW.

(3)(a) The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 7.105 RCW and will subject a violator to arrest. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

(b) A certified copy of the order shall be provided to the victim at no charge.

(4) If a sexual assault no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed. Such orders need not be entered into the computer-based criminal intelligence information system in this state which is used by law enforcement agencies to list outstanding warrants.

(5) Whenever an order prohibiting contact is issued pursuant to subsection (2) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order, the law enforcement agency shall enter the order for one year or until the expiration date specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal

intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state.

(6) (a) When a defendant is found guilty of a sex offense as defined in RCW 9.94A.030, any violation of RCW 9A.44.096, or any violation of RCW 9.68A.090, or any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030, and a condition of the sentence restricts the defendant's ability to have contact with the victim, the condition shall be recorded as a sexual assault no-contact order.

(b) The written order entered as a condition of sentencing shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 7.105 RCW and will subject a violator to arrest. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

(c) A final sexual assault no-contact order entered in conjunction with a criminal prosecution shall remain in effect for a period of two years following the expiration of any sentence of imprisonment and subsequent period of community supervision, conditional release, probation, or parole.

(d) A certified copy of the order shall be provided to the victim at no charge.

(7) A knowing violation of a court order issued under subsection (1), (2), or (6) of this section is punishable under RCW 7.105.450.

(8) Whenever a sexual assault no-contact order is issued, modified, or terminated under subsection (1), (2), or (6) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order, the law enforcement agency shall enter the order for one year or until the expiration date specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state. Upon receipt of notice that an order has been terminated under subsection (2) of this section, the law enforcement agency shall remove the order from the computer-based criminal intelligence information system. [2021 c 215 s 164; 2006 c 138 s 16. Formerly RCW 7.90.150.]

Effective date—2022 c 268; 2021 c 215: See note following RCW 7.105.900.

RCW 9A.44.900 Decodifications and additions to this chapter.

RCW 9.79.140, 9.79.150, 9.79.160, 9.79.170 as now or hereafter amended, 9.79.180 as now or hereafter amended, 9.79.190 as now or hereafter amended, 9.79.200 as now or hereafter amended, 9.79.210 as now or hereafter amended, 9.79.220 as now or hereafter amended, 9A.88.020, and 9A.88.100 are each decodified and are each added to

Title 9A RCW as a new chapter with the designation chapter 9A.44 RCW. [1979 ex.s. c 244 s 17.]

RCW 9A.44.901 Construction—Sections decodified and added to this chapter. The sections decodified by RCW 9A.44.900 and added to Title 9A RCW as a new chapter with the designation chapter 9A.44 RCW shall be construed as part of Title 9A RCW. [1979 ex.s. c 244 s 18.]

RCW 9A.44.902 Effective date—1979 ex.s. c 244. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1979. [1979 ex.s. c 244 s 19.]

RCW 9A.44.903 Section captions—1988 c 145. Section captions as used in this chapter do not constitute any part of the law. [1988 c 145 s 22.]

Effective date—Savings—Application—1988 c 145: See notes following RCW 9A.44.010.

RCW 9A.44.904 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 s 24.]