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SENATE BILL 5730

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State of Washington

65th Legislature

2017 Regular Session

By Senator Frockt; by request of Washington State Patrol

1 AN ACT Relating to standardizing the collection and distribution  
2 of criminal records; and amending RCW 9.41.070, 9.41.173, 9A.44.130,  
3 and 43.43.735.

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

5 **Sec. 1.** RCW 9.41.070 and 2011 c 294 s 1 are each amended to read  
6 as follows:

7 (1) The chief of police of a municipality or the sheriff of a  
8 county shall within thirty days after the filing of an application of  
9 any person, issue a license to such person to carry a pistol  
10 concealed on his or her person within this state for five years from  
11 date of issue, for the purposes of protection or while engaged in  
12 business, sport, or while traveling. However, if the applicant does  
13 not have a valid permanent Washington driver's license or Washington  
14 state identification card or has not been a resident of the state for  
15 the previous consecutive ninety days, the issuing authority shall  
16 have up to sixty days after the filing of the application to issue a  
17 license. The issuing authority shall not refuse to accept completed  
18 applications for concealed pistol licenses during regular business  
19 hours.

20 The applicant's constitutional right to bear arms shall not be  
21 denied, unless:

1 (a) He or she is ineligible to possess a firearm under the  
2 provisions of RCW 9.41.040 or 9.41.045, or is prohibited from  
3 possessing a firearm under federal law;

4 (b) The applicant's concealed pistol license is in a revoked  
5 status;

6 (c) He or she is under twenty-one years of age;

7 (d) He or she is subject to a court order or injunction regarding  
8 firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045,  
9 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060,  
10 26.50.070, or 26.26.590;

11 (e) He or she is free on bond or personal recognizance pending  
12 trial, appeal, or sentencing for a felony offense;

13 (f) He or she has an outstanding warrant for his or her arrest  
14 from any court of competent jurisdiction for a felony or misdemeanor;  
15 or

16 (g) He or she has been ordered to forfeit a firearm under RCW  
17 9.41.098(1)(e) within one year before filing an application to carry  
18 a pistol concealed on his or her person.

19 No person convicted of a felony may have his or her right to  
20 possess firearms restored or his or her privilege to carry a  
21 concealed pistol restored, unless the person has been granted relief  
22 from disabilities by the attorney general under 18 U.S.C. Sec.  
23 925(c), or RCW 9.41.040 (3) or (4) applies.

24 (2)(a) The issuing authority shall conduct a check through the  
25 national instant criminal background check system, the Washington  
26 state patrol electronic database, the department of social and health  
27 services electronic database, and with other agencies or resources as  
28 appropriate, to determine whether the applicant is ineligible under  
29 RCW 9.41.040 or 9.41.045 to possess a firearm, or is prohibited from  
30 possessing a firearm under federal law, and therefore ineligible for  
31 a concealed pistol license.

32 (b) The issuing authority shall deny a permit to anyone who is  
33 found to be prohibited from possessing a firearm under federal or  
34 state law.

35 (c) This subsection applies whether the applicant is applying for  
36 a new concealed pistol license or to renew a concealed pistol  
37 license.

38 (3) Any person whose firearms rights have been restricted and who  
39 has been granted relief from disabilities by the attorney general  
40 under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec.

1 921(a)(20)(A) shall have his or her right to acquire, receive,  
2 transfer, ship, transport, carry, and possess firearms in accordance  
3 with Washington state law restored except as otherwise prohibited by  
4 this chapter.

5 (4) The license application shall bear the full name, residential  
6 address, telephone number at the option of the applicant, date and  
7 place of birth, race, gender, description, a complete set of  
8 fingerprints, and signature of the licensee, and the licensee's  
9 driver's license number or state identification card number if used  
10 for identification in applying for the license. A signed application  
11 for a concealed pistol license shall constitute a waiver of  
12 confidentiality and written request that the department of social and  
13 health services, mental health institutions, and other health care  
14 facilities release information relevant to the applicant's  
15 eligibility for a concealed pistol license to an inquiring court or  
16 law enforcement agency.

17 The application for an original license shall include ~~((two))~~ a  
18 complete set ~~((s))~~ of fingerprints to be forwarded to the Washington  
19 state patrol.

20 The license and application shall contain a warning substantially  
21 as follows:

22 CAUTION: Although state and local laws do not differ, federal  
23 law and state law on the possession of firearms differ. If  
24 you are prohibited by federal law from possessing a firearm,  
25 you may be prosecuted in federal court. A state license is  
26 not a defense to a federal prosecution.

27 The license shall contain a description of the major differences  
28 between state and federal law and an explanation of the fact that  
29 local laws and ordinances on firearms are preempted by state law and  
30 must be consistent with state law.

31 The application shall contain questions about the applicant's  
32 eligibility under RCW 9.41.040 and federal law to possess a pistol,  
33 the applicant's place of birth, and whether the applicant is a United  
34 States citizen. If the applicant is not a United States citizen, the  
35 applicant must provide the applicant's country of citizenship, United  
36 States issued alien number or admission number, and the basis on  
37 which the applicant claims to be exempt from federal prohibitions on  
38 firearm possession by aliens. The applicant shall not be required to  
39 produce a birth certificate or other evidence of citizenship. A

1 person who is not a citizen of the United States shall, if  
2 applicable, meet the additional requirements of RCW 9.41.173 and  
3 produce proof of compliance with RCW 9.41.173 upon application. The  
4 license may be in triplicate or in a form to be prescribed by the  
5 department of licensing.

6 The original thereof shall be delivered to the licensee, the  
7 duplicate shall within seven days be sent to the director of  
8 licensing and the triplicate shall be preserved for six years, by the  
9 authority issuing the license.

10 The department of licensing shall make available to law  
11 enforcement and corrections agencies, in an on-line format, all  
12 information received under this subsection.

13 (5) The nonrefundable fee, paid upon application, for the  
14 original five-year license shall be thirty-six dollars plus  
15 additional charges imposed by the federal bureau of investigation  
16 that are passed on to the applicant. No other state or local branch  
17 or unit of government may impose any additional charges on the  
18 applicant for the issuance of the license.

19 The fee shall be distributed as follows:

20 (a) Fifteen dollars shall be paid to the state general fund;

21 (b) Four dollars shall be paid to the agency taking the  
22 fingerprints of the person licensed;

23 (c) Fourteen dollars shall be paid to the issuing authority for  
24 the purpose of enforcing this chapter; and

25 (d) Three dollars to the firearms range account in the general  
26 fund.

27 (6) The nonrefundable fee for the renewal of such license shall  
28 be thirty-two dollars. No other branch or unit of government may  
29 impose any additional charges on the applicant for the renewal of the  
30 license.

31 The renewal fee shall be distributed as follows:

32 (a) Fifteen dollars shall be paid to the state general fund;

33 (b) Fourteen dollars shall be paid to the issuing authority for  
34 the purpose of enforcing this chapter; and

35 (c) Three dollars to the firearms range account in the general  
36 fund.

37 (7) The nonrefundable fee for replacement of lost or damaged  
38 licenses is ten dollars to be paid to the issuing authority.

1 (8) Payment shall be by cash, check, or money order at the option  
2 of the applicant. Additional methods of payment may be allowed at the  
3 option of the issuing authority.

4 (9) A licensee may renew a license if the licensee applies for  
5 renewal within ninety days before or after the expiration date of the  
6 license. A license so renewed shall take effect on the expiration  
7 date of the prior license. A licensee renewing after the expiration  
8 date of the license must pay a late renewal penalty of ten dollars in  
9 addition to the renewal fee specified in subsection (6) of this  
10 section. The fee shall be distributed as follows:

11 (a) Three dollars shall be deposited in the state wildlife  
12 account and used exclusively first for the printing and distribution  
13 of a pamphlet on the legal limits of the use of firearms, firearms  
14 safety, and the preemptive nature of state law, and subsequently the  
15 support of volunteer instructors in the basic firearms safety  
16 training program conducted by the department of fish and wildlife.  
17 The pamphlet shall be given to each applicant for a license; and

18 (b) Seven dollars shall be paid to the issuing authority for the  
19 purpose of enforcing this chapter.

20 (10) Notwithstanding the requirements of subsections (1) through  
21 (9) of this section, the chief of police of the municipality or the  
22 sheriff of the county of the applicant's residence may issue a  
23 temporary emergency license for good cause pending review under  
24 subsection (1) of this section. However, a temporary emergency  
25 license issued under this subsection shall not exempt the holder of  
26 the license from any records check requirement. Temporary emergency  
27 licenses shall be easily distinguishable from regular licenses.

28 (11) A political subdivision of the state shall not modify the  
29 requirements of this section or chapter, nor may a political  
30 subdivision ask the applicant to voluntarily submit any information  
31 not required by this section.

32 (12) A person who knowingly makes a false statement regarding  
33 citizenship or identity on an application for a concealed pistol  
34 license is guilty of false swearing under RCW 9A.72.040. In addition  
35 to any other penalty provided for by law, the concealed pistol  
36 license of a person who knowingly makes a false statement shall be  
37 revoked, and the person shall be permanently ineligible for a  
38 concealed pistol license.

39 (13) A person may apply for a concealed pistol license:

1 (a) To the municipality or to the county in which the applicant  
2 resides if the applicant resides in a municipality;

3 (b) To the county in which the applicant resides if the applicant  
4 resides in an unincorporated area; or

5 (c) Anywhere in the state if the applicant is a nonresident.

6 (14) Any person who, as a member of the armed forces, including  
7 the national guard and armed forces reserves, is unable to renew his  
8 or her license under subsections (6) and (9) of this section because  
9 of the person's assignment, reassignment, or deployment for out-of-  
10 state military service may renew his or her license within ninety  
11 days after the person returns to this state from out-of-state  
12 military service, if the person provides the following to the issuing  
13 authority no later than ninety days after the person's date of  
14 discharge or assignment, reassignment, or deployment back to this  
15 state: (a) A copy of the person's original order designating the  
16 specific period of assignment, reassignment, or deployment for out-  
17 of-state military service, and (b) if appropriate, a copy of the  
18 person's discharge or amended or subsequent assignment, reassignment,  
19 or deployment order back to this state. A license so renewed under  
20 this subsection (14) shall take effect on the expiration date of the  
21 prior license. A licensee renewing after the expiration date of the  
22 license under this subsection (14) shall pay only the renewal fee  
23 specified in subsection (6) of this section and shall not be required  
24 to pay a late renewal penalty in addition to the renewal fee.

25 **Sec. 2.** RCW 9.41.173 and 2009 c 216 s 3 are each amended to read  
26 as follows:

27 (1) In order to obtain an alien firearm license, a nonimmigrant  
28 alien residing in Washington must apply to the sheriff of the county  
29 in which he or she resides.

30 (2) The sheriff of the county shall within sixty days after the  
31 filing of an application of a nonimmigrant alien residing in the  
32 state of Washington, issue an alien firearm license to such person to  
33 carry or possess a firearm for the purposes of hunting and sport  
34 shooting. The license shall be good for two years. The issuing  
35 authority shall not refuse to accept completed applications for alien  
36 firearm licenses during regular business hours. An application for a  
37 license may not be denied, unless the applicant's alien firearm  
38 license is in a revoked status, or the applicant:

1 (a) Is ineligible to possess a firearm under the provisions of  
2 RCW 9.41.040 or 9.41.045;

3 (b) Is subject to a court order or injunction regarding firearms  
4 pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045,  
5 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060,  
6 26.50.070, or 26.26.590;

7 (c) Is free on bond or personal recognizance pending trial,  
8 appeal, or sentencing for a felony offense; or

9 (d) Has an outstanding warrant for his or her arrest from any  
10 court of competent jurisdiction for a felony or misdemeanor.

11 No license application shall be granted to a nonimmigrant alien  
12 convicted of a felony unless the person has been granted relief from  
13 disabilities by the attorney general under 18 U.S.C. Sec. 925(c), or  
14 unless RCW 9.41.040 (3) or (4) applies.

15 (3) The sheriff shall check with the national crime information  
16 center, the Washington state patrol electronic database, the  
17 department of social and health services electronic database, and  
18 with other agencies or resources as appropriate, to determine whether  
19 the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess  
20 a firearm.

21 (4) The license application shall bear the full name, residential  
22 address, telephone number at the option of the applicant, date and  
23 place of birth, race, gender, description, (~~not more than two~~) a  
24 complete set(~~s~~) of fingerprints, and signature of the applicant, a  
25 copy of the applicant's passport and visa showing the applicant is in  
26 the country legally, and a valid Washington hunting license or  
27 documentation that the applicant is a member of a sport shooting  
28 club.

29 A signed application for an alien firearm license shall  
30 constitute a waiver of confidentiality and written request that the  
31 department of social and health services, mental health institutions,  
32 and other health care facilities release information relevant to the  
33 applicant's eligibility for an alien firearm license to an inquiring  
34 court or law enforcement agency.

35 The application for an original license shall include a complete  
36 set of fingerprints to be forwarded to the Washington state patrol.

37 The license and application shall contain a warning substantially  
38 as follows:

1 CAUTION: Although state and local laws do not differ, federal  
2 law and state law on the possession of firearms differ. If  
3 you are prohibited by federal law from possessing a firearm,  
4 you may be prosecuted in federal court. A state license is  
5 not a defense to a federal prosecution.

6 The license shall contain a description of the major differences  
7 between state and federal law and an explanation of the fact that  
8 local laws and ordinances on firearms are preempted by state law and  
9 must be consistent with state law. The application shall contain  
10 questions about the applicant's eligibility under RCW 9.41.040 to  
11 possess a firearm. The nonimmigrant alien applicant shall be required  
12 to produce a passport and visa as evidence of being in the country  
13 legally.

14 The license may be in triplicate or in a form to be prescribed by  
15 the department of licensing. The original thereof shall be delivered  
16 to the licensee, the duplicate shall within seven days be sent to the  
17 director of licensing and the triplicate shall be preserved for six  
18 years, by the authority issuing the license.

19 The department of licensing shall make available to law  
20 enforcement and corrections agencies, in an online format, all  
21 information received under this section.

22 (5) The sheriff has the authority to collect a nonrefundable fee,  
23 paid upon application, for the two-year license. The fee shall be  
24 fifty dollars plus additional charges imposed by the Washington state  
25 patrol and the federal bureau of investigation that are passed on to  
26 the applicant. No other state or local branch or unit of government  
27 may impose any additional charges on the applicant for the issuance  
28 of the license. The fee shall be retained by the sheriff.

29 (6) Payment shall be by cash, check, or money order at the option  
30 of the applicant. Additional methods of payment may be allowed at the  
31 option of the sheriff.

32 (7) A political subdivision of the state shall not modify the  
33 requirements of this section, nor may a political subdivision ask the  
34 applicant to voluntarily submit any information not required by this  
35 section.

36 (8) A person who knowingly makes a false statement regarding  
37 citizenship or identity on an application for an alien firearm  
38 license is guilty of false swearing under RCW 9A.72.040. In addition  
39 to any other penalty provided for by law, the alien firearm license

1 of a person who knowingly makes a false statement shall be revoked,  
2 and the person shall be permanently ineligible for an alien firearm  
3 license.

4 **Sec. 3.** RCW 9A.44.130 and 2015 c 261 s 3 are each amended to  
5 read as follows:

6 (1)(a) Any adult or juvenile residing whether or not the person  
7 has a fixed residence, or who is a student, is employed, or carries  
8 on a vocation in this state who has been found to have committed or  
9 has been convicted of any sex offense or kidnapping offense, or who  
10 has been found not guilty by reason of insanity under chapter 10.77  
11 RCW of committing any sex offense or kidnapping offense, shall  
12 register with the county sheriff for the county of the person's  
13 residence, or if the person is not a resident of Washington, the  
14 county of the person's school, or place of employment or vocation, or  
15 as otherwise specified in this section. When a person required to  
16 register under this section is in custody of the state department of  
17 corrections, the state department of social and health services, a  
18 local division of youth services, or a local jail or juvenile  
19 detention facility as a result of a sex offense or kidnapping  
20 offense, the person shall also register at the time of release from  
21 custody with an official designated by the agency that has  
22 jurisdiction over the person.

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

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

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

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

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

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

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

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

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

32 (i) OFFENDERS IN CUSTODY. Sex offenders or kidnapping offenders  
33 who are in custody of the state department of corrections, the state  
34 department of social and health services, a local division of youth  
35 services, or a local jail or juvenile detention facility, must  
36 register at the time of release from custody with an official  
37 designated by the agency that has jurisdiction over the offender. The  
38 agency shall within three days forward the registration information  
39 to the county sheriff for the county of the offender's anticipated  
40 residence. The offender must also register within three business days

1 from the time of release with the county sheriff for the county of  
2 the person's residence, or if the person is not a resident of  
3 Washington, the county of the person's school, or place of employment  
4 or vocation. The agency that has jurisdiction over the offender shall  
5 provide notice to the offender of the duty to register.

6 When the agency with jurisdiction intends to release an offender  
7 with a duty to register under this section, and the agency has  
8 knowledge that the offender is eligible for developmental disability  
9 services from the department of social and health services, the  
10 agency shall notify the division of developmental disabilities of the  
11 release. Notice shall occur not more than thirty days before the  
12 offender is to be released. The agency and the division shall assist  
13 the offender in meeting the initial registration requirement under  
14 this section. Failure to provide such assistance shall not constitute  
15 a defense for any violation of this section.

16 When a person required to register under this section is in the  
17 custody of the state department of corrections or a local corrections  
18 or probations agency and has been approved for partial confinement as  
19 defined in RCW 9.94A.030, the person must register at the time of  
20 transfer to partial confinement with the official designated by the  
21 agency that has jurisdiction over the offender. The agency shall  
22 within three days forward the registration information to the county  
23 sheriff for the county in which the offender is in partial  
24 confinement. The offender must also register within three business  
25 days from the time of the termination of partial confinement or  
26 release from confinement with the county sheriff for the county of  
27 the person's residence. The agency that has jurisdiction over the  
28 offender shall provide notice to the offender of the duty to  
29 register.

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

37 (iii) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders  
38 who are convicted of a sex offense and kidnapping offenders who are  
39 convicted for a kidnapping offense but who are not sentenced to serve  
40 a term of confinement immediately upon sentencing shall report to the

1 county sheriff to register within three business days of being  
2 sentenced.

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

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

19 (v) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult  
20 or juvenile who has been found not guilty by reason of insanity under  
21 chapter 10.77 RCW of committing a sex offense or a kidnapping offense  
22 and who is in custody, as a result of that finding, of the state  
23 department of social and health services, must register within three  
24 business days from the time of release with the county sheriff for  
25 the county of the person's residence. The state department of social  
26 and health services shall provide notice to the adult or juvenile in  
27 its custody of the duty to register.

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

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

38 (viii) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR  
39 ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in  
40 Washington, who move to another state, or who work, carry on a

1 vocation, or attend school in another state shall register a new  
2 address, fingerprints, and photograph with the new state within three  
3 business days after establishing residence, or after beginning to  
4 work, carry on a vocation, or attend school in the new state. The  
5 person must also send written notice within three business days of  
6 moving to the new state or to a foreign country to the county sheriff  
7 with whom the person last registered in Washington state. The county  
8 sheriff shall promptly forward this information to the Washington  
9 state patrol.

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

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

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

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

1 (6)(a) Any person required to register under this section who  
2 lacks a fixed residence shall provide signed written notice to the  
3 sheriff of the county where he or she last registered within three  
4 business days after ceasing to have a fixed residence. The notice  
5 shall include the information required by subsection (2)(a) of this  
6 section, except the photograph (~~and~~), fingerprints, and palmprints.  
7 The county sheriff may, for reasonable cause, require the offender to  
8 provide a photograph and fingerprints. The sheriff shall forward this  
9 information to the sheriff of the county in which the person intends  
10 to reside, if the person intends to reside in another county.

11 (b) A person who lacks a fixed residence must report weekly, in  
12 person, to the sheriff of the county where he or she is registered.  
13 The weekly report shall be on a day specified by the county sheriff's  
14 office, and shall occur during normal business hours. The person must  
15 keep an accurate accounting of where he or she stays during the week  
16 and provide it to the county sheriff upon request. The lack of a  
17 fixed residence is a factor that may be considered in determining an  
18 offender's risk level and shall make the offender subject to  
19 disclosure of information to the public at large pursuant to RCW  
20 4.24.550.

21 (c) If any person required to register pursuant to this section  
22 does not have a fixed residence, it is an affirmative defense to the  
23 charge of failure to register, that he or she provided written notice  
24 to the sheriff of the county where he or she last registered within  
25 three business days of ceasing to have a fixed residence and has  
26 subsequently complied with the requirements of subsections (4)(a)(vi)  
27 or (vii) and (6) of this section. To prevail, the person must prove  
28 the defense by a preponderance of the evidence.

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

1 register under this section who receives an order changing his or her  
2 name shall submit a copy of the order to the county sheriff of the  
3 county of the person's residence and to the state patrol within three  
4 business days of the entry of the order.

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

9 **Sec. 4.** RCW 43.43.735 and 2009 c 549 s 5130 are each amended to  
10 read as follows:

11 (1) It shall be the duty of the sheriff or director of public  
12 safety of every county, and the chief of police of every city or  
13 town, and of every chief officer of other law enforcement agencies  
14 duly operating within this state, to cause the photographing and  
15 fingerprinting of all adults and juveniles lawfully arrested for the  
16 commission of any criminal offense constituting a felony or gross  
17 misdemeanor. (a) When such juveniles are brought directly to a  
18 juvenile detention facility, the juvenile court administrator is also  
19 authorized, but not required, to cause the photographing,  
20 fingerprinting, and record transmittal to the appropriate law  
21 enforcement agency; and (b) a further exception may be made when the  
22 arrest is for a violation punishable as a gross misdemeanor and the  
23 arrested person is not taken into custody.

24 (2) It shall be the right, but not the duty, of the sheriff or  
25 director of public safety of every county, and the chief of police of  
26 every city or town, and every chief officer of other law enforcement  
27 agencies operating within this state to photograph and record the  
28 fingerprints and palmprints of all adults lawfully arrested.

29 (3) Such sheriffs, directors of public safety, chiefs of police,  
30 and other chief law enforcement officers, may record, in addition to  
31 photographs ~~((and))~~, fingerprints, ~~((the))~~ and palmprints, the  
32 soleprints, toeprints, or any other identification data of all  
33 persons whose photograph ~~((and))~~, fingerprints, and palmprints are  
34 required or allowed to be taken under this section when in the  
35 discretion of such law enforcement officers it is necessary for  
36 proper identification of the arrested person or the investigation of  
37 the crime with which he or she is charged.

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