

RELIEVED OF DUTY TO
REGISTER

Who Must Register

RCW 9A.44.130

- ▣ (A) Sex offenders who committed a sex
- ▣ offense **on, before, or after February 28, 1990,** and who, **on or after July 28, 1991, are in custody,** as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility

Who Must Register

RCW 9A.44.130

- ▣ (B) kidnapping offenders who **on or after July 27, 1997**, 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.

Who Must Register

RCW 9A.44.130

- ▣ OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on **July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision**, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991.

Who Must Register

RCW 9A.44.130

- ▣ Kidnapping offenders who, on **July 27, 1997**, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, **for kidnapping offenses committed before, on, or after July 27, 1997**, must register within three days of **July 27, 1997**.

RCW 9A.44.140

RCW 9A.44.140

CLASS A FELONIES

- ▣ (1) For a person convicted in this state of a **class A felony**, or a person 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**.

RCW 9A.44.140

CLASS B FELONIES

- ▣ (2) For a person 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 person has spent **fifteen consecutive years in the community without being convicted of a disqualifying offense** during that time period.

RCW 9A.44.140

CLASS C FELONIES

- ▣ (3) For a person 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 person 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 person has spent **ten consecutive years in the community without being convicted of a disqualifying offense** during that time period.

RCW 9A.44.140

TRIBAL, FEDERAL AND OUT OF STATE CONVICTIONS

- ▣ (4) 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.**

RCW 9A.44.140

SEXUALLY VIOLENT PREDATORS (SVP)

- ▣ (5) 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.**

WHAT IT MEANS!

Class A Felony, Tribal, Federal, Military conviction=
lifetime registration (unless court ordered)

SEXUALLY VIOLENT PREDATORS = Lifetime
registration (court order not allowed)

More than one sex crime (regardless of classification)=
Lifetime registration

Class B Felony=15 year registration requirement

Class C Felony/Misdemeanor = 10 year registration
requirement

RCW 9A.44.141

Investigating Relief of Duty

RCW 9A.44.141

Investigating Relief of Duty

- ▣ (1) Upon the request of a person who is listed in the WSP 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.

RCW 9A.44.141

Investigating Relief of Duty

- ▣ (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.

RCW 9A.44.141

Investigating Relief of Duty

- ▣ (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.

RCW 9A.44.141

Investigating Relief of Duty

- ▣ (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 WSP remove the person's name from the central registry.

RCW 9A.44.141

Investigating Relief of Duty

- ▣ (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 .

Where to search

- ▣ Washington State Crime Info. Center (WACIC)
- ▣ National Crime Info. Center (NCIC)
- ▣ Superior Court Management Info. System (SCOMIS)
- ▣ District Court Info. System (DISCUS)
- ▣ Felony Offender Reporting System (FORS)
- ▣ Triple I/Criminal History



**SEX/KIDNAPPING OFFENDER REGISTRATION
RELIEVED OF DUTY TO REGISTER**

(When a Court Order is Not Needed)

Print Full Name of Registrant _____

Date of Birth _____

SID Number _____

- The above offender has spent 10 consecutive years in the community without being convicted of a disqualifying offense, pursuant to RCW 9A.44.142.
- The above offender has spent 15 consecutive years in the community without being convicted of a disqualifying offense, pursuant to RCW 9A.44.142.

The following have been checked to verify this and there have been no prior conviction(s) for a sex/kidnapping offense:

- Washington State Crime Information Center (WACIC)
- Washington State Identification and Criminal History Section (WASIS)
- National Crime Information Center (NCIC)
- Superior Court Management Information System (SCOMIS)
- Judicial Information Systems (JIS) (Formerly DISCIS)
- Felony Offender Reporting System (FORS)
- WANTS AND WARRANTS
- DECEASED
- OTHER _____

Date Relieved of Duty _____

Signature of Official _____

Print Name of Official _____

Agency Name _____

Phone Number _____

Notify other agencies

- ▣ Once completed with the relieve of duty process **send the completed form to WSP and to other agencies** that had the offender registered so they may close their file.
- ▣ You may also send out a statewide teletype however it is not required.

State vs. Taylor

2011 Washington State Court of Appeals
(162 Wn. App. 791)

- ▣ In 1988, Taylor pled guilty to former statute RCW 9A.44.090 (Statutory Rape 3rd degree) for a an offense which occurred in 1982
- ▣ Statutory Rape 3rd degree (RCW 9A.44.090) was repealed in 1988
- ▣ Rape of a Child 3rd degree (RCW 9A.44.079) was created

State vs. Taylor

- ▣ In 2010, Taylor was convicted of failure to register as a sex offender
- ▣ In 2011, Taylor appealed the conviction contending his Statutory Rape 3rd degree conviction was repealed and didn't meet the definition of a "sex offense"

State vs. Taylor

- ▣ Statutory Rape 3rd degree wasn't recodified to Rape of a Child 3rd degree, elements were added to the new statute
- ▣ No specific reference was made to the repealed statute in the sex offense definition

State vs. Taylor

Court of Appeals Decision

- ▣ In 1999, language was added and extended the registration requirement to any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a current sex offense, but didn't address statutes which existed after 1976 which were subsequently repealed
- ▣ Determined registration does not apply to crimes repealed after 1976
- ▣ Overturned Taylor's conviction for failure to register as a sex offender

Impact of State vs. Taylor

- ▣ These convictions are **NOT registerable offenses**:
- ▣ Statutory Rape 1st degree
- ▣ Statutory Rape 2nd degree
- ▣ Statutory Rape 3rd degree
- ▣ Indecent Liberties convictions under RCW 9A.88.100 (recodified in 1979 to RCW 9A.44.100)

State vs. Werneth

2008 Washington State Court of Appeals
(147 Wn. App. 549)

- ▣ In 1992, Werneth was convicted of Child Molestation in Georgia
- ▣ In 2007, Werneth was convicted of failure to register as a sex offender in WA under former RCW 9A.44.130 (2006)
- ▣ Werneth appealed the conviction arguing that the State failed to prove that his Georgia conviction for child molestation is comparable to a Washington “felony sex offense”

State vs. Werneth

- ▣ Georgia's child molestation statute didn't include two essential elements of the Washington's attempted child molestation 2nd degree statute: (1) the victim is "**not married to the perpetrator,**" and (2) "**the perpetrator is at least thirty-six months older than the victim**"
- ▣ In 2009, the Court determined the State failed to prove Werneth's out-of-state conviction was comparable to a WA sex offense; therefore, reversed Werneth's conviction

Impact of State vs. Werneth

- ▣ Out-of-state sex offense convictions could trigger a duty to register in WA only if the out-of-state conviction was found to be **legally “comparable”** to a WA sex offense and, if not legally, then factually
- ▣ Comparability was proven to be difficult

Impact of State vs. Werneth

- ▣ In 2010, WA registration statute was revised to require an offender to register for out-of-state convictions if the person has a duty to register in their state of conviction; or, if not required to register in the state of conviction, if their offense is comparable to a WA sex offense, unless a court in the person's state of conviction has made an individualized determination that the person should not be required to register

State vs. Wheeler

- ❑ In 2000, Wheeler pled guilty to Failure to Register as a Sex Offender
- ❑ In 2011, WA State v. Taylor Court of Appeals decision (statutory rape convictions in WA do not have a duty to register)
- ❑ In 2013, Wheeler filed a motion alleging his 2000 conviction for Failure to Register as a Sex Offender was invalid because it was based on his 1985 Statutory Rape ^{3rd} degree (former RCW 9A.44.090) conviction
- ❑ Wheeler's motion was transferred to the WA State Court of Appeals as a personal restraint petition
- ❑ In 2015, the Court of Appeals determined **Wheeler's 2000 judgment and sentence was invalid on its face because his conviction was not based on an offense defined as a sex offense at the time of the failure to register** which constituted a fundamental defect which entitled Wheeler to relief and his 2000 FTRASO conviction was vacated

RCW 9A.44.142

Petitions/Exceptions

RCW 9A.44.142

- ▣ (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;**

RCW 9A.44.142

- ▣ (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

RCW 9A.44.142

- ▣ (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.

RCW 9A.44.142

- ▣ (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**.

RCW 9A.44.142

- ▣ (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.

RCW 9A.44.142

- ▣ (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.

RCW 9A.44.142

- ▣ (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:

RCW 9A.44.142

Factors for the court removal

- ▣ (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;

RCW 9A.44.142

Factors for the court removal

- ▣ (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**;

RCW 9A.44.142

Factors for the court removal

- ▣ (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**.

RCW 9A.44.142

Factors for the court removal

- ▣ (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 9.41.010.

RCW 9A.44.143
Juvenile Court Orders

RCW 9A.44.143

Juvenile Court Orders

- ▣ (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;

RCW 9A.44.143

Juvenile court orders

- ▣ 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.

RCW 9A.44.143

Juvenile court orders

- ▣ (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;**

RCW 9A.44.143

Juvenile court orders

- ▣ (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.

RCW 9A.44.143

Juvenile court orders

- ▣ (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.

Dallas Dusek
King County Sheriffs Office
dallas.dusek@kingcounty.gov
206-263-2121

GayLynn Jackson
Pierce County Sheriffs Office
gjackso@co.pierce.wa.us
253-798-7706