

2 SHB 1212 - S AMD 230
3 By Senators Costa and Long

4 ADOPTED 04/05/01

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 13.50.050 and 1999 c 198 s 4 are each amended to read
8 as follows:

9 (1) This section governs records relating to the commission of
10 juvenile offenses, including records relating to diversions.

11 (2) The official juvenile court file of any alleged or proven
12 juvenile offender shall be open to public inspection, unless sealed
13 pursuant to subsection (12) of this section.

14 (3) All records other than the official juvenile court file are
15 confidential and may be released only as provided in this section, RCW
16 13.50.010, 13.40.215, and 4.24.550.

17 (4) Except as otherwise provided in this section and RCW 13.50.010,
18 records retained or produced by any juvenile justice or care agency may
19 be released to other participants in the juvenile justice or care
20 system only when an investigation or case involving the juvenile in
21 question is being pursued by the other participant or when that other
22 participant is assigned the responsibility for supervising the
23 juvenile.

24 (5) Except as provided in RCW 4.24.550, information not in an
25 official juvenile court file concerning a juvenile or a juvenile's
26 family may be released to the public only when that information could
27 not reasonably be expected to identify the juvenile or the juvenile's
28 family.

29 (6) Notwithstanding any other provision of this chapter, the
30 release, to the juvenile or his or her attorney, of law enforcement and
31 prosecuting attorneys' records pertaining to investigation, diversion,
32 and prosecution of juvenile offenses shall be governed by the rules of
33 discovery and other rules of law applicable in adult criminal
34 investigations and prosecutions.

35 (7) Upon the decision to arrest or the arrest, law enforcement and
36 prosecuting attorneys may cooperate with schools in releasing

1 information to a school pertaining to the investigation, diversion, and
2 prosecution of a juvenile attending the school. Upon the decision to
3 arrest or the arrest, incident reports may be released unless releasing
4 the records would jeopardize the investigation or prosecution or
5 endanger witnesses. If release of incident reports would jeopardize
6 the investigation or prosecution or endanger witnesses, law enforcement
7 and prosecuting attorneys may release information to the maximum extent
8 possible to assist schools in protecting other students, staff, and
9 school property.

10 (8) The juvenile court and the prosecutor may set up and maintain
11 a central record-keeping system which may receive information on all
12 alleged juvenile offenders against whom a complaint has been filed
13 pursuant to RCW 13.40.070 whether or not their cases are currently
14 pending before the court. The central record-keeping system may be
15 computerized. If a complaint has been referred to a diversion unit,
16 the diversion unit shall promptly report to the juvenile court or the
17 prosecuting attorney when the juvenile has agreed to diversion. An
18 offense shall not be reported as criminal history in any central
19 record-keeping system without notification by the diversion unit of the
20 date on which the offender agreed to diversion.

21 (9) Upon request of the victim of a crime or the victim's immediate
22 family, the identity of an alleged or proven juvenile offender alleged
23 or found to have committed a crime against the victim and the identity
24 of the alleged or proven juvenile offender's parent, guardian, or
25 custodian and the circumstance of the alleged or proven crime shall be
26 released to the victim of the crime or the victim's immediate family.

27 (10) Subject to the rules of discovery applicable in adult criminal
28 prosecutions, the juvenile offense records of an adult criminal
29 defendant or witness in an adult criminal proceeding shall be released
30 upon request to prosecution and defense counsel after a charge has
31 actually been filed. The juvenile offense records of any adult
32 convicted of a crime and placed under the supervision of the adult
33 corrections system shall be released upon request to the adult
34 corrections system.

35 (11) In any case in which an information has been filed pursuant to
36 RCW 13.40.100 or a complaint has been filed with the prosecutor and
37 referred for diversion pursuant to RCW 13.40.070, the person the
38 subject of the information or complaint may file a motion with the
39 court to have the court vacate its order and findings, if any, and,

1 subject to subsection (23) of this section, order the sealing of the
2 official juvenile court file, the social file, and records of the court
3 and of any other agency in the case.

4 (12) The court shall grant the motion to seal records made pursuant
5 to subsection (11) of this section if it finds that:

6 (a) For class B offenses other than sex offenses, since the last
7 date of release from confinement, including full-time residential
8 treatment, if any, or entry of disposition, the person has spent ten
9 consecutive years in the community without committing any offense or
10 crime that subsequently results in conviction. For class C offenses
11 other than sex offenses, since the last date of release from
12 confinement, including full-time residential treatment, if any, or
13 entry of disposition, the person has spent five consecutive years in
14 the community without committing any offense or crime that subsequently
15 results in conviction. For misdemeanors, since the last date of
16 release from confinement, including full-time residential treatment, if
17 any, or entry of disposition, the person has spent two consecutive
18 years in the community without committing any offense or crime that
19 subsequently results in conviction and the person is at least eighteen
20 years old. For gross misdemeanors, since the last date of release from
21 confinement, including full-time residential treatment, if any, or
22 entry of disposition, the person has spent three consecutive years in
23 the community without committing any offense or crime that subsequently
24 results in conviction and the person is at least eighteen years old;

25 (b) No proceeding is pending against the moving party seeking the
26 conviction of a juvenile offense or a criminal offense;

27 (c) No proceeding is pending seeking the formation of a diversion
28 agreement with that person;

29 (d) The person has not been convicted of a class A or sex offense;
30 and

31 (e) Full restitution has been paid.

32 (13) The person making a motion pursuant to subsection (11) of this
33 section shall give reasonable notice of the motion to the prosecution
34 and to any person or agency whose files are sought to be sealed.

35 (14) If the court grants the motion to seal made pursuant to
36 subsection (11) of this section, it shall, subject to subsection (23)
37 of this section, order sealed the official juvenile court file, the
38 social file, and other records relating to the case as are named in the
39 order. Thereafter, the proceedings in the case shall be treated as if

1 they never occurred, and the subject of the records may reply
2 accordingly to any inquiry about the events, records of which are
3 sealed. Any agency shall reply to any inquiry concerning confidential
4 or sealed records that records are confidential, and no information can
5 be given about the existence or nonexistence of records concerning an
6 individual.

7 (15) Inspection of the files and records included in the order to
8 seal may thereafter be permitted only by order of the court upon motion
9 made by the person who is the subject of the information or complaint,
10 except as otherwise provided in RCW 13.50.010(8) and subsection (23) of
11 this section.

12 (16) Any adjudication of a juvenile offense or a crime subsequent
13 to sealing has the effect of nullifying the sealing order. Any
14 charging of an adult felony subsequent to the sealing has the effect of
15 nullifying the sealing order for the purposes of chapter 9.94A RCW.

16 (17) A person eighteen years of age or older whose criminal history
17 consists of only one referral for diversion may request that the court
18 order the records in that case destroyed. The request shall be
19 granted, subject to subsection (23) of this section, if the court finds
20 that two years have elapsed since completion of the diversion
21 agreement.

22 (18) If the court grants the motion to destroy records made
23 pursuant to subsection (17) of this section, it shall, subject to
24 subsection (23) of this section, order the official juvenile court
25 file, the social file, and any other records named in the order to be
26 destroyed.

27 (19) The person making the motion pursuant to subsection (17) of
28 this section shall give reasonable notice of the motion to the
29 prosecuting attorney and to any agency whose records are sought to be
30 destroyed.

31 (20) Any juvenile to whom the provisions of this section may apply
32 shall be given written notice of his or her rights under this section
33 at the time of his or her disposition hearing or during the diversion
34 process.

35 (21) Nothing in this section may be construed to prevent a crime
36 victim or a member of the victim's family from divulging the identity
37 of the alleged or proven juvenile offender or his or her family when
38 necessary in a civil proceeding.

1 (22) Any juvenile justice or care agency may, subject to the
2 limitations in subsection (23) of this section and (a) and (b) of this
3 subsection, develop procedures for the routine destruction of records
4 relating to juvenile offenses and diversions.

5 (a) Records may be routinely destroyed only when the person the
6 subject of the information or complaint has attained twenty-three years
7 of age or older, or is eighteen years of age or older and his or her
8 criminal history consists entirely of one diversion agreement and two
9 years have passed since completion of the agreement.

10 (b) The court may not routinely destroy the official juvenile court
11 file or recordings or transcripts of any proceedings.

12 (23) No identifying information held by the Washington state patrol
13 in accordance with chapter 43.43 RCW is subject to destruction or
14 sealing under this section. For the purposes of this subsection,
15 identifying information includes photographs, fingerprints, palmprints,
16 soleprints, toeprints and any other data that identifies a person by
17 physical characteristics, name, birthdate or address, but does not
18 include information regarding criminal activity, arrest, charging,
19 diversion, conviction or other information about a person's treatment
20 by the criminal justice system or about the person's behavior.

21 (24) Information identifying child victims under age eighteen who
22 are victims of sexual assaults by juvenile offenders is confidential
23 and not subject to release to the press or public without the
24 permission of the child victim or the child's legal guardian.
25 Identifying information includes the child victim's name, addresses,
26 location, photographs, and in cases in which the child victim is a
27 relative of the alleged perpetrator, identification of the relationship
28 between the child and the alleged perpetrator. Information identifying
29 a child victim of sexual assault may be released to law enforcement,
30 prosecutors, judges, defense attorneys, or private or governmental
31 agencies that provide services to the child victim of sexual assault."

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34 ADOPTED 04/05/01

1 On page 1, line 2 of the title, after "misdemeanors;" strike the
2 remainder of the title and insert "and amending RCW 13.50.050."

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