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HOUSE BILL 2343

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State of Washington                      55th Legislature                      1998 Regular Session

By Representatives Hickel and Johnson

Read first time 01/12/98. Referred to Committee on Education.

1            AN ACT Relating to school safety; and amending RCW 13.40.215,  
2 28A.225.330, and 13.50.050.

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

4            **Sec. 1.** RCW 13.40.215 and 1997 c 265 s 2 are each amended to read  
5 as follows:

6            (1)(a) Except as provided in subsection (2) of this section, at the  
7 earliest possible date, and in no event later than thirty days before  
8 discharge, parole, or any other authorized leave or release, or before  
9 transfer to a community residential facility, the secretary shall send  
10 written notice of the discharge, parole, authorized leave or release,  
11 or transfer of a juvenile found to have committed a violent offense, a  
12 sex offense, or stalking, to the following:

13            (i) The chief of police of the city, if any, in which the juvenile  
14 will reside;

15            (ii) The sheriff of the county in which the juvenile will reside;  
16 and

17            (iii) The approved private schools and the common school district  
18 board of directors of the district in which the juvenile intends to  
19 reside or the approved private school or public school district in

1 which the juvenile last attended school, whichever is appropriate,  
2 except when it has been determined by the department that the juvenile  
3 is twenty-one years old(~~(; is not required to return to school under~~  
4 ~~chapter 28A.225 RCW;))~~) or will be in the community for less than seven  
5 consecutive days on approved leave and will not be attending school  
6 during that time.

7 (b) After (~~July 27, 1997~~) the effective date of this section, the  
8 department shall send a written notice to approved private and public  
9 schools under the same conditions identified in subsection (1)(a)(iii)  
10 of this section when a juvenile adjudicated of any offense is  
11 transferred to a community residential facility, discharged, paroled,  
12 released, or granted a leave.

13 (c) The same notice as required by (a) of this subsection shall be  
14 sent to the following, if such notice has been requested in writing  
15 about a specific juvenile:

16 (i) The victim of the offense for which the juvenile was found to  
17 have committed or the victim's next of kin if the crime was a homicide;

18 (ii) Any witnesses who testified against the juvenile in any court  
19 proceedings involving the offense; and

20 (iii) Any person specified in writing by the prosecuting attorney.  
21 Information regarding victims, next of kin, or witnesses requesting the  
22 notice, information regarding any other person specified in writing by  
23 the prosecuting attorney to receive the notice, and the notice are  
24 confidential and shall not be available to the juvenile. The notice to  
25 the chief of police or the sheriff shall include the identity of the  
26 juvenile, the residence where the juvenile will reside, the identity of  
27 the person, if any, responsible for supervising the juvenile, and the  
28 time period of any authorized leave.

29 (d) The thirty-day notice requirements contained in this subsection  
30 shall not apply to emergency medical furloughs.

31 (e) The existence of the notice requirements in this subsection  
32 will not require any extension of the release date in the event the  
33 release plan changes after notification.

34 (2)(a) If a juvenile found to have committed a violent offense, a  
35 sex offense, or stalking escapes from a facility of the department, the  
36 secretary shall immediately notify, by the most reasonable and  
37 expedient means available, the chief of police of the city and the  
38 sheriff of the county in which the juvenile resided immediately before  
39 the juvenile's arrest. If previously requested, the secretary shall

1 also notify the witnesses and the victim of the offense which the  
2 juvenile was found to have committed or the victim's next of kin if the  
3 crime was a homicide. If the juvenile is recaptured, the secretary  
4 shall send notice to the persons designated in this subsection as soon  
5 as possible but in no event later than two working days after the  
6 department learns of such recapture.

7 (b) The secretary may authorize a leave, for a juvenile found to  
8 have committed a violent offense, a sex offense, or stalking, which  
9 shall not exceed forty-eight hours plus travel time, to meet an  
10 emergency situation such as a death or critical illness of a member of  
11 the juvenile's family. The secretary may authorize a leave, which  
12 shall not exceed the time medically necessary, to obtain medical care  
13 not available in a juvenile facility maintained by the department.  
14 Prior to the commencement of an emergency or medical leave, the  
15 secretary shall give notice of the leave to the appropriate law  
16 enforcement agency in the jurisdiction in which the juvenile will be  
17 during the leave period. The notice shall include the identity of the  
18 juvenile, the time period of the leave, the residence of the juvenile  
19 during the leave, and the identity of the person responsible for  
20 supervising the juvenile during the leave. If previously requested,  
21 the department shall also notify the witnesses and victim of the  
22 offense which the juvenile was found to have committed or the victim's  
23 next of kin if the offense was a homicide.

24 In case of an emergency or medical leave the secretary may waive  
25 all or any portion of the requirements for leaves pursuant to RCW  
26 13.40.205 (2)(a), (3), (4), and (5).

27 (3) If the victim, the victim's next of kin, or any witness is  
28 under the age of sixteen, the notice required by this section shall be  
29 sent to the parents or legal guardian of the child.

30 (4) The secretary shall send the notices required by this chapter  
31 to the last address provided to the department by the requesting party.  
32 The requesting party shall furnish the department with a current  
33 address.

34 (5) Upon discharge, parole, or other authorized leave or release,  
35 a convicted juvenile sex offender shall not attend a public or approved  
36 private elementary, middle, or high school that is attended by a victim  
37 or a sibling of a victim of the sex offender. The parents or legal  
38 guardians of the convicted juvenile sex offender shall be responsible  
39 for transportation or other costs associated with or required by the

1 sex offender's change in school that otherwise would be paid by a  
2 school district. Upon discharge, parole, or other authorized leave or  
3 release of a convicted juvenile sex offender, the secretary shall send  
4 written notice of the discharge, parole, or other authorized leave or  
5 release and the requirements of this subsection to the common school  
6 district board of directors of the district in which the sex offender  
7 intends to reside or the district in which the sex offender last  
8 attended school, whichever is appropriate. The secretary shall send a  
9 similar notice to any approved private school the juvenile will attend,  
10 if known, or if unknown, to the approved private schools within the  
11 district the juvenile resides or intends to reside.

12 (6) For purposes of this section the following terms have the  
13 following meanings:

- 14 (a) "Violent offense" means a violent offense under RCW 9.94A.030;
- 15 (b) "Sex offense" means a sex offense under RCW 9.94A.030;
- 16 (c) "Stalking" means the crime of stalking as defined in RCW  
17 9A.46.110;
- 18 (d) "Next of kin" means a person's spouse, parents, siblings, and  
19 children.

20 **Sec. 2.** RCW 28A.225.330 and 1997 c 266 s 4 are each amended to  
21 read as follows:

22 (1) When enrolling a student who has attended school in another  
23 school district, the school enrolling the student may request the  
24 parent and the student to briefly indicate in writing whether or not  
25 the student has:

- 26 (a) Any history of placement in special educational programs;
- 27 (b) Any past, current, or pending disciplinary action;
- 28 (c) Any history of violent behavior, or behavior listed in RCW  
29 13.04.155;
- 30 (d) Any unpaid fines or fees imposed by other schools; and
- 31 (e) Any health conditions affecting the student's educational  
32 needs.

33 (2) The school enrolling the student shall request the school the  
34 student previously attended to send the student's permanent record  
35 including records of disciplinary action, history of violent behavior  
36 or behavior listed in RCW 13.04.155, attendance, immunization records,  
37 and academic performance. If the student has not paid a fine or fee  
38 under RCW 28A.635.060, or tuition, fees, or fines at approved private

1 schools the school may withhold the student's official transcript, but  
2 shall transmit information about the student's academic performance,  
3 special placement, immunization records, ((and)) records of  
4 disciplinary action, and history of violent behavior or behavior listed  
5 in RCW 13.04.155. If the official transcript is not sent due to unpaid  
6 tuition, fees, or fines, the enrolling school shall notify both the  
7 student and parent or guardian that the official transcript will not be  
8 sent until the obligation is met, and failure to have an official  
9 transcript may result in exclusion from extracurricular activities or  
10 failure to graduate.

11 (3) If information is requested under subsection (2) of this  
12 section, the information shall be transmitted within two school days  
13 after receiving the request and the records shall be sent as soon as  
14 possible. Any school district or district employee who releases the  
15 information in compliance with this section is immune from civil  
16 liability for damages unless it is shown that the school district  
17 employee acted with gross negligence or in bad faith. The state board  
18 of education shall provide by rule for the discipline under chapter  
19 28A.410 RCW of a school principal or other chief administrator of a  
20 public school building who fails to make a good faith effort to assure  
21 compliance with this subsection.

22 (4) Any school district or district employee who releases the  
23 information in compliance with federal and state law is immune from  
24 civil liability for damages unless it is shown that the school district  
25 or district employee acted with gross negligence or in bad faith.

26 (5) Parents shall provide to schools information requested under  
27 subsection (1) of this section. If a parent fails to provide  
28 information requested under subsection (1)(b) or (c) of this section,  
29 the school district may suspend, transfer, or expel the student, as  
30 appropriate, upon learning the information if the school district could  
31 have denied the student admission based upon the information or would  
32 have placed the student in an alternative placement. School districts  
33 shall advise parents of the consequences of the failure to provide the  
34 requested information.

35 **Sec. 3.** RCW 13.50.050 and 1997 c 338 s 40 are each amended to read  
36 as follows:

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

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

4 (3) All records other than the official juvenile court file are  
5 confidential and may be released only as provided in this section, RCW  
6 13.50.010, 13.40.215, and 4.24.550.

7 (4) Except as otherwise provided in this section and RCW 13.50.010,  
8 records retained or produced by any juvenile justice or care agency may  
9 be released to other participants in the juvenile justice or care  
10 system only when an investigation or case involving the juvenile in  
11 question is being pursued by the other participant or when that other  
12 participant is assigned the responsibility for supervising the  
13 juvenile. A school that the juvenile attends shall be considered to  
14 have responsibility for supervising the juvenile.

15 (5) Except as provided in RCW 4.24.550, information not in an  
16 official juvenile court file concerning a juvenile or a juvenile's  
17 family may be released to the public only when that information could  
18 not reasonably be expected to identify the juvenile or the juvenile's  
19 family.

20 (6) Notwithstanding any other provision of this chapter, the  
21 release, to the juvenile or his or her attorney, of law enforcement and  
22 prosecuting attorneys' records pertaining to investigation, diversion,  
23 and prosecution of juvenile offenses shall be governed by the rules of  
24 discovery and other rules of law applicable in adult criminal  
25 investigations and prosecutions.

26 (7) Law enforcement and prosecuting attorneys shall cooperate with  
27 schools in releasing information to a school pertaining to the  
28 investigation, diversion, and prosecution of a juvenile supervised by  
29 the school. Incident reports shall be released unless releasing the  
30 records would jeopardize the investigation or prosecution or endanger  
31 witnesses. If release of incident reports would jeopardize the  
32 investigation or prosecution or endanger witnesses, law enforcement and  
33 prosecuting attorneys shall release information to the maximum extent  
34 possible to assist schools in supervising the juvenile and protecting  
35 other students, staff, and school property.

36 (8) The juvenile court and the prosecutor may set up and maintain  
37 a central record-keeping system which may receive information on all  
38 alleged juvenile offenders against whom a complaint has been filed  
39 pursuant to RCW 13.40.070 whether or not their cases are currently

1 pending before the court. The central record-keeping system may be  
2 computerized. If a complaint has been referred to a diversion unit,  
3 the diversion unit shall promptly report to the juvenile court or the  
4 prosecuting attorney when the juvenile has agreed to diversion. An  
5 offense shall not be reported as criminal history in any central  
6 record-keeping system without notification by the diversion unit of the  
7 date on which the offender agreed to diversion.

8 ~~((+8+))~~ (9) Upon request of the victim of a crime or the victim's  
9 immediate family, the identity of an alleged or proven juvenile  
10 offender alleged or found to have committed a crime against the victim  
11 and the identity of the alleged or proven juvenile offender's parent,  
12 guardian, or custodian and the circumstance of the alleged or proven  
13 crime shall be released to the victim of the crime or the victim's  
14 immediate family.

15 ~~((+9+))~~ (10) Subject to the rules of discovery applicable in adult  
16 criminal prosecutions, the juvenile offense records of an adult  
17 criminal defendant or witness in an adult criminal proceeding shall be  
18 released upon request to prosecution and defense counsel after a charge  
19 has actually been filed. The juvenile offense records of any adult  
20 convicted of a crime and placed under the supervision of the adult  
21 corrections system shall be released upon request to the adult  
22 corrections system.

23 ~~((+10+))~~ (11) In any case in which an information has been filed  
24 pursuant to RCW 13.40.100 or a complaint has been filed with the  
25 prosecutor and referred for diversion pursuant to RCW 13.40.070, the  
26 person the subject of the information or complaint may file a motion  
27 with the court to have the court vacate its order and findings, if any,  
28 and, subject to subsection ~~((+22+))~~ (23) of this section, order the  
29 sealing of the official juvenile court file, the social file, and  
30 records of the court and of any other agency in the case.

31 ~~((+11+))~~ (12) The court shall grant the motion to seal records made  
32 pursuant to subsection ~~((+10+))~~ (11) of this section if it finds that:

33 (a) For class B offenses other than sex offenses, since the last  
34 date of release from confinement, including full-time residential  
35 treatment, if any, or entry of disposition, the person has spent ten  
36 consecutive years in the community without committing any offense or  
37 crime that subsequently results in conviction. For class C offenses  
38 other than sex offenses, since the last date of release from  
39 confinement, including full-time residential treatment, if any, or

1 entry of disposition, the person has spent five consecutive years in  
2 the community without committing any offense or crime that subsequently  
3 results in conviction;

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

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

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

10 (e) Full restitution has been paid.

11 (~~(12)~~) (13) The person making a motion pursuant to subsection  
12 (~~(10)~~) (11) of this section shall give reasonable notice of the  
13 motion to the prosecution and to any person or agency whose files are  
14 sought to be sealed.

15 (~~(13)~~) (14) If the court grants the motion to seal made pursuant  
16 to subsection (~~(10)~~) (11) of this section, it shall, subject to  
17 subsection (~~(22)~~) (23) of this section, order sealed the official  
18 juvenile court file, the social file, and other records relating to the  
19 case as are named in the order. Thereafter, the proceedings in the  
20 case shall be treated as if they never occurred, and the subject of the  
21 records may reply accordingly to any inquiry about the events, records  
22 of which are sealed. Any agency shall reply to any inquiry concerning  
23 confidential or sealed records that records are confidential, and no  
24 information can be given about the existence or nonexistence of records  
25 concerning an individual.

26 (~~(14)~~) (15) Inspection of the files and records included in the  
27 order to seal may thereafter be permitted only by order of the court  
28 upon motion made by the person who is the subject of the information or  
29 complaint, except as otherwise provided in RCW 13.50.010(8) and  
30 subsection (~~(22)~~) (23) of this section.

31 (~~(15)~~) (16) Any adjudication of a juvenile offense or a crime  
32 subsequent to sealing has the effect of nullifying the sealing order.  
33 Any charging of an adult felony subsequent to the sealing has the  
34 effect of nullifying the sealing order for the purposes of chapter  
35 9.94A RCW.

36 (~~(16)~~) (17) A person eighteen years of age or older whose  
37 criminal history consists of only one referral for diversion may  
38 request that the court order the records in that case destroyed. The  
39 request shall be granted, subject to subsection (~~(22)~~) (23) of this



1 section, if the court finds that two years have elapsed since  
2 completion of the diversion agreement.

3 ~~((+17+))~~ (18) If the court grants the motion to destroy records  
4 made pursuant to subsection ~~((+16+))~~ (17) of this section, it shall,  
5 subject to subsection ~~((+22+))~~ (23) of this section, order the official  
6 juvenile court file, the social file, and any other records named in  
7 the order to be destroyed.

8 ~~((+18+))~~ (19) The person making the motion pursuant to subsection  
9 ~~((+16+))~~ (17) of this section shall give reasonable notice of the  
10 motion to the prosecuting attorney and to any agency whose records are  
11 sought to be destroyed.

12 ~~((+19+))~~ (20) Any juvenile to whom the provisions of this section  
13 may apply shall be given written notice of his or her rights under this  
14 section at the time of his or her disposition hearing or during the  
15 diversion process.

16 ~~((+20+))~~ (21) Nothing in this section may be construed to prevent  
17 a crime victim or a member of the victim's family from divulging the  
18 identity of the alleged or proven juvenile offender or his or her  
19 family when necessary in a civil proceeding.

20 ~~((+21+))~~ (22) Any juvenile justice or care agency may, subject to  
21 the limitations in subsection ~~((+22+))~~ (23) of this section and (a) and  
22 (b) of this subsection, develop procedures for the routine destruction  
23 of records relating to juvenile offenses and diversions.

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

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

31 ~~((+22+))~~ (23) No identifying information held by the Washington  
32 state patrol in accordance with chapter 43.43 RCW is subject to  
33 destruction or sealing under this section. For the purposes of this  
34 subsection, identifying information includes photographs, fingerprints,  
35 palmprints, soleprints, toeprints and any other data that identifies a  
36 person by physical characteristics, name, birthdate or address, but  
37 does not include information regarding criminal activity, arrest,  
38 charging, diversion, conviction or other information about a person's

1 treatment by the criminal justice system or about the person's  
2 behavior.

3 ((+23+)) (24) Information identifying child victims under age  
4 eighteen who are victims of sexual assaults by juvenile offenders is  
5 confidential and not subject to release to the press or public without  
6 the permission of the child victim or the child's legal guardian.  
7 Identifying information includes the child victim's name, addresses,  
8 location, photographs, and in cases in which the child victim is a  
9 relative of the alleged perpetrator, identification of the relationship  
10 between the child and the alleged perpetrator. Information identifying  
11 a child victim of sexual assault may be released to law enforcement,  
12 prosecutors, judges, defense attorneys, or private or governmental  
13 agencies that provide services to the child victim of sexual assault.

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