
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-5010.1/00

ATTY/TYPIST: KT:rmh

BRIEF DESCRIPTION:

3 **SSB 5733** - H COMM AMD
4 By Committee on Judiciary

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

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

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

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

15 (3) All records other than the official juvenile court file are
16 confidential and may be released only as provided in this section, RCW
17 13.50.010, 13.40.215, and 4.24.550.

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

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

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

36 (7) Upon the decision to arrest or the arrest, law enforcement and
37 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))~~) (24) of this section, order the sealing
2 of the official juvenile court file, the social file, and records of
3 the court 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 and diversions, since the last
16 date of release from confinement, including full-time residential
17 treatment, if any, or entry of disposition, the person has spent two
18 consecutive years in the community without committing any offense or
19 crime that subsequently results in conviction and the person is at
20 least eighteen years old. For gross misdemeanors, since the last date
21 of release from confinement, including full-time residential treatment,
22 if any, or entry of disposition, the person has spent three consecutive
23 years in the community without committing any offense or crime that
24 subsequently results in conviction and the person is at least eighteen
25 years old;

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

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

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

32 (e) Full restitution has been paid.

33 (13) If a person seeking the sealing of records for class B
34 offenses, other than sex offenses, files with the court a motion to
35 seal records under subsection (11) of this section after having spent
36 only five years in the community without committing any offense or
37 crime subsequently resulting in conviction, the court has discretion to
38 grant the motion to seal records if the court finds that, in addition

1 to meeting the criteria stated in subsection (12)(b) through (e) of
2 this section:

3 (a) The person has spent five consecutive years in the community
4 without committing any offense or crime that subsequently resulted in
5 conviction;

6 (b) Credible evidence displays that a present career path for the
7 person is impeded by the existing record;

8 (c) The person is at least twenty-one years old; and

9 (d) The person has lived an exemplary life since committing the
10 last offense or crime.

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

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

25 ~~((15))~~ (16) Inspection of the files and records included in the
26 order to seal may thereafter be permitted only by order of the court
27 upon motion made by the person who is the subject of the information or
28 complaint, except as otherwise provided in RCW 13.50.010(8) and
29 subsection ~~((23))~~ (24) of this section.

30 ~~((16))~~ (17) Any adjudication of a juvenile offense or a crime
31 subsequent to sealing has the effect of nullifying the sealing order.
32 Any charging of an adult felony subsequent to the sealing has the
33 effect of nullifying the sealing order for the purposes of chapter
34 9.94A RCW. The Washington state patrol shall develop an automated
35 system to retrieve information after a sealing order has been
36 nullified.

37 ~~((17))~~ (18) A person eighteen years of age or older whose
38 criminal history consists of only one referral for diversion may
39 request that the court order the records in that case destroyed. The

1 request shall be granted, subject to subsection (~~(23)~~) (24) of this
2 section, if the court finds that two years have elapsed since
3 completion of the diversion agreement.

4 (~~(18)~~) (19) If the court grants the motion to destroy records
5 made pursuant to subsection (~~(17)~~) (18) of this section, it shall,
6 subject to subsection (~~(23)~~) (24) of this section, order the official
7 juvenile court file, the social file, and any other records named in
8 the order to be destroyed.

9 (~~(19)~~) (20) The person making the motion pursuant to subsection
10 (~~(17)~~) (18) of this section shall give reasonable notice of the
11 motion to the prosecuting attorney and to any agency whose records are
12 sought to be destroyed.

13 (~~(20)~~) (21) Any juvenile to whom the provisions of this section
14 may apply shall be given written notice of his or her rights under this
15 section at the time of his or her disposition hearing or during the
16 diversion process.

17 (~~(21)~~) (22) Nothing in this section may be construed to prevent
18 a crime victim or a member of the victim's family from divulging the
19 identity of the alleged or proven juvenile offender or his or her
20 family when necessary in a civil proceeding.

21 (~~(22)~~) (23) Any juvenile justice or care agency may, subject to
22 the limitations in subsection (~~(23)~~) (24) of this section and (a) and
23 (b) of this subsection, develop procedures for the routine destruction
24 of records relating to juvenile offenses and diversions.

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

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

32 (~~(23)~~) (24) No identifying information held by the Washington
33 state patrol in accordance with chapter 43.43 RCW is subject to
34 destruction or sealing under this section. For the purposes of this
35 subsection, identifying information includes photographs, fingerprints,
36 palmprints, soleprints, toeprints and any other data that identifies a
37 person by physical characteristics, name, birthdate or address, but
38 does not include information regarding criminal activity, arrest,
39 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 ((~~24~~)) (25) 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."

14 Correct the title.

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