

2 **SHB 1153** - S COMM AMD **S2588.1**
3 By Committee on Education

4 ADOPTED AS AMENDED (FLR 352 & 386) 4/14/99

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

7 "Sec. 1. RCW 13.40.215 and 1997 c 265 s 2 are each amended to read
8 as follows:

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

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

18 (ii) The sheriff of the county in which the juvenile will reside;
19 and

20 (iii) The approved private schools and the common school district
21 board of directors of the district in which the juvenile intends to
22 reside or the approved private school or public school district in
23 which the juvenile last attended school, whichever is appropriate,
24 except when it has been determined by the department that the juvenile
25 is twenty-one years old(~~(i is not required to return to school under~~
26 ~~chapter 28A.225 RCW)~~) or will be in the community for less than seven
27 consecutive days on approved leave and will not be attending school
28 during that time.

29 (b) After (~~July 27, 1997~~) the effective date of this section, the
30 department shall send a written notice to approved private and public
31 schools under the same conditions identified in subsection (1)(a)(iii)
32 of this section when a juvenile adjudicated of any offense is
33 transferred to a community residential facility, discharged, paroled,
34 released, or granted a leave. The community residential facility shall
35 provide written notice of the offender's criminal history to any school
36 that the offender attends while residing at the community residential

1 facility and to any employer that employs the offender while residing
2 at the community residential facility.

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

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

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

10 (iii) Any person specified in writing by the prosecuting attorney.
11 Information regarding victims, next of kin, or witnesses requesting the
12 notice, information regarding any other person specified in writing by
13 the prosecuting attorney to receive the notice, and the notice are
14 confidential and shall not be available to the juvenile. The notice to
15 the chief of police or the sheriff shall include the identity of the
16 juvenile, the residence where the juvenile will reside, the identity of
17 the person, if any, responsible for supervising the juvenile, and the
18 time period of any authorized leave.

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

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

24 (2)(a) If a juvenile found to have committed a violent offense, a
25 sex offense, or stalking escapes from a facility of the department, the
26 secretary shall immediately notify, by the most reasonable and
27 expedient means available, the chief of police of the city and the
28 sheriff of the county in which the juvenile resided immediately before
29 the juvenile's arrest. If previously requested, the secretary shall
30 also notify the witnesses and the victim of the offense which the
31 juvenile was found to have committed or the victim's next of kin if the
32 crime was a homicide. If the juvenile is recaptured, the secretary
33 shall send notice to the persons designated in this subsection as soon
34 as possible but in no event later than two working days after the
35 department learns of such recapture.

36 (b) The secretary may authorize a leave, for a juvenile found to
37 have committed a violent offense, a sex offense, or stalking, which
38 shall not exceed forty-eight hours plus travel time, to meet an
39 emergency situation such as a death or critical illness of a member of

1 the juvenile's family. The secretary may authorize a leave, which
2 shall not exceed the time medically necessary, to obtain medical care
3 not available in a juvenile facility maintained by the department.
4 Prior to the commencement of an emergency or medical leave, the
5 secretary shall give notice of the leave to the appropriate law
6 enforcement agency in the jurisdiction in which the juvenile will be
7 during the leave period. The notice shall include the identity of the
8 juvenile, the time period of the leave, the residence of the juvenile
9 during the leave, and the identity of the person responsible for
10 supervising the juvenile during the leave. If previously requested,
11 the department shall also notify the witnesses and victim of the
12 offense which the juvenile was found to have committed or the victim's
13 next of kin if the offense was a homicide.

14 In case of an emergency or medical leave the secretary may waive
15 all or any portion of the requirements for leaves pursuant to RCW
16 13.40.205 (2)(a), (3), (4), and (5).

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

20 (4) The secretary shall send the notices required by this chapter
21 to the last address provided to the department by the requesting party.
22 The requesting party shall furnish the department with a current
23 address.

24 (5) Upon discharge, parole, transfer to a community residential
25 facility, or other authorized leave or release, a convicted juvenile
26 sex offender shall not attend a public or approved private elementary,
27 middle, or high school that is attended by a victim or a sibling of a
28 victim of the sex offender. The parents or legal guardians of the
29 convicted juvenile sex offender shall be responsible for transportation
30 or other costs associated with or required by the sex offender's change
31 in school that otherwise would be paid by a school district. Upon
32 discharge, parole, transfer to a community residential facility, or
33 other authorized leave or release of a convicted juvenile sex offender,
34 the secretary shall send written notice of the discharge, parole, or
35 other authorized leave or release and the requirements of this
36 subsection to the common school district board of directors of the
37 district in which the sex offender intends to reside or the district in
38 which the sex offender last attended school, whichever is appropriate.
39 The secretary shall send a similar notice to any approved private

1 school the juvenile will attend, if known, or if unknown, to the
2 approved private schools within the district the juvenile resides or
3 intends to reside.

4 (6) For purposes of this section the following terms have the
5 following meanings:

6 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

7 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

8 (c) "Stalking" means the crime of stalking as defined in RCW
9 9A.46.110;

10 (d) "Next of kin" means a person's spouse, parents, siblings, and
11 children.

12 **Sec. 2.** RCW 28A.225.225 and 1997 c 265 s 3 are each amended to
13 read as follows:

14 (1) All districts accepting applications from nonresident students
15 or from students receiving home-based instruction for admission to the
16 district's schools shall consider equally all applications received.
17 Each school district shall adopt a policy establishing rational, fair,
18 and equitable standards for acceptance and rejection of applications by
19 June 30, 1990. The policy may include rejection of a nonresident
20 student if:

21 (a) Acceptance of a nonresident student would result in the
22 district experiencing a financial hardship;

23 (b) The student's disciplinary records indicate a history of
24 convictions for offenses or crimes, violent or disruptive behavior, or
25 gang membership; or

26 (c) The student has been expelled or suspended from a public school
27 for more than ten consecutive days. Any policy allowing for
28 readmission of expelled or suspended students under this subsection
29 (1)(c) must apply uniformly to both resident and nonresident
30 applicants.

31 For purposes of subsection (1)(b) of this section, "gang" means a
32 group which: (i) Consists of three or more persons; (ii) has
33 identifiable leadership; and (iii) on an ongoing basis, regularly
34 conspires and acts in concert mainly for criminal purposes.

35 (2) The district shall provide to applicants written notification
36 of the approval or denial of the application in a timely manner. If
37 the application is rejected, the notification shall include the reason
38 or reasons for denial and the right to appeal under RCW 28A.225.230(3).

1 **Sec. 3.** RCW 28A.225.330 and 1997 c 266 s 4 are each amended to
2 read as follows:

3 (1) When enrolling a student who has attended school in another
4 school district, the school enrolling the student may request the
5 parent and the student to briefly indicate in writing whether or not
6 the student has:

7 (a) Any history of placement in special educational programs;

8 (b) Any past, current, or pending disciplinary action;

9 (c) Any history of violent behavior, or behavior listed in RCW
10 13.04.155;

11 (d) Any unpaid fines or fees imposed by other schools; and

12 (e) Any health conditions affecting the student's educational
13 needs.

14 (2) The school enrolling the student shall request the school the
15 student previously attended to send the student's permanent record
16 including records of disciplinary action, history of violent behavior
17 or behavior listed in RCW 13.04.155, attendance, immunization records,
18 and academic performance. If the student has not paid a fine or fee
19 under RCW 28A.635.060, or tuition, fees, or fines at approved private
20 schools the school may withhold the student's official transcript, but
21 shall transmit information about the student's academic performance,
22 special placement, immunization records, ~~((and))~~ records of
23 disciplinary action, and history of violent behavior or behavior listed
24 in RCW 13.04.155. If the official transcript is not sent due to unpaid
25 tuition, fees, or fines, the enrolling school shall notify both the
26 student and parent or guardian that the official transcript will not be
27 sent until the obligation is met, and failure to have an official
28 transcript may result in exclusion from extracurricular activities or
29 failure to graduate.

30 (3) If information is requested under subsection (2) of this
31 section, the information shall be transmitted within two school days
32 after receiving the request and the records shall be sent as soon as
33 possible. Any school district or district employee who releases the
34 information in compliance with this section is immune from civil
35 liability for damages unless it is shown that the school district
36 employee acted with gross negligence or in bad faith. The state board
37 of education shall provide by rule for the discipline under chapter
38 28A.410 RCW of a school principal or other chief administrator of a

1 public school building who fails to make a good faith effort to assure
2 compliance with this subsection.

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

7 (5) When a school receives information under this section or RCW
8 13.40.215 that a student has a history of disciplinary actions,
9 criminal or violent behavior, or other behavior that indicates the
10 student could be a threat to the safety of educational staff or other
11 students, the school shall provide this information to the student's
12 teachers and security personnel.

13 **Sec. 4.** RCW 13.50.050 and 1997 c 338 s 40 are each amended to read
14 as follows:

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

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

20 (3) All records other than the official juvenile court file are
21 confidential and may be released only as provided in this section, RCW
22 13.50.010, 13.40.215, and 4.24.550.

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

30 (5) Except as provided in RCW 4.24.550, information not in an
31 official juvenile court file concerning a juvenile or a juvenile's
32 family may be released to the public only when that information could
33 not reasonably be expected to identify the juvenile or the juvenile's
34 family.

35 (6) Notwithstanding any other provision of this chapter, the
36 release, to the juvenile or his or her attorney, of law enforcement and
37 prosecuting attorneys' records pertaining to investigation, diversion,
38 and prosecution of juvenile offenses shall be governed by the rules of

1 discovery and other rules of law applicable in adult criminal
2 investigations and prosecutions.

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

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

25 (~~(8)~~) (9) Upon request of the victim of a crime or the victim's
26 immediate family, the identity of an alleged or proven juvenile
27 offender alleged or found to have committed a crime against the victim
28 and the identity of the alleged or proven juvenile offender's parent,
29 guardian, or custodian and the circumstance of the alleged or proven
30 crime shall be released to the victim of the crime or the victim's
31 immediate family.

32 (~~(9)~~) (10) Subject to the rules of discovery applicable in adult
33 criminal prosecutions, the juvenile offense records of an adult
34 criminal defendant or witness in an adult criminal proceeding shall be
35 released upon request to prosecution and defense counsel after a charge
36 has actually been filed. The juvenile offense records of any adult
37 convicted of a crime and placed under the supervision of the adult
38 corrections system shall be released upon request to the adult
39 corrections system.

1 (~~(10)~~) (11) In any case in which an information has been filed
2 pursuant to RCW 13.40.100 or a complaint has been filed with the
3 prosecutor and referred for diversion pursuant to RCW 13.40.070, the
4 person the subject of the information or complaint may file a motion
5 with the court to have the court vacate its order and findings, if any,
6 and, subject to subsection (~~(22)~~) (23) of this section, order the
7 sealing of the official juvenile court file, the social file, and
8 records of the court and of any other agency in the case.

9 (~~(11)~~) (12) The court shall grant the motion to seal records made
10 pursuant to subsection (~~(10)~~) (11) of this section if it finds that:

11 (a) For class B offenses other than sex offenses, since the last
12 date of release from confinement, including full-time residential
13 treatment, if any, or entry of disposition, the person has spent ten
14 consecutive years in the community without committing any offense or
15 crime that subsequently results in conviction. For class C offenses
16 other than sex offenses, since the last date of release from
17 confinement, including full-time residential treatment, if any, or
18 entry of disposition, the person has spent five consecutive years in
19 the community without committing any offense or crime that subsequently
20 results in conviction;

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

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

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

27 (e) Full restitution has been paid.

28 (~~(12)~~) (13) The person making a motion pursuant to subsection
29 (~~(10)~~) (11) of this section shall give reasonable notice of the
30 motion to the prosecution and to any person or agency whose files are
31 sought to be sealed.

32 (~~(13)~~) (14) If the court grants the motion to seal made pursuant
33 to subsection (~~(10)~~) (11) of this section, it shall, subject to
34 subsection (~~(22)~~) (23) of this section, order sealed the official
35 juvenile court file, the social file, and other records relating to the
36 case as are named in the order. Thereafter, the proceedings in the
37 case shall be treated as if they never occurred, and the subject of the
38 records may reply accordingly to any inquiry about the events, records
39 of which are sealed. Any agency shall reply to any inquiry concerning

1 confidential or sealed records that records are confidential, and no
2 information can be given about the existence or nonexistence of records
3 concerning an individual.

4 ~~((+14))~~ (15) Inspection of the files and records included in the
5 order to seal may thereafter be permitted only by order of the court
6 upon motion made by the person who is the subject of the information or
7 complaint, except as otherwise provided in RCW 13.50.010(8) and
8 subsection ~~((+22))~~ (23) of this section.

9 ~~((+15))~~ (16) Any adjudication of a juvenile offense or a crime
10 subsequent to sealing has the effect of nullifying the sealing order.
11 Any charging of an adult felony subsequent to the sealing has the
12 effect of nullifying the sealing order for the purposes of chapter
13 9.94A RCW.

14 ~~((+16))~~ (17) A person eighteen years of age or older whose
15 criminal history consists of only one referral for diversion may
16 request that the court order the records in that case destroyed. The
17 request shall be granted, subject to subsection ~~((+22))~~ (23) of this
18 section, if the court finds that two years have elapsed since
19 completion of the diversion agreement.

20 ~~((+17))~~ (18) If the court grants the motion to destroy records
21 made pursuant to subsection ~~((+16))~~ (17) of this section, it shall,
22 subject to subsection ~~((+22))~~ (23) of this section, order the official
23 juvenile court file, the social file, and any other records named in
24 the order to be destroyed.

25 ~~((+18))~~ (19) The person making the motion pursuant to subsection
26 ~~((+16))~~ (17) of this section shall give reasonable notice of the
27 motion to the prosecuting attorney and to any agency whose records are
28 sought to be destroyed.

29 ~~((+19))~~ (20) Any juvenile to whom the provisions of this section
30 may apply shall be given written notice of his or her rights under this
31 section at the time of his or her disposition hearing or during the
32 diversion process.

33 ~~((+20))~~ (21) Nothing in this section may be construed to prevent
34 a crime victim or a member of the victim's family from divulging the
35 identity of the alleged or proven juvenile offender or his or her
36 family when necessary in a civil proceeding.

37 ~~((+21))~~ (22) Any juvenile justice or care agency may, subject to
38 the limitations in subsection ~~((+22))~~ (23) of this section and (a) and

1 (b) of this subsection, develop procedures for the routine destruction
2 of records relating to juvenile offenses and diversions.

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

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

10 (~~(22)~~) (23) No identifying information held by the Washington
11 state patrol in accordance with chapter 43.43 RCW is subject to
12 destruction or sealing under this section. For the purposes of this
13 subsection, identifying information includes photographs, fingerprints,
14 palmprints, soleprints, toeprints and any other data that identifies a
15 person by physical characteristics, name, birthdate or address, but
16 does not include information regarding criminal activity, arrest,
17 charging, diversion, conviction or other information about a person's
18 treatment by the criminal justice system or about the person's
19 behavior.

20 (~~(23)~~) (24) Information identifying child victims under age
21 eighteen who are victims of sexual assaults by juvenile offenders is
22 confidential and not subject to release to the press or public without
23 the permission of the child victim or the child's legal guardian.
24 Identifying information includes the child victim's name, addresses,
25 location, photographs, and in cases in which the child victim is a
26 relative of the alleged perpetrator, identification of the relationship
27 between the child and the alleged perpetrator. Information identifying
28 a child victim of sexual assault may be released to law enforcement,
29 prosecutors, judges, defense attorneys, or private or governmental
30 agencies that provide services to the child victim of sexual assault."

31 **SHB 1153** - S COMM AMD
32 By Committee on Education

33 ADOPTED 4/14/99

1 On page 1, line 2 of the title, after "safety;" strike the
2 remainder of the title and insert "and amending RCW 13.40.215,
3 28A.225.225, 28A.225.330, and 13.50.050."

--- **END** ---