

2 EHB 1577 - S AMD - 321

3 By Senators Honeyford, Long, Hargrove, Sheahan and Costa

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

7 "Sec. 1. RCW 13.50.050 and 1997 c 338 s 40 are each amended to
8 read 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 (11) or (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) The juvenile court and the prosecutor may set up and maintain
36 a central record-keeping system which may receive information on all

1 alleged juvenile offenders against whom a complaint has been filed
2 pursuant to RCW 13.40.070 whether or not their cases are currently
3 pending before the court. The central record-keeping system may be
4 computerized. If a complaint has been referred to a diversion unit,
5 the diversion unit shall promptly report to the juvenile court or the
6 prosecuting attorney when the juvenile has agreed to diversion. An
7 offense shall not be reported as criminal history in any central
8 record-keeping system without notification by the diversion unit of the
9 date on which the offender agreed to diversion.

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

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

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

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

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

1 confinement, including full-time residential treatment, if any, or
2 entry of disposition, the person has spent five consecutive years in
3 the community without committing any offense or crime that subsequently
4 results in conviction. For misdemeanors and diversions, since the last
5 date of release from confinement, including full-time residential
6 treatment, if any, or entry of disposition, the person has spent two
7 consecutive years in the community without committing any offense or
8 crime that subsequently results in conviction and the person is at
9 least eighteen years old. For gross misdemeanors, since the last date
10 of release from confinement, including full-time residential treatment,
11 if any, or entry of disposition, the person has spent three consecutive
12 years in the community without committing any offense or crime that
13 subsequently results in conviction and the person is at least eighteen
14 years old;

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

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

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

21 (e) Full restitution has been paid.

22 (12) If a person seeking the sealing of records for class B
23 offenses, other than sex offenses, files with the court a motion to
24 seal records under subsection (10) of this section after having spent
25 only five years in the community without committing any offense or
26 crime subsequently resulting in conviction, the court has discretion to
27 grant the motion to seal records if the court finds that, in addition
28 to meeting the criteria stated in subsection (11)(b) through (e) of
29 this section:

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

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

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

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

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

4 (~~(13)~~) (14) If the court grants the motion to seal made pursuant
5 to subsection (10) of this section, it shall, subject to subsection
6 (~~(22)~~) (23) of this section, order sealed the official juvenile court
7 file, the social file, and other records relating to the case as are
8 named in the order. Thereafter, the proceedings in the case shall be
9 treated as if they never occurred, and the subject of the records may
10 reply accordingly to any inquiry about the events, records of which are
11 sealed. Any agency shall reply to any inquiry concerning confidential
12 or sealed records that records are confidential, and no information can
13 be given about the existence or nonexistence of records concerning an
14 individual.

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

20 (~~(15)~~) (16) Any adjudication of a juvenile offense or a crime
21 subsequent to sealing has the effect of nullifying the sealing order.
22 Any charging of an adult felony subsequent to the sealing has the
23 effect of nullifying the sealing order for the purposes of chapter
24 9.94A RCW. The Washington state patrol shall develop an automated
25 system to retrieve information after a sealing order has been
26 nullified.

27 (~~(16)~~) (17) A person eighteen years of age or older whose
28 criminal history consists of only one referral for diversion may
29 request that the court order the records in that case destroyed. The
30 request shall be granted, subject to subsection (~~(22)~~) (23) of this
31 section, if the court finds that two years have elapsed since
32 completion of the diversion agreement.

33 (~~(17)~~) (18) If the court grants the motion to destroy records
34 made pursuant to subsection (~~(16)~~) (17) of this section, it shall,
35 subject to subsection (~~(22)~~) (23) of this section, order the official
36 juvenile court file, the social file, and any other records named in
37 the order to be destroyed.

38 (~~(18)~~) (19) The person making the motion pursuant to subsection
39 (~~(16)~~) (17) of this section shall give reasonable notice of the

1 motion to the prosecuting attorney and to any agency whose records are
2 sought to be destroyed.

3 ~~((19))~~ (20) Any juvenile to whom the provisions of this section
4 may apply shall be given written notice of his or her rights under this
5 section at the time of his or her disposition hearing or during the
6 diversion process.

7 ~~((20))~~ (21) Nothing in this section may be construed to prevent
8 a crime victim or a member of the victim's family from divulging the
9 identity of the alleged or proven juvenile offender or his or her
10 family when necessary in a civil proceeding.

11 ~~((21))~~ (22) Any juvenile justice or care agency may, subject to
12 the limitations in subsection ~~((22))~~ (23) of this section and (a) and
13 (b) of this subsection, develop procedures for the routine destruction
14 of records relating to juvenile offenses and diversions.

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

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

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

32 ~~((23))~~ (24) Information identifying child victims under age
33 eighteen who are victims of sexual assaults by juvenile offenders is
34 confidential and not subject to release to the press or public without
35 the permission of the child victim or the child's legal guardian.
36 Identifying information includes the child victim's name, addresses,
37 location, photographs, and in cases in which the child victim is a
38 relative of the alleged perpetrator, identification of the relationship
39 between the child and the alleged perpetrator. Information identifying

1 a child victim of sexual assault may be released to law enforcement,
2 prosecutors, judges, defense attorneys, or private or governmental
3 agencies that provide services to the child victim of sexual assault."

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7 On page 1, line 1 of the title, after "records;" strike the
8 remainder of the title and insert "and amending RCW 13.50.050."

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