
HOUSE BILL 1748

State of Washington 56th Legislature 1999 Regular Session

By Representatives Dickerson, Constantine, Hurst and Lantz

Read first time 02/04/1999. Referred to Committee on Judiciary.

1 AN ACT Relating to juvenile diversion records; and amending RCW
2 13.04.155 and 13.50.050.

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

4 **Sec. 1.** RCW 13.04.155 and 1997 c 266 s 7 are each amended to read
5 as follows:

6 (1) Whenever a minor enrolled in any common school is convicted in
7 adult criminal court, or adjudicated (~~or entered into a diversion~~
8 ~~agreement~~)) with the juvenile court on any of the following offenses,
9 the court must notify the principal of the student's school of the
10 disposition of the case, after first notifying the parent or legal
11 guardian that such notification will be made:

12 (a) A violent offense as defined in RCW 9.94A.030;

13 (b) A sex offense as defined in RCW 9.94A.030;

14 (c) Inhaling toxic fumes under chapter 9.47A RCW;

15 (d) A controlled substances violation under chapter 69.50 RCW;

16 (e) A liquor violation under RCW 66.44.270; and

17 (f) Any crime under chapters 9A.36, 9A.40, 9A.46, and 9A.48 RCW.

18 (2) The principal must provide the information received under
19 subsection (1) of this section to every teacher of any student who

1 qualifies under subsection (1) of this section and any other personnel
2 who, in the judgment of the principal, supervises the student or for
3 security purposes should be aware of the student's record. The
4 principal must provide the information to teachers and other personnel
5 based on any written records that the principal maintains or receives
6 from a juvenile court administrator or a law enforcement agency
7 regarding the student.

8 (3) Any information received by a principal or school personnel
9 under this section is confidential and may not be further disseminated
10 except as provided in RCW 28A.225.330, other statutes or case law, and
11 the family and educational and privacy rights act of 1994, 20 U.S.C.
12 Sec. 1232g et seq.

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

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

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

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

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

38 (a) For class B offenses other than sex offenses, since the last
39 date of release from confinement, including full-time residential

1 treatment, if any, or entry of disposition, the person has spent ten
2 consecutive years in the community without committing any offense or
3 crime that subsequently results in conviction. For class C offenses
4 other than sex offenses, since the last date of release from
5 confinement, including full-time residential treatment, if any, or
6 entry of disposition, the person has spent five consecutive years in
7 the community without committing any offense or crime that subsequently
8 results in conviction;

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

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

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

15 (e) Full restitution has been paid.

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

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

30 (14) Inspection of the files and records included in the order to
31 seal may thereafter be permitted only by order of the court upon motion
32 made by the person who is the subject of the information or complaint,
33 except as otherwise provided in RCW 13.50.010(8) and subsection
34 ~~((+22))~~ (23) of this section.

35 (15) Any adjudication of a juvenile offense or a crime subsequent
36 to sealing has the effect of nullifying the sealing order. Any
37 charging of an adult felony subsequent to the sealing has the effect of
38 nullifying the sealing order for the purposes of chapter 9.94A RCW.

1 (16) In any case in which a complaint has been filed with the
2 prosecutor and referred for diversion pursuant to RCW 13.40.070, the
3 person who is the subject of the complaint may file a motion with the
4 court to have the court vacate its order and findings, if any, and
5 subject to subsection (23) of this section, order the destruction of
6 the official juvenile court file, the social file, and records of the
7 court and of any other agency in the case. The court may grant the
8 motion to destroy records made pursuant to this subsection if it finds:

9 (a) The person making the motion is at least twenty-three years of
10 age;

11 (b) The person has not subsequently been convicted of a felony;

12 (c) No proceeding is pending against that person seeking the
13 conviction of a criminal offense; and

14 (d) The person has never been found guilty of a serious offense.

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

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

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

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

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

38 ~~((+21+))~~ (22) Any juvenile justice or care agency may, subject to
39 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.

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