
SUBSTITUTE HOUSE BILL 1992

State of Washington

57th Legislature

2001 Regular Session

By House Committee on Juvenile Justice (originally sponsored by Representatives Lantz and Woods)

Read first time 02/27/2001. Referred to Committee on .

1 AN ACT Relating to communications to schools from juvenile justice
2 and care agencies; and amending RCW 13.50.050.

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

4 **Sec. 1.** RCW 13.50.050 and 1999 c 198 s 4 are each amended to read
5 as follows:

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

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

11 (3) All records other than the official juvenile court file are
12 confidential and may be released only as provided in this section, RCW
13 13.50.010, 13.40.215, and 4.24.550.

14 (4) Except as otherwise provided in this section and RCW 13.50.010,
15 records retained or produced by any juvenile justice or care agency may
16 be released to other participants in the juvenile justice or care
17 system only when an investigation or case involving the juvenile in
18 question is being pursued by the other participant or when that other

1 participant is assigned the responsibility for supervising the
2 juvenile.

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

8 (6) Notwithstanding any other provision of this chapter, the
9 release, to the juvenile or his or her attorney, of law enforcement and
10 prosecuting attorneys' records pertaining to investigation, diversion,
11 and prosecution of juvenile offenses shall be governed by the rules of
12 discovery and other rules of law applicable in adult criminal
13 investigations and prosecutions.

14 (7)(a) Upon the decision to arrest or the arrest, law enforcement
15 and prosecuting attorneys may cooperate with schools in releasing
16 information to a school pertaining to the investigation, diversion, and
17 prosecution of a juvenile attending the school. Upon the decision to
18 arrest or the arrest, incident reports may be released unless releasing
19 the records would jeopardize the investigation or prosecution or
20 endanger witnesses. If release of incident reports would jeopardize
21 the investigation or prosecution or endanger witnesses, law enforcement
22 and prosecuting attorneys may release information to the maximum extent
23 possible to assist schools in protecting other students, staff, and
24 school property.

25 (b) Upon the decision to arrest or an arrest, and upon the request
26 by the school, law enforcement shall release information, including
27 incident reports, to the school pertaining to the investigation,
28 diversion, or prosecution of a juvenile attending the school if: (i)
29 The victim of the alleged offense is an employee or student at the
30 school and the alleged offense occurred on school property or under
31 school supervision; or (ii) the alleged offense involves school
32 property. However, if release of an incident report under this
33 subsection would jeopardize the investigation or prosecution or
34 endanger witnesses, law enforcement shall release information to the
35 extent possible to assist schools in protecting other students, staff,
36 and school property.

37 (c) The school may use the information provided under this section
38 only for the purposes of formulating or amending an educational plan
39 for the student or investigating misconduct for which discipline,

1 suspension, or expulsion action may be imposed in compliance with the
2 school's rules and procedures.

3 (8) 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 (9) 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 (10) 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 (11) 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 (23) of this section, order the sealing of the
34 official juvenile court file, the social file, and records of the court
35 and of any other agency in the case.

36 (12) The court shall grant the motion to seal records made pursuant
37 to subsection (11) 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 (13) The person making a motion pursuant to subsection (11) 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 (14) If the court grants the motion to seal made pursuant to
20 subsection (11) of this section, it shall, subject to subsection (23)
21 of this section, order sealed the official juvenile court file, the
22 social file, and other records relating to the case as are named in the
23 order. Thereafter, the proceedings in the case shall be treated as if
24 they never occurred, and the subject of the records may reply
25 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 (15) 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 (23) of
34 this section.

35 (16) 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 (17) A person eighteen years of age or older whose criminal history
2 consists of only one referral for diversion may request that the court
3 order the records in that case destroyed. The request shall be
4 granted, subject to subsection (23) of this section, if the court finds
5 that two years have elapsed since completion of the diversion
6 agreement.

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

12 (19) The person making the motion pursuant to subsection (17) of
13 this section shall give reasonable notice of the motion to the
14 prosecuting attorney and to any agency whose records are sought to be
15 destroyed.

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

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

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

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

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

35 (23) No identifying information held by the Washington state patrol
36 in accordance with chapter 43.43 RCW is subject to destruction or
37 sealing under this section. For the purposes of this subsection,
38 identifying information includes photographs, fingerprints, palmprints,
39 soleprints, toeprints and any other data that identifies a person by

1 physical characteristics, name, birthdate or address, but does not
2 include information regarding criminal activity, arrest, charging,
3 diversion, conviction or other information about a person's treatment
4 by the criminal justice system or about the person's behavior.

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

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