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By Representatives Lantz and Woods

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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) Whether or not there has been a decision to arrest or an
26 arrest, law enforcement and prosecuting attorneys shall release
27 information, including incident reports, to the school pertaining to
28 the investigation, diversion, or prosecution of a juvenile attending
29 the school if: (i) The victim of the offense is an employee or student
30 at the school; or (ii) the offense involves school property. However,
31 if release of an incident report under this subsection would jeopardize
32 the investigation or prosecution or endanger witnesses, law enforcement
33 and prosecuting attorneys shall release information to the extent
34 possible to assist schools in protecting other students, staff, and
35 school property. The school may use the information provided under
36 this subsection (7)(b) only for the purposes of formulating or amending
37 an educational plan for the student or investigating misconduct for
38 which discipline, suspension, or expulsion action may be imposed in
39 compliance with the school's rules and procedures.

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

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

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

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

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

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

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

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

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

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

13 (e) Full restitution has been paid.

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

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

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

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

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

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

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

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

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

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

21 (22) Any juvenile justice or care agency may, subject to the
22 limitations in subsection (23) of this section and (a) and (b) of this
23 subsection, develop procedures for the routine destruction of records
24 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) No identifying information held by the Washington state patrol
33 in accordance with chapter 43.43 RCW is subject to destruction or
34 sealing under this section. For the purposes of this subsection,
35 identifying information includes photographs, fingerprints, palmprints,
36 soleprints, toeprints and any other data that identifies a person by
37 physical characteristics, name, birthdate or address, but does not
38 include information regarding criminal activity, arrest, charging,

1 diversion, conviction or other information about a person's treatment
2 by the criminal justice system or about the person's behavior.

3 (24) Information identifying child victims under age eighteen who
4 are victims of sexual assaults by juvenile offenders is confidential
5 and not subject to release to the press or public without the
6 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.

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