

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1212**

57th Legislature  
2001 Regular Legislative Session

Passed by the House April 13, 2001  
Yeas 84 Nays 0

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**Speaker of the House of Representatives**

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**Speaker of the House of Representatives**

Passed by the Senate April 5, 2001  
Yeas 49 Nays 0

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**President of the Senate**

Approved

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1212** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 1212**

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AS AMENDED BY THE SENATE

Passed Legislature - 2001 Regular Session

**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** House Committee on Juvenile Justice (originally sponsored by Representative Bush)

READ FIRST TIME 02/13/01.

1       AN ACT Relating to sealing juvenile records relating to  
2 misdemeanors, diversions, and gross misdemeanors; and amending RCW  
3 13.50.050.

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

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

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

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

12       (3) All records other than the official juvenile court file are  
13 confidential and may be released only as provided in this section, RCW  
14 13.50.010, 13.40.215, and 4.24.550.

15       (4) Except as otherwise provided in this section and RCW 13.50.010,  
16 records retained or produced by any juvenile justice or care agency may  
17 be released to other participants in the juvenile justice or care  
18 system only when an investigation or case involving the juvenile in  
19 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) Upon the decision to arrest or the arrest, law enforcement and  
15 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 (8) The juvenile court and the prosecutor may set up and maintain  
26 a central record-keeping system which may receive information on all  
27 alleged juvenile offenders against whom a complaint has been filed  
28 pursuant to RCW 13.40.070 whether or not their cases are currently  
29 pending before the court. The central record-keeping system may be  
30 computerized. If a complaint has been referred to a diversion unit,  
31 the diversion unit shall promptly report to the juvenile court or the  
32 prosecuting attorney when the juvenile has agreed to diversion. An  
33 offense shall not be reported as criminal history in any central  
34 record-keeping system without notification by the diversion unit of the  
35 date on which the offender agreed to diversion.

36 (9) Upon request of the victim of a crime or the victim's immediate  
37 family, the identity of an alleged or proven juvenile offender alleged  
38 or found to have committed a crime against the victim and the identity  
39 of the alleged or proven juvenile offender's parent, guardian, or

1 custodian and the circumstance of the alleged or proven crime shall be  
2 released to the victim of the crime or the victim's immediate family.

3 (10) Subject to the rules of discovery applicable in adult criminal  
4 prosecutions, the juvenile offense records of an adult criminal  
5 defendant or witness in an adult criminal proceeding shall be released  
6 upon request to prosecution and defense counsel after a charge has  
7 actually been filed. The juvenile offense records of any adult  
8 convicted of a crime and placed under the supervision of the adult  
9 corrections system shall be released upon request to the adult  
10 corrections system.

11 (11) In any case in which an information has been filed pursuant to  
12 RCW 13.40.100 or a complaint has been filed with the prosecutor and  
13 referred for diversion pursuant to RCW 13.40.070, the person the  
14 subject of the information or complaint may file a motion with the  
15 court to have the court vacate its order and findings, if any, and,  
16 subject to subsection (23) of this section, order the sealing of the  
17 official juvenile court file, the social file, and records of the court  
18 and of any other agency in the case.

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

21 (a) For class B offenses other than sex offenses, since the last  
22 date of release from confinement, including full-time residential  
23 treatment, if any, or entry of disposition, the person has spent ten  
24 consecutive years in the community without committing any offense or  
25 crime that subsequently results in conviction. For class C offenses  
26 other than sex offenses, since the last date of release from  
27 confinement, including full-time residential treatment, if any, or  
28 entry of disposition, the person has spent five consecutive years in  
29 the community without committing any offense or crime that subsequently  
30 results in conviction. For misdemeanors, since the last date of  
31 release from confinement, including full-time residential treatment, if  
32 any, or entry of disposition, the person has spent two consecutive  
33 years in the community without committing any offense or crime that  
34 subsequently results in conviction and the person is at least eighteen  
35 years old. For gross misdemeanors, since the last date of release from  
36 confinement, including full-time residential treatment, if any, or  
37 entry of disposition, the person has spent three consecutive years in  
38 the community without committing any offense or crime that subsequently  
39 results in conviction and the person is at least eighteen years old;

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

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

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

7 (e) Full restitution has been paid.

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

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

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

27 (16) Any adjudication of a juvenile offense or a crime subsequent  
28 to sealing has the effect of nullifying the sealing order. Any  
29 charging of an adult felony subsequent to the sealing has the effect of  
30 nullifying the sealing order for the purposes of chapter 9.94A RCW.

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

37 (18) If the court grants the motion to destroy records made  
38 pursuant to subsection (17) of this section, it shall, subject to  
39 subsection (23) of this section, order the official juvenile court

1 file, the social file, and any other records named in the order to be  
2 destroyed.

3 (19) The person making the motion pursuant to subsection (17) of  
4 this section shall give reasonable notice of the motion to the  
5 prosecuting attorney and to any agency whose records are sought to be  
6 destroyed.

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

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

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

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

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

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

35 (24) Information identifying child victims under age eighteen who  
36 are victims of sexual assaults by juvenile offenders is confidential  
37 and not subject to release to the press or public without the  
38 permission of the child victim or the child's legal guardian.  
39 Identifying information includes the child victim's name, addresses,

1 location, photographs, and in cases in which the child victim is a  
2 relative of the alleged perpetrator, identification of the relationship  
3 between the child and the alleged perpetrator. Information identifying  
4 a child victim of sexual assault may be released to law enforcement,  
5 prosecutors, judges, defense attorneys, or private or governmental  
6 agencies that provide services to the child victim of sexual assault.

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