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SENATE BILL 5393

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State of Washington

57th Legislature

2001 Regular Session

By Senators Long, Kline and Kohl-Welles; by request of Administrator for the Courts

Read first time 01/22/2001. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to truancy records; and amending RCW 28A.225.035  
2 and 13.50.100.

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

4 **Sec. 1.** RCW 28A.225.035 and 1999 c 319 s 3 are each amended to  
5 read as follows:

6 (1) A petition for a civil action under RCW 28A.225.030 or  
7 28A.225.015 shall consist of a written notification to the court  
8 alleging that:

9 (a) The child has unexcused absences during the current school  
10 year;

11 (b) Actions taken by the school district have not been successful  
12 in substantially reducing the child's absences from school; and

13 (c) Court intervention and supervision are necessary to assist the  
14 school district or parent to reduce the child's absences from school.

15 (2) The petition shall set forth the name, ((age)) date of birth,  
16 school, ((and residence)) address, sex, race, and ethnicity of the  
17 child and the names and ((residence)) addresses of the child's parents.

18 (3) The petition shall set forth facts that support the allegations  
19 in this section and shall generally request relief available under this

1 chapter and provide information about what the court might order under  
2 RCW 28A.225.090.

3 (4) When a petition is filed under RCW 28A.225.030 or 28A.225.015,  
4 the juvenile court shall schedule a hearing at which the court shall  
5 consider the petition, or if the court determines that a referral to an  
6 available community truancy board would substantially reduce the  
7 child's unexcused absences, the court may refer the case to a community  
8 truancy board under the jurisdiction of the juvenile court.

9 (5) If a referral is made to a community truancy board, the truancy  
10 board must meet with the child, a parent, and the school district  
11 representative and enter into an agreement with the petitioner and  
12 respondent regarding expectations and any actions necessary to address  
13 the child's truancy within thirty days of the referral. If the  
14 petition is based on RCW 28A.225.015, the child shall not be required  
15 to attend and the agreement under this subsection shall be between the  
16 truancy board, the school district, and the child's parent. The  
17 agreement shall be presented to the juvenile court for its approval.

18 (6) The court shall approve the agreement by order or schedule a  
19 hearing. The court may, if the school district and community truancy  
20 board agree, permit the truancy board to provide continued supervision  
21 over the student, or parent if the petition is based on RCW  
22 28A.225.015, and report on compliance with the order.

23 (7) If the truancy board fails to reach an agreement, the truancy  
24 board shall return the case to the juvenile court for a hearing.

25 (8) Notwithstanding the provisions in subsection (4) of this  
26 section, a hearing shall not be required if other actions by the court  
27 would substantially reduce the child's unexcused absences. When a  
28 juvenile court hearing is held, the court shall:

29 (a) Separately notify the child, the parent of the child, and the  
30 school district of the hearing;

31 (b) Notify the parent and the child of their rights to present  
32 evidence at the hearing; and

33 (c) Notify the parent and the child of the options and rights  
34 available under chapter 13.32A RCW.

35 (9) The court may require the attendance of the child if eight  
36 years old or older, the parents, and the school district at any hearing  
37 on a petition filed under RCW 28A.225.030.

1 (10) A school district is responsible for determining who shall  
2 represent the school district at hearings on a petition filed under RCW  
3 28A.225.030 or 28A.225.015.

4 (11) The court may permit the first hearing to be held without  
5 requiring that either party be represented by legal counsel, and to be  
6 held without a guardian ad litem for the child under RCW 4.08.050. At  
7 the request of the school district, the court shall permit a school  
8 district representative who is not an attorney to represent the school  
9 district at any future hearings.

10 (12) If the allegations in the petition are established by a  
11 preponderance of the evidence, the court shall grant the petition and  
12 enter an order assuming jurisdiction to intervene for the period of  
13 time determined by the court, after considering the facts alleged in  
14 the petition and the circumstances of the juvenile, to most likely  
15 cause the juvenile to return to and remain in school while the juvenile  
16 is subject to this chapter. In no case may the order expire before the  
17 end of the school year in which it is entered.

18 (13) If the court assumes jurisdiction, the school district shall  
19 regularly report to the court any additional unexcused absences by the  
20 child.

21 (14) Community truancy boards and the courts shall coordinate, to  
22 the extent possible, proceedings and actions pertaining to children who  
23 are subject to truancy petitions and at-risk youth petitions in RCW  
24 13.32A.191 or child in need of services petitions in RCW 13.32A.140.

25 (15) If after a juvenile court assumes jurisdiction in one county  
26 the child relocates to another county, the juvenile court in the  
27 receiving county shall, upon the request of a school district or  
28 parent, assume jurisdiction of the petition filed in the previous  
29 county.

30 **Sec. 2.** RCW 13.50.100 and 2000 c 162 s 18 are each amended to read  
31 as follows:

32 (1) This section governs records not covered by RCW 13.50.050.

33 (2) Records covered by this section shall be confidential and shall  
34 be released only pursuant to this section and RCW 13.50.010.

35 (3) Records retained or produced by any juvenile justice or care  
36 agency may be released to other participants in the juvenile justice or  
37 care system only when an investigation or case involving the juvenile  
38 in question is being pursued by the other participant or when that

1 other participant is assigned the responsibility of supervising the  
2 juvenile. Records covered under this section and maintained by the  
3 juvenile courts which relate to the official actions of the agency may  
4 be entered in the statewide ((juvenile court)) judicial information  
5 system. However, truancy records associated with a juvenile who has no  
6 other case history, and records of a juvenile's parents who have no  
7 other case history, shall be removed from the judicial information  
8 system when the juvenile is no longer subject to the compulsory  
9 attendance laws in chapter 28A.225 RCW. A county clerk is not liable  
10 for unauthorized release of this data by persons or agencies not in his  
11 or her employ or otherwise subject to his or her control, nor is the  
12 county clerk liable for inaccurate or incomplete information collected  
13 from litigants or other persons required to provide identifying data  
14 pursuant to this section.

15 (4) A contracting agency or service provider of the department of  
16 social and health services that provides counseling, psychological,  
17 psychiatric, or medical services may release to the office of the  
18 family and children's ombudsman information or records relating to  
19 services provided to a juvenile who is dependent under chapter 13.34  
20 RCW without the consent of the parent or guardian of the juvenile, or  
21 of the juvenile if the juvenile is under the age of thirteen years,  
22 unless such release is otherwise specifically prohibited by law.

23 (5) A juvenile, his or her parents, the juvenile's attorney and the  
24 juvenile's parent's attorney, shall, upon request, be given access to  
25 all records and information collected or retained by a juvenile justice  
26 or care agency which pertain to the juvenile except:

27 (a) If it is determined by the agency that release of this  
28 information is likely to cause severe psychological or physical harm to  
29 the juvenile or his or her parents the agency may withhold the  
30 information subject to other order of the court: PROVIDED, That if the  
31 court determines that limited release of the information is  
32 appropriate, the court may specify terms and conditions for the release  
33 of the information; or

34 (b) If the information or record has been obtained by a juvenile  
35 justice or care agency in connection with the provision of counseling,  
36 psychological, psychiatric, or medical services to the juvenile, when  
37 the services have been sought voluntarily by the juvenile, and the  
38 juvenile has a legal right to receive those services without the  
39 consent of any person or agency, then the information or record may not

1 be disclosed to the juvenile's parents without the informed consent of  
2 the juvenile unless otherwise authorized by law; or

3 (c) That the department of social and health services may delete  
4 the name and identifying information regarding persons or organizations  
5 who have reported alleged child abuse or neglect.

6 (6) A juvenile or his or her parent denied access to any records  
7 following an agency determination under subsection (5) of this section  
8 may file a motion in juvenile court requesting access to the records.  
9 The court shall grant the motion unless it finds access may not be  
10 permitted according to the standards found in subsections (5)(a) and  
11 (b) of this section.

12 (7) The person making a motion under subsection (6) of this section  
13 shall give reasonable notice of the motion to all parties to the  
14 original action and to any agency whose records will be affected by the  
15 motion.

16 (8) Subject to the rules of discovery in civil cases, any party to  
17 a proceeding seeking a declaration of dependency or a termination of  
18 the parent-child relationship and any party's counsel and the guardian  
19 ad litem of any party, shall have access to the records of any natural  
20 or adoptive child of the parent, subject to the limitations in  
21 subsection (5) of this section. A party denied access to records may  
22 request judicial review of the denial. If the party prevails, he or  
23 she shall be awarded attorneys' fees, costs, and an amount not less  
24 than five dollars and not more than one hundred dollars for each day  
25 the records were wrongfully denied.

26 (9) No unfounded allegation of child abuse or neglect as defined in  
27 RCW 26.44.020(12) may be disclosed to a child-placing agency, private  
28 adoption agency, or any other licensed provider.

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