
SUBSTITUTE HOUSE BILL 2629

State of Washington 58th Legislature 2004 Regular Session

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Kagi, Boldt, Dickerson, Delvin, Darneille, Pettigrew and Carrell)

READ FIRST TIME 02/05/04.

1 AN ACT Relating to requiring release of court hearing information;
2 and amending RCW 13.50.100 and 13.34.105.

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

4 **Sec. 1.** RCW 13.50.100 and 2003 c 105 s 2 are each amended to read
5 as follows:

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

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

9 (3) Information pertaining to the date, time, and location of court
10 hearings held pursuant to chapters 28A.225, 13.32A, and 13.34 RCW is
11 not confidential and shall be made available to the public.

12 (4) Records retained or produced by any juvenile justice or care
13 agency may be released to other participants in the juvenile justice or
14 care system only when an investigation or case involving the juvenile
15 in question is being pursued by the other participant or when that
16 other participant is assigned the responsibility of supervising the
17 juvenile. Records covered under this section and maintained by the
18 juvenile courts which relate to the official actions of the agency may
19 be entered in the statewide judicial information system. However,

1 truancy records associated with a juvenile who has no other case
2 history, and records of a juvenile's parents who have no other case
3 history, shall be removed from the judicial information system when the
4 juvenile is no longer subject to the compulsory attendance laws in
5 chapter 28A.225 RCW. A county clerk is not liable for unauthorized
6 release of this data by persons or agencies not in his or her employ or
7 otherwise subject to his or her control, nor is the county clerk liable
8 for inaccurate or incomplete information collected from litigants or
9 other persons required to provide identifying data pursuant to this
10 section.

11 ~~((4))~~ (5) Subject to (a) of this subsection, the department of
12 social and health services may release information retained in the
13 course of conducting child protective services investigations to a
14 family or juvenile court hearing a petition for custody under chapter
15 26.10 RCW.

16 (a) Information that may be released shall be limited to
17 information regarding investigations in which: (i) The juvenile was an
18 alleged victim of abandonment or abuse or neglect; or (ii) the
19 petitioner for custody of the juvenile, or any individual aged sixteen
20 or older residing in the petitioner's household, is the subject of a
21 founded or currently pending child protective services investigation
22 made by the department subsequent to October 1, 1998.

23 (b) Additional information may only be released with the written
24 consent of the subject of the investigation and the juvenile alleged to
25 be the victim of abandonment or abuse and neglect, or the parent,
26 custodian, guardian, or personal representative of the juvenile, or by
27 court order obtained with notice to all interested parties.

28 ~~((5))~~ (6) Any disclosure of records or information by the
29 department of social and health services pursuant to this section shall
30 not be deemed a waiver of any confidentiality or privilege attached to
31 the records or information by operation of any state or federal statute
32 or regulation, and any recipient of such records or information shall
33 maintain it in such a manner as to comply with such state and federal
34 statutes and regulations and to protect against unauthorized
35 disclosure.

36 ~~((6))~~ (7) A contracting agency or service provider of the
37 department of social and health services that provides counseling,
38 psychological, psychiatric, or medical services may release to the

1 office of the family and children's ombudsman information or records
2 relating to services provided to a juvenile who is dependent under
3 chapter 13.34 RCW without the consent of the parent or guardian of the
4 juvenile, or of the juvenile if the juvenile is under the age of
5 thirteen years, unless such release is otherwise specifically
6 prohibited by law.

7 ~~((7))~~ (8) A juvenile, his or her parents, the juvenile's attorney
8 and the juvenile's parent's attorney, shall, upon request, be given
9 access to all records and information collected or retained by a
10 juvenile justice or care agency which pertain to the juvenile except:

11 (a) If it is determined by the agency that release of this
12 information is likely to cause severe psychological or physical harm to
13 the juvenile or his or her parents the agency may withhold the
14 information subject to other order of the court: PROVIDED, That if the
15 court determines that limited release of the information is
16 appropriate, the court may specify terms and conditions for the release
17 of the information; or

18 (b) If the information or record has been obtained by a juvenile
19 justice or care agency in connection with the provision of counseling,
20 psychological, psychiatric, or medical services to the juvenile, when
21 the services have been sought voluntarily by the juvenile, and the
22 juvenile has a legal right to receive those services without the
23 consent of any person or agency, then the information or record may not
24 be disclosed to the juvenile's parents without the informed consent of
25 the juvenile unless otherwise authorized by law; or

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

29 ~~((8))~~ (9) A juvenile or his or her parent denied access to any
30 records following an agency determination under subsection ~~((7))~~ (8)
31 of this section may file a motion in juvenile court requesting access
32 to the records. The court shall grant the motion unless it finds
33 access may not be permitted according to the standards found in
34 subsection ~~((7))~~ (8)(a) and (b) of this section.

35 ~~((9))~~ (10) The person making a motion under subsection ~~((8))~~
36 (9) of this section shall give reasonable notice of the motion to all
37 parties to the original action and to any agency whose records will be
38 affected by the motion.

1 (~~(10)~~) (11) Subject to the rules of discovery in civil cases, any
2 party to a proceeding seeking a declaration of dependency or a
3 termination of the parent-child relationship and any party's counsel
4 and the guardian ad litem of any party, shall have access to the
5 records of any natural or adoptive child of the parent, subject to the
6 limitations in subsection (~~(7)~~) (8) of this section. A party denied
7 access to records may request judicial review of the denial. If the
8 party prevails, he or she shall be awarded attorneys' fees, costs, and
9 an amount not less than five dollars and not more than one hundred
10 dollars for each day the records were wrongfully denied.

11 (~~(11)~~) (12) No unfounded allegation of child abuse or neglect as
12 defined in RCW 26.44.020(12) may be disclosed to a child-placing
13 agency, private adoption agency, or any other licensed provider.

14 **Sec. 2.** RCW 13.34.105 and 2000 c 124 s 4 are each amended to read
15 as follows:

16 (1) Unless otherwise directed by the court, the duties of the
17 guardian ad litem include but are not limited to the following:

18 (a) To investigate, collect relevant information about the child's
19 situation, and report to the court factual information regarding the
20 best interests of the child;

21 (b) To monitor all court orders for compliance and to bring to the
22 court's attention any change in circumstances that may require a
23 modification of the court's order;

24 (c) To report to the court information on the legal status of a
25 child's membership in any Indian tribe or band;

26 (d) Court-appointed special advocates and guardians ad litem may
27 make recommendations based upon an independent investigation regarding
28 the best interests of the child, which the court may consider and weigh
29 in conjunction with the recommendations of all of the parties; and

30 (e) To represent and be an advocate for the best interests of the
31 child.

32 (2) A guardian ad litem shall be deemed an officer of the court for
33 the purpose of immunity from civil liability.

34 (3) Except for information or records specified in RCW
35 13.50.100(~~(5)~~) (8), the guardian ad litem shall have access to all
36 information available to the state or agency on the case. Upon
37 presentation of the order of appointment by the guardian ad litem, any

1 agency, hospital, school organization, division or department of the
2 state, doctor, nurse, or other health care provider, psychologist,
3 psychiatrist, police department, or mental health clinic shall permit
4 the guardian ad litem to inspect and copy any records relating to the
5 child or children involved in the case, without the consent of the
6 parent or guardian of the child, or of the child if the child is under
7 the age of thirteen years, unless such access is otherwise specifically
8 prohibited by law.

9 (4) A guardian ad litem may release confidential information,
10 records, and reports to the office of the family and children's
11 ombudsman for the purposes of carrying out its duties under chapter
12 43.06A RCW.

13 (5) The guardian ad litem shall release case information in
14 accordance with the provisions of RCW 13.50.100.

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