
SENATE BILL 5171

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By Senators Carrell, Rockefeller, Rasmussen, Shin, Schoesler, Delvin and McAuliffe

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1 AN ACT Relating to enhancing school safety through information
2 sharing between schools and juvenile justice and care agencies; and
3 amending RCW 13.50.050.

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

5 **Sec. 1.** RCW 13.50.050 and 2004 c 42 s 1 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

1 question is being pursued by the other participant or when that other
2 participant is assigned the responsibility for supervising the
3 juvenile.

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

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

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

26 (b) When school personnel become aware of facts or allegations
27 regarding misconduct on school grounds by a student, teacher, or other
28 school employees and reasonably believe that such misconduct, if
29 proven, would constitute a criminal offense, the school shall
30 immediately release such information to the local law enforcement
31 agency. Willful failure to comply with this subsection (7)(b) may
32 constitute an offense under chapter 9A.76 RCW. School personnel
33 participating in good faith in complying with this subsection (7)(b)
34 are immune from any liability arising out of the release of
35 information.

36 (8) The juvenile court and the prosecutor may set up and maintain
37 a central record-keeping system which may receive information on all
38 alleged juvenile offenders against whom a complaint has been filed

1 pursuant to RCW 13.40.070 whether or not their cases are currently
2 pending before the court. The central record-keeping system may be
3 computerized. If a complaint has been referred to a diversion unit,
4 the diversion unit shall promptly report to the juvenile court or the
5 prosecuting attorney when the juvenile has agreed to diversion. An
6 offense shall not be reported as criminal history in any central
7 record-keeping system without notification by the diversion unit of the
8 date on which the offender agreed to diversion.

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

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

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

31 (12) The court shall not grant any motion to seal records made
32 pursuant to subsection (11) of this section that is filed on or after
33 July 1, 1997, unless it finds that:

34 (a) For class B offenses other than sex offenses, since the last
35 date of release from confinement, including full-time residential
36 treatment, if any, or entry of disposition, the person has spent five
37 consecutive years in the community without committing any offense or
38 crime that subsequently results in conviction. For class C offenses

1 other than sex offenses, since the last date of release from
2 confinement, including full-time residential treatment, if any, or
3 entry of disposition, the person has spent two consecutive years in the
4 community without committing any offense or crime that subsequently
5 results in conviction. For gross misdemeanors and misdemeanors, since
6 the last date of release from confinement, including full-time
7 residential treatment, if any, or entry of disposition, the person has
8 spent two consecutive years in the community without committing any
9 offense or crime that subsequently results in conviction. For
10 diversions, since completion of the diversion agreement, the person has
11 spent two consecutive years in the community without committing any
12 offense or crime that subsequently results in conviction or diversion;

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

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

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

19 (e) Full restitution has been paid.

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

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

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

1 (16) Any adjudication of a juvenile offense or a crime subsequent
2 to sealing has the effect of nullifying the sealing order. Any
3 charging of an adult felony subsequent to the sealing has the effect of
4 nullifying the sealing order for the purposes of chapter 9.94A RCW.
5 The administrative office of the courts shall ensure that the superior
6 court judicial information system provides prosecutors access to
7 information on the existence of sealed juvenile records.

8 (17)(a) A person eighteen years of age or older whose criminal
9 history consists of only one referral for diversion may request that
10 the court order the records in that case destroyed. The request shall
11 be granted, subject to subsection (23) of this section, if the court
12 finds that two years have elapsed since completion of the diversion
13 agreement.

14 (b) A person twenty-three years of age or older whose criminal
15 history consists of only referrals for diversion may request that the
16 court order the records in those cases destroyed. The request shall be
17 granted, subject to subsection (23) of this section, if the court finds
18 that all diversion agreements have been successfully completed and no
19 proceeding is pending against the person seeking the conviction of a
20 criminal offense.

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

26 (19) The person making the motion pursuant to subsection (17) of
27 this section shall give reasonable notice of the motion to the
28 prosecuting attorney and to any agency whose records are sought to be
29 destroyed.

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

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

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

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

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

12 (23) No identifying information held by the Washington state patrol
13 in accordance with chapter 43.43 RCW is subject to destruction or
14 sealing under this section. For the purposes of this subsection,
15 identifying information includes photographs, fingerprints, palmprints,
16 soleprints, toeprints and any other data that identifies a person by
17 physical characteristics, name, birthdate or address, but does not
18 include information regarding criminal activity, arrest, charging,
19 diversion, conviction or other information about a person's treatment
20 by the criminal justice system or about the person's behavior.

21 (24) Information identifying child victims under age eighteen who
22 are victims of sexual assaults by juvenile offenders is confidential
23 and not subject to release to the press or public without the
24 permission of the child victim or the child's legal guardian.
25 Identifying information includes the child victim's name, addresses,
26 location, photographs, and in cases in which the child victim is a
27 relative of the alleged perpetrator, identification of the relationship
28 between the child and the alleged perpetrator. Information identifying
29 a child victim of sexual assault may be released to law enforcement,
30 prosecutors, judges, defense attorneys, or private or governmental
31 agencies that provide services to the child victim of sexual assault.

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