

SSB 5204 - H COMM AMD

By Committee on Ways & Means

NOT ADOPTED 04/09/2011

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 9A.44.143 and 2010 c 267 s 7 are each amended to read  
4 as follows:

5 (1) An offender having a duty to register under RCW 9A.44.130 for  
6 a sex offense or kidnapping offense committed when the offender was a  
7 juvenile may petition the superior court to be relieved of that duty as  
8 provided in this section, unless the sex offense or kidnapping offense  
9 was a class A felony and the offender was fifteen years of age or older  
10 at the time of the offense.

11 (2) The court may relieve the petitioner of the duty to register  
12 if:

13 (a) At least twenty-four months have passed since the petitioner's  
14 adjudication and completion of any term of confinement for the offense  
15 giving rise to the duty to register and the petitioner has not been  
16 adjudicated or convicted of any additional sex offenses or kidnapping  
17 offenses;

18 (b) The petitioner has not been adjudicated or convicted of a  
19 violation of RCW 9A.44.132 (failure to register) during the twenty-four  
20 months prior to filing the petition; and

21 ~~(c)((i) The petitioner was fifteen years of age or older at the~~  
22 ~~time the sex offense or kidnapping offense was committed and the~~  
23 ~~petitioner shows by clear and convincing evidence that the petitioner~~  
24 ~~is sufficiently rehabilitated to warrant removal from the central~~  
25 ~~registry of sex offenders and kidnapping offenders; or~~

26 ~~(ii))~~ The petitioner ~~((was under the age of fifteen at the time~~  
27 ~~the sex offense or kidnapping offense was committed and the~~  
28 ~~petitioner))~~ shows by a preponderance of the evidence that the  
29 petitioner is sufficiently rehabilitated to warrant removal from the  
30 central registry of sex offenders and kidnapping offenders.

1 (3) A petition for relief from registration under this section  
2 shall be made to the court in which the petitioner was convicted of the  
3 offense that subjects him or her to the duty to register or, in the  
4 case of convictions in other states, a foreign country, or a federal or  
5 military court, to the court in Thurston county. The prosecuting  
6 attorney of the county shall be named and served as the respondent in  
7 any such petition.

8 (4) In determining whether the petitioner is sufficiently  
9 rehabilitated to warrant removal from the central registry of sex  
10 offenders and kidnapping offenders, the following factors are provided  
11 as guidance to assist the court in making its determination, to the  
12 extent the factors are applicable considering the age and circumstances  
13 of the petitioner:

14 (a) The nature of the registrable offense committed including the  
15 number of victims and the length of the offense history;

16 (b) Any subsequent criminal history;

17 (c) The petitioner's compliance with supervision requirements;

18 (d) The length of time since the charged incident(s) occurred;

19 (e) Any input from community corrections officers, juvenile parole  
20 or probation officers, law enforcement, or treatment providers;

21 (f) Participation in sex offender treatment;

22 (g) Participation in other treatment and rehabilitative programs;

23 (h) The offender's stability in employment and housing;

24 (i) The offender's community and personal support system;

25 (j) Any risk assessments or evaluations prepared by a qualified  
26 professional;

27 (k) Any updated polygraph examination;

28 (l) Any input of the victim;

29 (m) Any other factors the court may consider relevant.

30 (5) A juvenile prosecuted and convicted of a sex offense or  
31 kidnapping offense as an adult may not petition to the superior court  
32 under this section.

33 **Sec. 2.** RCW 13.40.160 and 2007 c 199 s 14 are each amended to read  
34 as follows:

35 (1) The standard range disposition for a juvenile adjudicated of an  
36 offense is determined according to RCW 13.40.0357.

1 (a) When the court sentences an offender to a local sanction as  
2 provided in RCW 13.40.0357 option A, the court shall impose a  
3 determinate disposition within the standard ranges, except as provided  
4 in subsection (2), (3), (4), (5), or (6) of this section. The  
5 disposition may be comprised of one or more local sanctions.

6 (b) When the court sentences an offender to a standard range as  
7 provided in RCW 13.40.0357 option A that includes a term of confinement  
8 exceeding thirty days, commitment shall be to the department for the  
9 standard range of confinement, except as provided in subsection (2),  
10 (3), (4), (5), or (6) of this section.

11 (2) If the court concludes, and enters reasons for its conclusion,  
12 that disposition within the standard range would effectuate a manifest  
13 injustice the court shall impose a disposition outside the standard  
14 range, as indicated in option D of RCW 13.40.0357. The court's finding  
15 of manifest injustice shall be supported by clear and convincing  
16 evidence.

17 A disposition outside the standard range shall be determinate and  
18 shall be comprised of confinement or community supervision, or a  
19 combination thereof. When a judge finds a manifest injustice and  
20 imposes a sentence of confinement exceeding thirty days, the court  
21 shall sentence the juvenile to a maximum term, and the provisions of  
22 RCW 13.40.030(2) shall be used to determine the range. A disposition  
23 outside the standard range is appealable under RCW 13.40.230 by the  
24 state or the respondent. A disposition within the standard range is  
25 not appealable under RCW 13.40.230.

26 (3) ~~((When))~~ If a juvenile offender is found to have committed a  
27 sex offense, other than a sex offense that is also a serious violent  
28 offense as defined by RCW 9.94A.030, and has no history of a prior sex  
29 offense, the court ~~(, on its own motion or the motion of the state or  
30 the respondent, may order an examination to determine whether the  
31 respondent is amenable to treatment.~~

32 ~~The report of the examination shall include at a minimum the  
33 following: The respondent's version of the facts and the official  
34 version of the facts, the respondent's offense history, an assessment  
35 of problems in addition to alleged deviant behaviors, the respondent's  
36 social, educational, and employment situation, and other evaluation  
37 measures used. The report shall set forth the sources of the  
38 evaluator's information.~~

1       ~~The examiner shall assess and report regarding the respondent's~~  
2 ~~amenability to treatment and relative risk to the community. A~~  
3 ~~proposed treatment plan shall be provided and shall include, at a~~  
4 ~~minimum:~~

5       ~~(a)(i) Frequency and type of contact between the offender and~~  
6 ~~therapist;~~

7       ~~(ii) Specific issues to be addressed in the treatment and~~  
8 ~~description of planned treatment modalities;~~

9       ~~(iii) Monitoring plans, including any requirements regarding living~~  
10 ~~conditions, lifestyle requirements, and monitoring by family members,~~  
11 ~~legal guardians, or others;~~

12       ~~(iv) Anticipated length of treatment; and~~

13       ~~(v) Recommended crime-related prohibitions.~~

14       ~~The court on its own motion may order, or on a motion by the state~~  
15 ~~shall order, a second examination regarding the offender's amenability~~  
16 ~~to treatment. The evaluator shall be selected by the party making the~~  
17 ~~motion. The defendant shall pay the cost of any second examination~~  
18 ~~ordered unless the court finds the defendant to be indigent in which~~  
19 ~~case the state shall pay the cost.~~

20       ~~After receipt of reports of the examination, the court shall then~~  
21 ~~consider whether the offender and the community will benefit from use~~  
22 ~~of this special sex offender disposition alternative and consider the~~  
23 ~~victim's opinion whether the offender should receive a treatment~~  
24 ~~disposition under this section. If the court determines that this~~  
25 ~~special sex offender disposition alternative is appropriate, then the~~  
26 ~~court shall impose a determinate disposition within the standard range~~  
27 ~~for the offense, or if the court concludes, and enters reasons for its~~  
28 ~~conclusions, that such disposition would cause a manifest injustice,~~  
29 ~~the court shall impose a disposition under option D, and the court may~~  
30 ~~suspend the execution of the disposition and place the offender on~~  
31 ~~community supervision for at least two years. As a condition of the~~  
32 ~~suspended disposition, the court may impose the conditions of community~~  
33 ~~supervision and other conditions, including up to thirty days of~~  
34 ~~confinement and requirements that the offender do any one or more of~~  
35 ~~the following:~~

36       ~~(b)(i) Devote time to a specific education, employment, or~~  
37 ~~occupation;~~

1       ~~(ii) Undergo available outpatient sex offender treatment for up to~~  
2 ~~two years, or inpatient sex offender treatment not to exceed the~~  
3 ~~standard range of confinement for that offense. A community mental~~  
4 ~~health center may not be used for such treatment unless it has an~~  
5 ~~appropriate program designed for sex offender treatment. The~~  
6 ~~respondent shall not change sex offender treatment providers or~~  
7 ~~treatment conditions without first notifying the prosecutor, the~~  
8 ~~probation counselor, and the court, and shall not change providers~~  
9 ~~without court approval after a hearing if the prosecutor or probation~~  
10 ~~counselor object to the change;~~

11       ~~(iii) Remain within prescribed geographical boundaries and notify~~  
12 ~~the court or the probation counselor prior to any change in the~~  
13 ~~offender's address, educational program, or employment;~~

14       ~~(iv) Report to the prosecutor and the probation counselor prior to~~  
15 ~~any change in a sex offender treatment provider. This change shall~~  
16 ~~have prior approval by the court;~~

17       ~~(v) Report as directed to the court and a probation counselor;~~

18       ~~(vi) Pay all court-ordered legal financial obligations, perform~~  
19 ~~community restitution, or any combination thereof;~~

20       ~~(vii) Make restitution to the victim for the cost of any counseling~~  
21 ~~reasonably related to the offense;~~

22       ~~(viii) Comply with the conditions of any court-ordered probation~~  
23 ~~bond; or~~

24       ~~(ix) The court shall order that the offender shall not attend the~~  
25 ~~public or approved private elementary, middle, or high school attended~~  
26 ~~by the victim or the victim's siblings. The parents or legal guardians~~  
27 ~~of the offender are responsible for transportation or other costs~~  
28 ~~associated with the offender's change of school that would otherwise be~~  
29 ~~paid by the school district. The court shall send notice of the~~  
30 ~~disposition and restriction on attending the same school as the victim~~  
31 ~~or victim's siblings to the public or approved private school the~~  
32 ~~juvenile will attend, if known, or if unknown, to the approved private~~  
33 ~~schools and the public school district board of directors of the~~  
34 ~~district in which the juvenile resides or intends to reside. This~~  
35 ~~notice must be sent at the earliest possible date but not later than~~  
36 ~~ten calendar days after entry of the disposition.~~

37       ~~The sex offender treatment provider shall submit quarterly reports~~  
38 ~~on the respondent's progress in treatment to the court and the parties.~~

1 The reports shall reference the treatment plan and include at a minimum  
2 the following: Dates of attendance, respondent's compliance with  
3 requirements, treatment activities, the respondent's relative progress  
4 in treatment, and any other material specified by the court at the time  
5 of the disposition.

6 At the time of the disposition, the court may set treatment review  
7 hearings as the court considers appropriate.

8 Except as provided in this subsection (3), after July 1, 1991,  
9 examinations and treatment ordered pursuant to this subsection shall  
10 only be conducted by certified sex offender treatment providers or  
11 certified affiliate sex offender treatment providers under chapter  
12 18.155 RCW. A sex offender therapist who examines or treats a juvenile  
13 sex offender pursuant to this subsection does not have to be certified  
14 by the department of health pursuant to chapter 18.155 RCW if the court  
15 finds that: (A) The offender has already moved to another state or  
16 plans to move to another state for reasons other than circumventing the  
17 certification requirements; (B) no certified sex offender treatment  
18 providers or certified affiliate sex offender treatment providers are  
19 available for treatment within a reasonable geographical distance of  
20 the offender's home; and (C) the evaluation and treatment plan comply  
21 with this subsection (3) and the rules adopted by the department of  
22 health.

23 If the offender violates any condition of the disposition or the  
24 court finds that the respondent is failing to make satisfactory  
25 progress in treatment, the court may revoke the suspension and order  
26 execution of the disposition or the court may impose a penalty of up to  
27 thirty days' confinement for violating conditions of the disposition.  
28 The court may order both execution of the disposition and up to thirty  
29 days' confinement for the violation of the conditions of the  
30 disposition. The court shall give credit for any confinement time  
31 previously served if that confinement was for the offense for which the  
32 suspension is being revoked.

33 For purposes of this section, "victim" means any person who has  
34 sustained emotional, psychological, physical, or financial injury to  
35 person or property as a direct result of the crime charged. "Victim"  
36 may also include a known parent or guardian of a victim who is a minor  
37 child unless the parent or guardian is the perpetrator of the offense.

1 ~~A disposition entered under this subsection (3) is not appealable~~  
2 ~~under RCW 13.40.230)) may impose the special sex offender disposition~~  
3 ~~alternative under section 3 of this act.~~

4 (4) If the juvenile offender is subject to a standard range  
5 disposition of local sanctions or 15 to 36 weeks of confinement and has  
6 not committed an A- or B+ offense, the court may impose the disposition  
7 alternative under RCW 13.40.165.

8 (5) If a juvenile is subject to a commitment of 15 to 65 weeks of  
9 confinement, the court may impose the disposition alternative under RCW  
10 13.40.167.

11 (6) When the offender is subject to a standard range commitment of  
12 15 to 36 weeks and is ineligible for a suspended disposition  
13 alternative, a manifest injustice disposition below the standard range,  
14 special sex offender disposition alternative, chemical dependency  
15 disposition alternative, or mental health disposition alternative, the  
16 court in a county with a pilot program under RCW 13.40.169 may impose  
17 the disposition alternative under RCW 13.40.169.

18 (7) RCW 13.40.193 shall govern the disposition of any juvenile  
19 adjudicated of possessing a firearm in violation of RCW  
20 9.41.040(2)(a)(iii) or any crime in which a special finding is entered  
21 that the juvenile was armed with a firearm.

22 (8) RCW 13.40.308 shall govern the disposition of any juvenile  
23 adjudicated of theft of a motor vehicle as defined under RCW 9A.56.065,  
24 possession of a stolen motor vehicle as defined under RCW 9A.56.068,  
25 taking a motor vehicle without permission in the first degree under RCW  
26 9A.56.070, and taking a motor vehicle without permission in the second  
27 degree under RCW 9A.56.075.

28 (9) Whenever a juvenile offender is entitled to credit for time  
29 spent in detention prior to a dispositional order, the dispositional  
30 order shall specifically state the number of days of credit for time  
31 served.

32 (10) Except as provided under subsection (3), (4), (5), or (6) of  
33 this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the  
34 court shall not suspend or defer the imposition or the execution of the  
35 disposition.

36 (11) In no case shall the term of confinement imposed by the court  
37 at disposition exceed that to which an adult could be subjected for the  
38 same offense.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 13.40 RCW  
2 to read as follows:

3        (1) A juvenile offender is eligible for the special sex offender  
4 disposition alternative when:

5            (a) The offender is found to have committed a sex offense, other  
6 than a sex offense that is also a serious violent offense as defined by  
7 RCW 9.94A.030; and

8            (b) The offender has no history of a prior sex offense.

9        (2) If the court finds the offender is eligible for this  
10 alternative, the court, on its own motion or the motion of the state or  
11 the respondent, may order an examination to determine whether the  
12 respondent is amenable to treatment.

13            (a) The report of the examination shall include at a minimum the  
14 following:

15                  (i) The respondent's version of the facts and the official version  
16 of the facts;

17                  (ii) The respondent's offense history;

18                  (iii) An assessment of problems in addition to alleged deviant  
19 behaviors;

20                  (iv) The respondent's social, educational, and employment  
21 situation;

22                  (v) Other evaluation measures used.

23        The report shall set forth the sources of the evaluator's  
24 information.

25            (b) The examiner shall assess and report regarding the respondent's  
26 amenability to treatment and relative risk to the community. A  
27 proposed treatment plan shall be provided and shall include, at a  
28 minimum:

29                  (i) The frequency and type of contact between the offender and  
30 therapist;

31                  (ii) Specific issues to be addressed in the treatment and  
32 description of planned treatment modalities;

33                  (iii) Monitoring plans, including any requirements regarding living  
34 conditions, lifestyle requirements, and monitoring by family members,  
35 legal guardians, or others;

36                  (iv) Anticipated length of treatment; and

37                  (v) Recommended crime-related prohibitions.



1 (c) The court on its own motion may order, or on a motion by the  
2 state shall order, a second examination regarding the offender's  
3 amenability to treatment. The evaluator shall be selected by the party  
4 making the motion. The defendant shall pay the cost of any second  
5 examination ordered unless the court finds the defendant to be indigent  
6 in which case the state shall pay the cost.

7 (3) After receipt of reports of the examination, the court shall  
8 then consider whether the offender and the community will benefit from  
9 use of this special sex offender disposition alternative and consider  
10 the victim's opinion whether the offender should receive a treatment  
11 disposition under this section. If the court determines that this  
12 special sex offender disposition alternative is appropriate, then the  
13 court shall impose a determinate disposition within the standard range  
14 for the offense, or if the court concludes, and enters reasons for its  
15 conclusions, that such disposition would cause a manifest injustice,  
16 the court shall impose a disposition under option D, and the court may  
17 suspend the execution of the disposition and place the offender on  
18 community supervision for at least two years.

19 (4) As a condition of the suspended disposition, the court may  
20 impose the conditions of community supervision and other conditions,  
21 including up to thirty days of confinement and requirements that the  
22 offender do any one or more of the following:

23 (a) Devote time to a specific education, employment, or occupation;

24 (b) Undergo available outpatient sex offender treatment for up to  
25 two years, or inpatient sex offender treatment not to exceed the  
26 standard range of confinement for that offense. A community mental  
27 health center may not be used for such treatment unless it has an  
28 appropriate program designed for sex offender treatment. The  
29 respondent shall not change sex offender treatment providers or  
30 treatment conditions without first notifying the prosecutor, the  
31 probation counselor, and the court, and shall not change providers  
32 without court approval after a hearing if the prosecutor or probation  
33 counselor object to the change;

34 (c) Remain within prescribed geographical boundaries and notify the  
35 court or the probation counselor prior to any change in the offender's  
36 address, educational program, or employment;

37 (d) Report to the prosecutor and the probation counselor prior to

1 any change in a sex offender treatment provider. This change shall  
2 have prior approval by the court;

3 (e) Report as directed to the court and a probation counselor;

4 (f) Pay all court-ordered legal financial obligations, perform  
5 community restitution, or any combination thereof;

6 (g) Make restitution to the victim for the cost of any counseling  
7 reasonably related to the offense; or

8 (h) Comply with the conditions of any court-ordered probation bond.

9 (5) If the court orders twenty-four hour, continuous monitoring of  
10 the offender while on probation, the court shall include the basis for  
11 this condition in its findings.

12 (6)(a) The court must order the offender not to attend the public  
13 or approved private elementary, middle, or high school attended by the  
14 victim or the victim's siblings.

15 (b) The parents or legal guardians of the offender are responsible  
16 for transportation or other costs associated with the offender's change  
17 of school that would otherwise be paid by the school district.

18 (c) The court shall send notice of the disposition and restriction  
19 on attending the same school as the victim or victim's siblings to the  
20 public or approved private school the juvenile will attend, if known,  
21 or if unknown, to the approved private schools and the public school  
22 district board of directors of the district in which the juvenile  
23 resides or intends to reside. This notice must be sent at the earliest  
24 possible date but not later than ten calendar days after entry of the  
25 disposition.

26 (7)(a) The sex offender treatment provider shall submit quarterly  
27 reports on the respondent's progress in treatment to the court and the  
28 parties. The reports shall reference the treatment plan and include at  
29 a minimum the following: Dates of attendance, respondent's compliance  
30 with requirements, treatment activities, the respondent's relative  
31 progress in treatment, and any other material specified by the court at  
32 the time of the disposition.

33 (b) At the time of the disposition, the court may set treatment  
34 review hearings as the court considers appropriate.

35 (c) Except as provided in this subsection, examinations and  
36 treatment ordered pursuant to this subsection shall only be conducted  
37 by certified sex offender treatment providers or certified affiliate  
38 sex offender treatment providers under chapter 18.155 RCW.

1 (d) A sex offender therapist who examines or treats a juvenile sex  
2 offender pursuant to this subsection does not have to be certified by  
3 the department of health pursuant to chapter 18.155 RCW if the court  
4 finds that: (i) The offender has already moved to another state or  
5 plans to move to another state for reasons other than circumventing the  
6 certification requirements; (ii) no certified sex offender treatment  
7 providers or certified affiliate sex offender treatment providers are  
8 available for treatment within a reasonable geographical distance of  
9 the offender's home; and (iii) the evaluation and treatment plan comply  
10 with this subsection and the rules adopted by the department of health.

11 (8)(a) If the offender violates any condition of the disposition or  
12 the court finds that the respondent is failing to make satisfactory  
13 progress in treatment, the court may revoke the suspension and order  
14 execution of the disposition or the court may impose a penalty of up to  
15 thirty days confinement for violating conditions of the disposition.

16 (b) The court may order both execution of the disposition and up to  
17 thirty days confinement for the violation of the conditions of the  
18 disposition.

19 (c) The court shall give credit for any confinement time previously  
20 served if that confinement was for the offense for which the suspension  
21 is being revoked.

22 (9) For purposes of this section, "victim" means any person who has  
23 sustained emotional, psychological, physical, or financial injury to  
24 person or property as a direct result of the crime charged. "Victim"  
25 may also include a known parent or guardian of a victim who is a minor  
26 child unless the parent or guardian is the perpetrator of the offense.

27 (10) A disposition entered under this section is not appealable  
28 under RCW 13.40.230.

29 **Sec. 4.** RCW 13.50.050 and 2010 c 150 s 2 are each amended to read  
30 as follows:

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

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

36 (3) All records other than the official juvenile court file are

1 confidential and may be released only as provided in this section, RCW  
2 13.50.010, 13.40.215, and 4.24.550.

3 (4) Except as otherwise provided in this section and RCW 13.50.010,  
4 records retained or produced by any juvenile justice or care agency may  
5 be released to other participants in the juvenile justice or care  
6 system only when an investigation or case involving the juvenile in  
7 question is being pursued by the other participant or when that other  
8 participant is assigned the responsibility for supervising the  
9 juvenile.

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

15 (6) Notwithstanding any other provision of this chapter, the  
16 release, to the juvenile or his or her attorney, of law enforcement and  
17 prosecuting attorneys' records pertaining to investigation, diversion,  
18 and prosecution of juvenile offenses shall be governed by the rules of  
19 discovery and other rules of law applicable in adult criminal  
20 investigations and prosecutions.

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

32 (8) The juvenile court and the prosecutor may set up and maintain  
33 a central recordkeeping system which may receive information on all  
34 alleged juvenile offenders against whom a complaint has been filed  
35 pursuant to RCW 13.40.070 whether or not their cases are currently  
36 pending before the court. The central recordkeeping system may be  
37 computerized. If a complaint has been referred to a diversion unit,  
38 the diversion unit shall promptly report to the juvenile court or the

1 prosecuting attorney when the juvenile has agreed to diversion. An  
2 offense shall not be reported as criminal history in any central  
3 recordkeeping system without notification by the diversion unit of the  
4 date on which the offender agreed to diversion.

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

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

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

27 (12)(a) The court shall not grant any motion to seal records for  
28 class A offenses made pursuant to subsection (11) of this section that  
29 is filed on or after July 1, 1997, unless:

30 (i) Since the last date of release from confinement, including  
31 full-time residential treatment, if any, or entry of disposition, the  
32 person has spent five consecutive years in the community without  
33 committing any offense or crime that subsequently results in an  
34 adjudication or conviction;

35 (ii) No proceeding is pending against the moving party seeking the  
36 conviction of a juvenile offense or a criminal offense;

37 (iii) No proceeding is pending seeking the formation of a diversion  
38 agreement with that person;

1 (iv) The person is no longer required to register as a sex offender  
2 under RCW 9A.44.130 or has (~~not~~) been relieved of the duty to  
3 register under RCW 9A.44.143 if the person was convicted of a sex  
4 offense;

5 (v) The person has not been convicted of rape in the first degree,  
6 rape in the second degree, or indecent liberties that was actually  
7 committed with forcible compulsion; and

8 (~~(v)~~) (vi) Full restitution has been paid.

9 (b) The court shall not grant any motion to seal records for class  
10 B, C, gross misdemeanor and misdemeanor offenses and diversions made  
11 under subsection (11) of this section unless:

12 (i) Since the date of last release from confinement, including  
13 full-time residential treatment, if any, entry of disposition, or  
14 completion of the diversion agreement, the person has spent two  
15 consecutive years in the community without being convicted of any  
16 offense or crime;

17 (ii) No proceeding is pending against the moving party seeking the  
18 conviction of a juvenile offense or a criminal offense;

19 (iii) No proceeding is pending seeking the formation of a diversion  
20 agreement with that person;

21 (iv) The person is no longer required to register as a sex offender  
22 under RCW 9A.44.130 or has (~~not~~) been relieved of the duty to  
23 register under RCW 9A.44.143 if the person was convicted of a sex  
24 offense; and

25 (v) Full restitution has been paid.

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

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

1 be given about the existence or nonexistence of records concerning an  
2 individual.

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

8 (16) Any adjudication of a juvenile offense or a crime subsequent  
9 to sealing has the effect of nullifying the sealing order. Any  
10 charging of an adult felony subsequent to the sealing has the effect of  
11 nullifying the sealing order for the purposes of chapter 9.94A RCW.  
12 The administrative office of the courts shall ensure that the superior  
13 court judicial information system provides prosecutors access to  
14 information on the existence of sealed juvenile records.

15 (17)(a)(i) Subject to subsection (23) of this section, all records  
16 maintained by any court or law enforcement agency, including the  
17 juvenile court, local law enforcement, the Washington state patrol, and  
18 the prosecutor's office, shall be automatically destroyed within ninety  
19 days of becoming eligible for destruction. Juvenile records are  
20 eligible for destruction when:

21 (A) The person who is the subject of the information or complaint  
22 is at least eighteen years of age;

23 (B) His or her criminal history consists entirely of one diversion  
24 agreement or counsel and release entered on or after June 12, 2008;

25 (C) Two years have elapsed since completion of the agreement or  
26 counsel and release;

27 (D) No proceeding is pending against the person seeking the  
28 conviction of a criminal offense; and

29 (E) There is no restitution owing in the case.

30 (ii) No less than quarterly, the administrative office of the  
31 courts shall provide a report to the juvenile courts of those  
32 individuals whose records may be eligible for destruction. The  
33 juvenile court shall verify eligibility and notify the Washington state  
34 patrol and the appropriate local law enforcement agency and  
35 prosecutor's office of the records to be destroyed. The requirement to  
36 destroy records under this subsection is not dependent on a court  
37 hearing or the issuance of a court order to destroy records.

1 (iii) The state and local governments and their officers and  
2 employees are not liable for civil damages for the failure to destroy  
3 records pursuant to this section.

4 (b) A person eighteen years of age or older whose criminal history  
5 consists entirely of one diversion agreement or counsel and release  
6 entered prior to June 12, 2008, may request that the court order the  
7 records in his or her case destroyed. The request shall be granted,  
8 subject to subsection (23) of this section, if the court finds that two  
9 years have elapsed since completion of the agreement or counsel and  
10 release.

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

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

23 (19) The person making the motion pursuant to subsection (17)(b) or  
24 (c) of this section shall give reasonable notice of the motion to the  
25 prosecuting attorney and to any agency whose records are sought to be  
26 destroyed.

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

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

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



1 (a) Records may be routinely destroyed only when the person the  
2 subject of the information or complaint has attained twenty-three years  
3 of age or older or pursuant to subsection (17)(a) of this section.

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

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

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

26 **Sec. 5.** RCW 72.09.345 and 2008 c 231 s 49 are each amended to read  
27 as follows:

28 (1) In addition to any other information required to be released  
29 under this chapter, the department is authorized, pursuant to RCW  
30 4.24.550, to release relevant information that is necessary to protect  
31 the public concerning offenders convicted of sex offenses.

32 (2) In order for public agencies to have the information necessary  
33 to notify the public as authorized in RCW 4.24.550, the secretary shall  
34 establish and administer an end-of-sentence review committee for the  
35 purposes of assigning risk levels, reviewing available release plans,  
36 and making appropriate referrals for sex offenders. (~~The committee~~  
37 ~~shall assess, on a case by case basis, the public risk posed by sex~~

1 ~~offenders who are: (a) Preparing for their release from confinement~~  
2 ~~for sex offenses committed on or after July 1, 1984; and (b) accepted~~  
3 ~~from another state under a reciprocal agreement under the interstate~~  
4 ~~compact authorized in chapter 72.74 RCW.)~~)

5 (3) The committee shall assess, on a case-by-case basis, the public  
6 risk posed by:

7 (a) Offenders preparing for release from confinement for a sex  
8 offense or sexually violent offense committed on or after July 1, 1984;

9 (b) Sex offenders accepted from another state under a reciprocal  
10 agreement under the interstate corrections compact authorized in  
11 chapter 72.74 RCW;

12 (c) Juveniles preparing for release from confinement for a sex  
13 offense and releasing from the department of social and health services  
14 juvenile rehabilitation administration;

15 (d) Juveniles, following disposition, under the jurisdiction of a  
16 county juvenile court for a registerable sex offense; and

17 (e) Juveniles found to have committed a sex offense and accepted  
18 from another state under a reciprocal agreement under the interstate  
19 compact for juveniles authorized in chapter 13.24 RCW.

20 (4) Notwithstanding any other provision of law, the committee shall  
21 have access to all relevant records and information in the possession  
22 of public agencies relating to the offenders under review, including  
23 police reports; prosecutors' statements of probable cause; presentence  
24 investigations and reports; complete judgments and sentences; current  
25 classification referrals; criminal history summaries; violation and  
26 disciplinary reports; all psychological evaluations and psychiatric  
27 hospital reports; sex offender treatment program reports; and juvenile  
28 records. Records and information obtained under this subsection shall  
29 not be disclosed outside the committee unless otherwise authorized by  
30 law.

31 ~~((+4))~~ (5) The committee shall review each sex offender under its  
32 authority before the offender's release from confinement or start of  
33 the offender's term of community custody in order to: (a) Classify the  
34 offender into a risk level for the purposes of public notification  
35 under RCW 4.24.550; (b) where available, review the offender's proposed  
36 release plan in accordance with the requirements of RCW 72.09.340; and  
37 (c) make appropriate referrals.

