

2SSB 5564 - S AMD 151

By Senators O'Ban, Darneille

ADOPTED 3/6/2015

1 On page 6, line 10, after "restitution" insert "owing to the
2 individual victim named in the charging document"

3 On page 7, line 6, after "(vi)" strike "Full restitution has been
4 paid" and insert "~~((Full restitution has been paid))~~ The person has
5 paid the full amount of restitution owing to the individual victim
6 named in the charging document"

7 On page 7, line 23, after "(v)" strike "Full restitution has been
8 paid" and insert "~~((Full restitution has been paid))~~ The person has
9 paid the full amount of restitution owing to the individual victim
10 named in the charging document"

11 On page 8, line 11, after "individual." insert "The department of
12 licensing may release information related to records the court has
13 ordered sealed only to the extent necessary to comply with federal
14 law and regulation."

15 On page 9, after line 2, insert the following:

16 "**Sec. 4.** RCW 46.52.130 and 2012 c 74 s 6 and 2012 c 73 s 1 are
17 each reenacted and amended to read as follows:

18 Upon a proper request, the department may furnish an abstract of
19 a person's driving record as permitted under this section.

20 (1) **Contents of abstract of driving record.** An abstract of a
21 person's driving record, whenever possible, must include:

22 (a) An enumeration of motor vehicle accidents in which the person
23 was driving, including:

24 (i) The total number of vehicles involved;

25 (ii) Whether the vehicles were legally parked or moving;

26 (iii) Whether the vehicles were occupied at the time of the
27 accident; and

28 (iv) Whether the accident resulted in a fatality;

1 (b) Any reported convictions, forfeitures of bail, or findings
2 that an infraction was committed based upon a violation of any motor
3 vehicle law;

4 (c) The status of the person's driving privilege in this state;
5 and

6 (d) Any reports of failure to appear in response to a traffic
7 citation or failure to respond to a notice of infraction served upon
8 the named individual by an arresting officer.

9 (2) **Release of abstract of driving record.** An abstract of a
10 person's driving record may be furnished to the following persons or
11 entities:

12 (a) **Named individuals.** (i) An abstract of the full driving record
13 maintained by the department may be furnished to the individual named
14 in the abstract.

15 (ii) Nothing in this section prevents a court from providing a
16 copy of the driver's abstract to the individual named in the
17 abstract, provided that the named individual has a pending or open
18 infraction or criminal case in that court. A pending case includes
19 criminal cases that have not reached a disposition by plea,
20 stipulation, trial, or amended charge. An open infraction or criminal
21 case includes cases on probation, payment agreement or subject to, or
22 in collections. Courts may charge a reasonable fee for the production
23 and copying of the abstract for the individual.

24 (b) **Employers or prospective employers.** (i)(A) An abstract of the
25 full driving record maintained by the department may be furnished to
26 an employer or prospective employer or an agent acting on behalf of
27 an employer or prospective employer of the named individual for
28 purposes related to driving by the individual as a condition of
29 employment or otherwise at the direction of the employer.

30 (B) Release of an abstract of the driving record of an employee
31 or prospective employee requires a statement signed by: (I) The
32 employee or prospective employee that authorizes the release of the
33 record; and (II) the employer attesting that the information is
34 necessary for employment purposes related to driving by the
35 individual as a condition of employment or otherwise at the direction
36 of the employer. If the employer or prospective employer authorizes
37 an agent to obtain this information on their behalf, this must be
38 noted in the statement.

39 (C) Upon request of the person named in the abstract provided
40 under this subsection, and upon that same person furnishing copies of

1 court records ruling that the person was not at fault in a motor
2 vehicle accident, the department must indicate on any abstract
3 provided under this subsection that the person was not at fault in
4 the motor vehicle accident.

5 (ii) In addition to the methods described in (b)(i) of this
6 subsection, the director may enter into a contractual agreement with
7 an employer or its agent for the purpose of reviewing the driving
8 records of existing employees for changes to the record during
9 specified periods of time. The department shall establish a fee for
10 this service, which must be deposited in the highway safety fund. The
11 fee for this service must be set at a level that will not result in a
12 net revenue loss to the state. Any information provided under this
13 subsection must be treated in the same manner and is subject to the
14 same restrictions as driving record abstracts.

15 (c) **Volunteer organizations.** (i) An abstract of the full driving
16 record maintained by the department may be furnished to a volunteer
17 organization or an agent for a volunteer organization for which the
18 named individual has submitted an application for a position that
19 would require driving by the individual at the direction of the
20 volunteer organization.

21 (ii) Release of an abstract of the driving record of a
22 prospective volunteer requires a statement signed by: (A) The
23 prospective volunteer that authorizes the release of the record; and
24 (B) the volunteer organization attesting that the information is
25 necessary for purposes related to driving by the individual at the
26 direction of the volunteer organization. If the volunteer
27 organization authorizes an agent to obtain this information on their
28 behalf, this must be noted in the statement.

29 (d) **Transit authorities.** An abstract of the full driving record
30 maintained by the department may be furnished to an employee or agent
31 of a transit authority checking prospective volunteer vanpool drivers
32 for insurance and risk management needs.

33 (e) **Insurance carriers.** (i) An abstract of the driving record
34 maintained by the department covering the period of not more than the
35 last three years may be furnished to an insurance company or its
36 agent:

37 (A) That has motor vehicle or life insurance in effect covering
38 the named individual;

39 (B) To which the named individual has applied; or

1 (C) That has insurance in effect covering the employer or a
2 prospective employer of the named individual.

3 (ii) The abstract provided to the insurance company must:

4 (A) Not contain any information related to actions committed by
5 law enforcement officers or firefighters, as both terms are defined
6 in RCW 41.26.030, or by Washington state patrol officers, while
7 driving official vehicles in the performance of their occupational
8 duty. This does not apply to any situation where the vehicle was used
9 in the commission of a misdemeanor or felony;

10 (B) Include convictions under RCW 46.61.5249 and 46.61.525,
11 except that the abstract must report the convictions only as
12 negligent driving without reference to whether they are for first or
13 second degree negligent driving; and

14 (C) Exclude any deferred prosecution under RCW 10.05.060, except
15 that if a person is removed from a deferred prosecution under RCW
16 10.05.090, the abstract must show the deferred prosecution as well as
17 the removal.

18 (iii) Any policy of insurance may not be canceled, nonrenewed,
19 denied, or have the rate increased on the basis of information
20 regarding an accident included in the abstract of a driving record,
21 unless the policyholder was determined to be at fault.

22 (iv) Any insurance company or its agent, for underwriting
23 purposes relating to the operation of commercial motor vehicles, may
24 not use any information contained in the abstract relative to any
25 person's operation of motor vehicles while not engaged in such
26 employment. Any insurance company or its agent, for underwriting
27 purposes relating to the operation of noncommercial motor vehicles,
28 may not use any information contained in the abstract relative to any
29 person's operation of commercial motor vehicles.

30 (v) The director may enter into a contractual agreement with an
31 insurance company or its agent for the limited purpose of reviewing
32 the driving records of existing policyholders for changes to the
33 record during specified periods of time. The department shall
34 establish a fee for this service, which must be deposited in the
35 highway safety fund. The fee for this service must be set at a level
36 that will not result in a net revenue loss to the state. Any
37 information provided under this subsection must be treated in the
38 same manner and is subject to the same restrictions as driving record
39 abstracts.

1 (f) **Alcohol/drug assessment or treatment agencies.** An abstract of
2 the driving record maintained by the department covering the period
3 of not more than the last five years may be furnished to an alcohol/
4 drug assessment or treatment agency approved by the department of
5 social and health services to which the named individual has applied
6 or been assigned for evaluation or treatment, for purposes of
7 assisting employees in making a determination as to what level of
8 treatment, if any, is appropriate, except that the abstract must:

9 (i) Also include records of alcohol-related offenses, as defined
10 in RCW 46.01.260(2), covering a period of not more than the last ten
11 years; and

12 (ii) Indicate whether an alcohol-related offense was originally
13 charged as a violation of either RCW 46.61.502 or 46.61.504.

14 (g) **City attorneys and county prosecuting attorneys.** An abstract
15 of the full driving record maintained by the department, including
16 whether a recorded violation is an alcohol-related offense, as
17 defined in RCW 46.01.260(2), that was originally charged as a
18 violation of either RCW 46.61.502 or 46.61.504, may be furnished to
19 city attorneys or county prosecuting attorneys. City attorneys and
20 county prosecuting attorneys may provide the driving record to
21 alcohol/drug assessment or treatment agencies approved by the
22 department of social and health services to which the named
23 individual has applied or been assigned for evaluation or treatment.

24 (h) **State colleges, universities, or agencies, or units of local
25 government.** An abstract of the full driving record maintained by the
26 department may be furnished to (i) state colleges, universities, or
27 agencies for employment and risk management purposes or (ii) units of
28 local government authorized to self-insure under RCW 48.62.031 for
29 employment and risk management purposes.

30 (i) **Superintendent of public instruction.** An abstract of the full
31 driving record maintained by the department may be furnished to the
32 superintendent of public instruction for review of public school bus
33 driver records. The superintendent or superintendent's designee may
34 discuss information on the driving record with an authorized
35 representative of the employing school district for employment and
36 risk management purposes.

37 (3) **Release to third parties prohibited.** Any person or entity
38 receiving an abstract of a person's driving record under subsection
39 (2)(b) through (i) of this section shall use the abstract exclusively
40 for his, her, or its own purposes or as otherwise expressly permitted

1 under this section, and shall not divulge any information contained
2 in the abstract to a third party.

3 (4) **Fee.** The director shall collect a thirteen dollar fee for
4 each abstract of a person's driving record furnished by the
5 department. Fifty percent of the fee must be deposited in the highway
6 safety fund, and fifty percent of the fee must be deposited according
7 to RCW 46.68.038.

8 (5) **Violation.** (a) Any negligent violation of this section is a
9 gross misdemeanor.

10 (b) Any intentional violation of this section is a class C
11 felony.

12 (6) The contents of a driving abstract pursuant to this section
13 shall not include any information related to sealed juvenile records
14 unless that information is required by federal law or regulation."

15 Renumber the remaining sections consecutively and correct any
16 internal references accordingly.

17 On page 9, at the beginning of line 38, strike "for good cause
18 shown, including inability to pay"

19 On page 10, line 23, after "provider" strike all material through
20 "period" on line 25 and insert "~~((and could not reasonably acquire~~
21 ~~the means to pay the insurance provider the restitution over a ten-~~
22 ~~year period))"~~

23 On page 11, line 12, after "of" strike "or relief from" and after
24 "order" insert "for good cause shown, including inability to pay"

25 On page 37, line 9, after "restitution" strike "ordered" and
26 insert "~~((ordered))~~ owing to the individual victim named in the
27 charging document"

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28 On page 1, line 9 of the title, after "13.50.010" insert ",
29 46.52.130,"

EFFECT: Limits the sealing of juvenile records to cases where the individual has paid the full amount of restitution owing to the individual victim named in the charging document.

Allows the department of licensing to furnish sealed juvenile records only to the extent necessary to comply with relevant federal law and regulation.

Makes a technical fix that removes language that refers to allowing a respondent to petition the court for relief from a restitution order.

Allows a respondent under obligation to pay restitution to petition the court for modification of the restitution order for good cause shown, including inability to pay.

Removes the requirement that courts consider whether an individual could reasonably acquire the means to pay an insurance provider restitution over a ten-year period when considering modification of restitution owing on a juvenile offense.

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