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HOUSE BILL 2405

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State of Washington                      64th Legislature                      2016 Regular Session

By Representatives Muri, Kilduff, and Jenkins

Read first time 01/13/16. Referred to Committee on Judiciary.

1            AN ACT Relating to the role of parties in cases related to  
2 certain notices and records; amending RCW 9.41.047, 28A.405.330,  
3 46.29.270, 46.29.310, 53.48.030, and 13.34.070; and reenacting and  
4 amending RCW 13.50.010.

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

6            **Sec. 1.** RCW 9.41.047 and 2011 c 193 s 2 are each amended to read  
7 as follows:

8            (1)(a) At the time a person is convicted or found not guilty by  
9 reason of insanity of an offense making the person ineligible to  
10 possess a firearm, or at the time a person is committed by court  
11 order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or  
12 chapter 10.77 RCW for mental health treatment, the convicting or  
13 committing court shall notify the person, orally and in writing, that  
14 the person must immediately surrender any concealed pistol license  
15 and that the person may not possess a firearm unless his or her right  
16 to do so is restored by a court of record. For purposes of this  
17 section a convicting court includes a court in which a person has  
18 been found not guilty by reason of insanity.

19            (b) The convicting or committing court shall forward within three  
20 judicial days after conviction or entry of the commitment order a  
21 copy of the person's driver's license or identicard, or comparable

1 information, along with the date of conviction or commitment, to the  
2 department of licensing. When a person is committed by court order  
3 under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter  
4 10.77 RCW, for mental health treatment, the committing court also  
5 shall forward, within three judicial days after entry of the  
6 commitment order, a copy of the person's driver's license, or  
7 comparable information, along with the date of commitment, to the  
8 national instant criminal background check system index, denied  
9 persons file, created by the federal Brady handgun violence  
10 prevention act (P.L. 103-159). The petitioning party shall provide  
11 the court with the information required. If more than one commitment  
12 order is entered under one cause number, only one notification to the  
13 department of licensing and the national instant criminal background  
14 check system is required.

15 (2) Upon receipt of the information provided for by subsection  
16 (1) of this section, the department of licensing shall determine if  
17 the convicted or committed person has a concealed pistol license. If  
18 the person does have a concealed pistol license, the department of  
19 licensing shall immediately notify the license-issuing authority  
20 which, upon receipt of such notification, shall immediately revoke  
21 the license.

22 (3)(a) A person who is prohibited from possessing a firearm, by  
23 reason of having been involuntarily committed for mental health  
24 treatment under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750,  
25 chapter 10.77 RCW, or equivalent statutes of another jurisdiction  
26 may, upon discharge, petition the superior court to have his or her  
27 right to possess a firearm restored.

28 (b) The petition must be brought in the superior court that  
29 ordered the involuntary commitment or the superior court of the  
30 county in which the petitioner resides.

31 (c) Except as provided in (d) of this subsection, the court shall  
32 restore the petitioner's right to possess a firearm if the petitioner  
33 proves by a preponderance of the evidence that:

34 (i) The petitioner is no longer required to participate in court-  
35 ordered inpatient or outpatient treatment;

36 (ii) The petitioner has successfully managed the condition  
37 related to the commitment;

38 (iii) The petitioner no longer presents a substantial danger to  
39 himself or herself, or the public; and

1 (iv) The symptoms related to the commitment are not reasonably  
2 likely to recur.

3 (d) If a preponderance of the evidence in the record supports a  
4 finding that the person petitioning the court has engaged in violence  
5 and that it is more likely than not that the person will engage in  
6 violence after his or her right to possess a firearm is restored, the  
7 person shall bear the burden of proving by clear, cogent, and  
8 convincing evidence that he or she does not present a substantial  
9 danger to the safety of others.

10 (e) When a person's right to possess a firearm has been restored  
11 under this subsection, the court shall forward, within three judicial  
12 days after entry of the restoration order, notification that the  
13 person's right to possess a firearm has been restored to the  
14 department of licensing, the department of social and health  
15 services, and the national instant criminal background check system  
16 index, denied persons file.

17 (4) No person who has been found not guilty by reason of insanity  
18 may petition a court for restoration of the right to possess a  
19 firearm unless the person meets the requirements for the restoration  
20 of the right to possess a firearm under RCW 9.41.040(4).

21 **Sec. 2.** RCW 13.50.010 and 2015 c 265 s 2 and 2015 c 262 s 1 are  
22 each reenacted and amended to read as follows:

23 (1) For purposes of this chapter:

24 (a) "Good faith effort to pay" means a juvenile offender has  
25 either (i) paid the principal amount in full; (ii) made at least  
26 eighty percent of the value of full monthly payments within the  
27 period from disposition or deferred disposition until the time the  
28 amount of restitution owed is under review; or (iii) can show good  
29 cause why he or she paid an amount less than eighty percent of the  
30 value of full monthly payments;

31 (b) "Juvenile justice or care agency" means any of the following:  
32 Police, diversion units, court, prosecuting attorney, defense  
33 attorney, detention center, attorney general, the legislative  
34 children's oversight committee, the office of the family and  
35 children's ombuds, the department of social and health services and  
36 its contracting agencies, schools; persons or public or private  
37 agencies having children committed to their custody; and any  
38 placement oversight committee created under RCW 72.05.415;

1 (c) "Official juvenile court file" means the legal file of the  
2 juvenile court containing the petition or information, motions,  
3 memorandums, briefs, (~~findings of the court, and court orders~~)  
4 notices of hearing or appearance, proof of service, witness and  
5 exhibit lists, court minutes, findings of the court and court orders,  
6 as well as documents prepared by the clerk, including agreements,  
7 letters, warrants, service documents, waivers, judgments, decrees,  
8 affidavits, declarations, notes for calendar, notices of appeal, and  
9 clerk papers;

10 (d) "Records" means the official juvenile court file, the social  
11 file, and records of any other juvenile justice or care agency in the  
12 case;

13 (e) "Social file" means the juvenile court file containing the  
14 records and reports of the probation counselor.

15 (2) Each petition or information filed with the court may include  
16 only one juvenile and each petition or information shall be filed  
17 under a separate docket number. The social file shall be filed  
18 separately from the official juvenile court file.

19 (3) It is the duty of any juvenile justice or care agency to  
20 maintain accurate records. To this end:

21 (a) The agency may never knowingly record inaccurate information.  
22 Any information in records maintained by the department of social and  
23 health services relating to a petition filed pursuant to chapter  
24 13.34 RCW that is found by the court to be false or inaccurate shall  
25 be corrected or expunged from such records by the agency;

26 (b) An agency shall take reasonable steps to assure the security  
27 of its records and prevent tampering with them; and

28 (c) An agency shall make reasonable efforts to insure the  
29 completeness of its records, including action taken by other agencies  
30 with respect to matters in its files.

31 (4) Each juvenile justice or care agency shall implement  
32 procedures consistent with the provisions of this chapter to  
33 facilitate inquiries concerning records.

34 (5) Any person who has reasonable cause to believe information  
35 concerning that person is included in the records of a juvenile  
36 justice or care agency and who has been denied access to those  
37 records by the agency may make a motion to the court for an order  
38 authorizing that person to inspect the juvenile justice or care  
39 agency record concerning that person. The court shall grant the  
40 motion to examine records unless it finds that in the interests of

1 justice or in the best interests of the juvenile the records or parts  
2 of them should remain confidential.

3 (6) A juvenile, or his or her parents, or any person who has  
4 reasonable cause to believe information concerning that person is  
5 included in the records of a juvenile justice or care agency may make  
6 a motion to the court challenging the accuracy of any information  
7 concerning the moving party in the record or challenging the  
8 continued possession of the record by the agency. If the court grants  
9 the motion, it shall order the record or information to be corrected  
10 or destroyed.

11 (7) The person making a motion under subsection (5) or (6) of  
12 this section shall give reasonable notice of the motion to all  
13 parties to the original action and to any agency whose records will  
14 be affected by the motion.

15 (8) The court may permit inspection of records by, or release of  
16 information to, any clinic, hospital, or agency which has the subject  
17 person under care or treatment. The court may also permit inspection  
18 by or release to individuals or agencies, including juvenile justice  
19 advisory committees of county law and justice councils, engaged in  
20 legitimate research for educational, scientific, or public purposes.  
21 Each person granted permission to inspect juvenile justice or care  
22 agency records for research purposes shall present a notarized  
23 statement to the court stating that the names of juveniles and  
24 parents will remain confidential.

25 (9) The court shall release to the caseload forecast council the  
26 records needed for its research and data-gathering functions. Access  
27 to caseload forecast data may be permitted by the council for  
28 research purposes only if the anonymity of all persons mentioned in  
29 the records or information will be preserved.

30 (10) Juvenile detention facilities shall release records to the  
31 caseload forecast council upon request. The commission shall not  
32 disclose the names of any juveniles or parents mentioned in the  
33 records without the named individual's written permission.

34 (11) Requirements in this chapter relating to the court's  
35 authority to compel disclosure shall not apply to the legislative  
36 children's oversight committee or the office of the family and  
37 children's ombuds.

38 (12) For the purpose of research only, the administrative office  
39 of the courts shall maintain an electronic research copy of all  
40 records in the judicial information system related to juveniles.

1 Access to the research copy is restricted to the Washington state  
2 center for court research. The Washington state center for court  
3 research shall maintain the confidentiality of all confidential  
4 records and shall preserve the anonymity of all persons identified in  
5 the research copy. The research copy may not be subject to any  
6 records retention schedule and must include records destroyed or  
7 removed from the judicial information system pursuant to RCW  
8 13.50.270 and 13.50.100(3).

9 (13) The court shall release to the Washington state office of  
10 public defense records needed to implement the agency's oversight,  
11 technical assistance, and other functions as required by RCW  
12 2.70.020. Access to the records used as a basis for oversight,  
13 technical assistance, or other agency functions is restricted to the  
14 Washington state office of public defense. The Washington state  
15 office of public defense shall maintain the confidentiality of all  
16 confidential information included in the records.

17 (14) The court shall release to the Washington state office of  
18 civil legal aid records needed to implement the agency's oversight,  
19 technical assistance, and other functions as required by RCW  
20 2.53.045. Access to the records used as a basis for oversight,  
21 technical assistance, or other agency functions is restricted to the  
22 Washington state office of civil legal aid. The Washington state  
23 office of civil legal aid shall maintain the confidentiality of all  
24 confidential information included in the records, and shall, as soon  
25 as possible, destroy any retained notes or records obtained under  
26 this section that are not necessary for its functions related to RCW  
27 2.53.045.

28 **Sec. 3.** RCW 28A.405.330 and 1990 c 33 s 398 are each amended to  
29 read as follows:

30 The (~~clerk of the superior court~~) filing party, within ten days  
31 of (~~receipt of~~) filing the notice of appeal shall notify in writing  
32 the chair of the school board of the taking of the appeal, and within  
33 twenty days thereafter the school board shall at its expense file the  
34 complete transcript of the evidence and the papers and exhibits  
35 relating to the decision complained of, all properly certified to be  
36 correct.

37 **Sec. 4.** RCW 46.29.270 and 1999 c 296 s 2 are each amended to  
38 read as follows:

1 The following words and phrases when used in this chapter shall,  
2 for the purpose of this chapter, have the meanings respectively  
3 ascribed to them in this section.

4 (1) The term "judgment" shall mean: Any judgment which shall have  
5 become final by expiration without appeal of the time within which an  
6 appeal might have been perfected, or by final affirmation on appeal,  
7 rendered by a court of competent jurisdiction of any state or of the  
8 United States, upon a cause of action arising out of the ownership,  
9 maintenance or use of any vehicle of a type subject to registration  
10 under the laws of this state, for damages, including damages for care  
11 and loss of services, because of bodily injury to or death of any  
12 person, or for damages because of injury to or destruction of  
13 property, including the loss of use thereof, or upon a cause of  
14 action on an agreement of settlement for such damages. The first page  
15 of a judgment must include a judgment summary that states damages are  
16 awarded under this section and the ~~((clerk of the court))~~ judgment  
17 creditor must give notice as outlined in RCW 46.29.310.

18 (2) The term "state" shall mean: Any state, territory, or  
19 possession of the United States, the District of Columbia, or any  
20 province of the Dominion of Canada.

21 **Sec. 5.** RCW 46.29.310 and 2010 c 8 s 9039 are each amended to  
22 read as follows:

23 Whenever any person fails within thirty days to satisfy any  
24 judgment, then it shall be the duty of the ~~((clerk of the court, or  
25 of the judge of a court which has no clerk, in which any such  
26 judgment is rendered within this state))~~ judgment creditor to forward  
27 immediately to the department the following:

28 (1) A certified copy or abstract of such judgment;

29 (2) A certificate of facts relative to such judgment;

30 (3) Where the judgment is by default, a certified copy or  
31 abstract of that portion of the record which indicates the manner in  
32 which service of summons was effectuated and all the measures taken  
33 to provide the defendant with timely and actual notice of the suit  
34 against him or her.

35 **Sec. 6.** RCW 53.48.030 and 1941 c 87 s 3 are each amended to read  
36 as follows:

37 Upon the filing of such petition for an order of dissolution, the  
38 superior court shall enter an order setting the same for hearing at a

1 date not less than thirty days from the date of filing, and the  
2 (~~clerk of the court of said county~~) petitioner shall give notice of  
3 such hearing by publication in a newspaper of general circulation in  
4 the county in which the district is located once a week for three  
5 successive weeks, and by posting in three public places in the county  
6 in which the district is located at least twenty-one days before said  
7 hearing. At least one notice shall be posted in the district. The  
8 notices shall set forth the filing of the petition, its purpose and  
9 the date and place of the hearing thereon.

10 **Sec. 7.** RCW 13.34.070 and 2011 c 309 s 25 are each amended to  
11 read as follows:

12 (1) Upon the filing of the petition, the (~~clerk of the court~~)  
13 petitioner shall issue a summons, one directed to the child, if the  
14 child is twelve or more years of age, and another to the parents,  
15 guardian, or custodian, and such other persons as appear to the court  
16 to be proper or necessary parties to the proceedings, requiring them  
17 to appear personally before the court at the time fixed to hear the  
18 petition. If the child is developmentally disabled and not living at  
19 home, the notice shall be given to the child's custodian as well as  
20 to the child's parent. The developmentally disabled child shall not  
21 be required to appear unless requested by the court. When the  
22 custodian is summoned, the parent or guardian or both shall also be  
23 served with a summons. The fact-finding hearing on the petition shall  
24 be held no later than seventy-five days after the filing of the  
25 petition, unless exceptional reasons for a continuance are found. The  
26 party requesting the continuance shall have the burden of proving by  
27 a preponderance of the evidence that exceptional circumstances exist.  
28 To ensure that the hearing on the petition occurs within the seventy-  
29 five day time limit, the court shall schedule and hear the matter on  
30 an expedited basis.

31 (2) A copy of the petition shall be attached to each summons.

32 (3) The summons shall advise the parties of the right to counsel.  
33 The summons shall also inform the child's parent, guardian, or legal  
34 custodian of his or her right to appointed counsel, if indigent, and  
35 of the procedure to use to secure appointed counsel.

36 (4) The summons shall advise the parents that they may be held  
37 responsible for the support of the child if the child is placed in  
38 out-of-home care.



1 (5) The judge may endorse upon the summons an order directing any  
2 parent, guardian, or custodian having the custody or control of the  
3 child to bring the child to the hearing.

4 (6) If it appears from affidavit or sworn statement presented to  
5 the judge that there is probable cause for the issuance of a warrant  
6 of arrest or that the child needs to be taken into custody pursuant  
7 to RCW 13.34.050, the judge may endorse upon the summons an order  
8 that an officer serving the summons shall at once take the child into  
9 custody and take him or her to the place of shelter designated by the  
10 court.

11 (7) If the person summoned as provided in this section is subject  
12 to an order of the court pursuant to subsection (5) or (6) of this  
13 section, and if the person fails to abide by the order, he or she may  
14 be proceeded against as for contempt of court. The order endorsed  
15 upon the summons shall conspicuously display the following legend:  
16

17 NOTICE:

18 VIOLATION OF THIS ORDER  
19 IS SUBJECT TO PROCEEDING  
20 FOR CONTEMPT OF COURT  
21 PURSUANT TO RCW 13.34.070.  
22

23 (8) If a party to be served with a summons can be found within  
24 the state, the summons shall be served upon the party personally as  
25 soon as possible following the filing of the petition, but in no case  
26 later than fifteen court days before the fact-finding hearing, or  
27 such time as set by the court. If the party is within the state and  
28 cannot be personally served, but the party's address is known or can  
29 with reasonable diligence be ascertained, the summons may be served  
30 upon the party by mailing a copy by certified mail as soon as  
31 possible following the filing of the petition, but in no case later  
32 than fifteen court days before the hearing, or such time as set by  
33 the court. If a party other than the child is without the state but  
34 can be found or the address is known, or can with reasonable  
35 diligence be ascertained, service of the summons may be made either  
36 by delivering a copy to the party personally or by mailing a copy  
37 thereof to the party by certified mail at least ten court days before  
38 the fact-finding hearing, or such time as set by the court.

39 (9) Service of summons may be made under the direction of the  
40 court by any person eighteen years of age or older who is not a party

1 to the proceedings or by any law enforcement officer, probation  
2 counselor, or department employee.

3 (10) Whenever the court or the petitioning party in a proceeding  
4 under this chapter knows or has reason to know that an Indian child  
5 as defined in RCW 13.38.040 is involved, the petitioning party shall  
6 promptly provide notice to the child's parent or Indian custodian and  
7 to the agent designated by the child's Indian tribe to receive such  
8 notices. Notice shall comply with RCW 13.38.070.

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