2SHB 1191 - S COMM AMD

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By Committee on Early Learning & K-12 Education

ADOPTED 03/04/2020

S-7209.1/20

- 1 Strike everything after the enacting clause and insert the 2 following:
- 3 "NEW SECTION. Sec. 1. A new section is added to chapter 28A.320 4 RCW to read as follows:
 - (1) A school district superintendent, a designee of the superintendent, or a principal of a school who receives information pursuant to RCW 28A.225.330, 9A.44.138, 13.04.155, 13.40.215, or 72.09.730 shall comply with the notification provisions described in this section.
- 10 (2) Upon receipt of information described in subsection (1) of 11 this section, a school district superintendent or a designee of the 12 superintendent must provide the received information to the principal 13 of the school where the student is enrolled or will enroll, or if not 14 known, where the student was most recently enrolled.
- 15 (3)(a) Upon receipt of information about a sex offense as defined 16 in RCW 9.94A.030, the principal must comply with the notification 17 requirements in RCW 9A.44.138.
 - (b) Upon receipt of information about a violent offense as defined in RCW 9.94A.030, any crime under chapter 9.41 RCW, unlawful possession or delivery, or both, of a controlled substance in violation of chapter 69.50 RCW, or a school disciplinary action, the principal, subject to requirements of subsection (4) of this section, has discretion to share the information with a school district staff member if, in the principal's judgment, the information is necessary for:
 - (i) The staff member to supervise the student;
- 27 (ii) The staff member to provide or refer the student to 28 therapeutic or behavioral health services; or
- 29 (iii) Security purposes.
- 30 (4)(a) Upon receipt of information about an adjudication in 31 juvenile court for an unlawful possession of a controlled substance 32 in violation of chapter 69.50 RCW, the principal must notify the

student and the parent or legal guardian at least five days before sharing the information with a school district staff member.

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- (b) If either the student or the student's parent or legal guardian objects to the proposed sharing of the information, the student, the student's parent or legal guardian, or both, may, within five business days of receiving notice from the principal, appeal the decision to share the information with staff to the superintendent of the school district in accordance with procedures adopted by the district.
- 10 (c) The superintendent shall have five business days after 11 receiving an appeal under (b) of this subsection to make a written 12 determination on the matter. Determinations by superintendents under 13 this subsection are final and not subject to further appeal.
- (d) A principal may not share adjudication information under this subsection with a school district staff member while an appeal is pending.
- 17 (5) Any information received by school district staff under this 18 section is exempt from disclosure under chapter 42.56 RCW and may not 19 be further disseminated except as provided in RCW 28A.225.330, other 20 statutes or case law, and the family and educational and privacy 21 rights act of 1994 (20 U.S.C. Sec. 1232g et seq.).
- NEW SECTION. Sec. 2. A new section is added to chapter 28A.195
 RCW to read as follows:
- The administrator of a private school approved under this chapter must comply with the notification provisions of section 1 of this act that apply to superintendents, designees of superintendents, and principals.
- NEW SECTION. Sec. 3. A new section is added to chapter 28A.710 RCW to read as follows:
- The administrator of a charter public school governed by this chapter must comply with the notification provisions of section 1 of this act that apply to superintendents, designees of superintendents, and principals.
- 34 **Sec. 4.** RCW 28A.320.128 and 2002 c 206 s 1 are each amended to 35 read as follows:
- 36 (1) By September 1, ((2003)) 2020, each school district board of directors shall adopt a policy that addresses the following issues:

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(a) Procedures for providing notice of threats of violence or harm to the student or school employee who is the subject of the threat. The policy shall define "threats of violence or harm"; and

- (b) Procedures for ((disclosing information that is provided to the school administrators about a student's conduct, including but not limited to the student's prior disciplinary records, official juvenile court records, and history of violence, to classroom teachers, school staff, and school security who, in the judgment of the principal, should be notified; and
- (c) Procedures for determining whether or not any threats or conduct established in the policy may be grounds for suspension or expulsion of the student)) complying with the notification provisions in section 1 of this act.
- (2) The ((superintendent of public instruction)) Washington state school directors' association, in consultation with educators and representatives of law enforcement, classified staff, ((and)) organizations with expertise in violence prevention and intervention, and organizations that provide free legal services for youth, shall adopt, and revise as necessary, a model policy that includes the issues listed in subsection (1) of this section ((by January 1, 2003)). The model policy shall be ((posted on the superintendent of public instruction's)) disseminated by the Washington state school directors' association and made available to the public on its web site. ((The)) Each school district((s, in drafting their own policies,)) shall ((review)) adopt the model policy required by this subsection unless it has a compelling reason to develop and adopt a different policy that also addresses the issues identified in subsection (1) of this section.
- (3) School districts, school district boards of directors, school officials, and school employees providing notice in good faith as required and consistent with the board's policies adopted under this section are immune from any liability arising out of such notification.
- 34 (4) A person who intentionally and in bad faith or maliciously, 35 knowingly makes a false notification of a threat under this section 36 is guilty of a misdemeanor punishable under RCW 9A.20.021.
- **Sec. 5.** RCW 9A.44.138 and 2011 c 337 s 4 are each amended to 38 read as follows:

(1) Upon receiving notice from a registered person pursuant to RCW 9A.44.130 that the person will be attending a school enrolling students in grades kindergarten through twelve or an institution of higher education, or will be employed with an institution of higher education, the sheriff must promptly notify the designated recipient of the school ((district and the school principal)) or institution(('s department)) of ((public safety and shall provide that school or department with)) the person's: (a) Name and any aliases used; (b) complete residential address; (c) date and place of birth; (d) place of employment; (e) crime for which convicted; (f) date and place of conviction; (g) ((social security number; (h))) photograph; and (((i))) (h) risk level classification.

- (2) ((A principal or department)) Except as provided in subsection (3) of this section, a designated recipient receiving notice under this ((subsection)) section must disclose the information received from the sheriff as follows:
- (a) If the student is classified as a risk level II or III, the ((principal)) designated recipient shall provide the information received to every teacher of the student and to any other personnel who, in the judgment of the ((principal)) designated recipient, supervises the student or for security purposes should be aware of the student's record;
- (b) If the student is classified as a risk level I, the ((principal or department)) designated recipient shall provide the information received only to personnel who, in the judgment of the ((principal or department)) designated recipient, for security purposes should be aware of the student's record.
- (3) When the designated recipient is the administrator of a school district, the designated recipient must disclose the information to the principal of the school that the registered person will be attending, whether the school is a common school as defined in RCW 28A.150.020 or a school that is the subject of a state-tribal education compact under chapter 28A.715 RCW. The principal must then disclose the information as provided in subsection (2) of this section.
- 36 <u>(4)</u> The sheriff shall notify the applicable ((school district and school principal or institution's department of public safety))
 38 <u>designated recipient</u> whenever a student's risk level classification
 39 is changed or the sheriff is notified of a change in the student's address.

(((4))) <u>(5)</u> Any information received by school or institution personnel under this ((subsection)) <u>section</u> is ((confidential)) <u>exempt from disclosure under chapter 42.56 RCW</u> and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

- (6) For the purposes of this section, "designated recipient" means: (a) The superintendent of the school district, or his or her designee, of a common school as defined in RCW 28A.150.020 or a school that is the subject of a state-tribal education compact under chapter 28A.715 RCW; (b) the administrator of a charter public school governed by chapter 28A.710 RCW; (c) the administrator of a private school approved under chapter 28A.195 RCW; or (d) the director of the department of public safety at an institution of higher education.
- **Sec. 6.** RCW 13.04.155 and 2000 c 27 s 1 are each amended to read 16 as follows:
 - (1) ((Whenever a minor enrolled in any common school is)) The provisions of this section apply only to persons who:
 - (a) Were adjudicated in juvenile court or convicted in adult criminal court((, or adjudicated or entered into a diversion agreement with the juvenile court on any)) of ((the following offenses, the court must notify the principal of the student's school of the disposition of the case, after first notifying the parent or legal guardian that such notification will be made)):
 - $((\frac{a}{a}))$ (i) A violent offense as defined in RCW 9.94A.030;
- $((\frac{b}{(b)}))$ (ii) A sex offense as defined in RCW 9.94A.030;
- 27 (((c) Inhaling toxic fumes under chapter 9.47A RCW;
- 28 (d) A controlled substances violation under chapter 69.50 RCW;
- 29 (e) A liquor violation under RCW 66.44.270; and
- 30 (f) Any crime under chapters 9.41, 9A.36, 9A.40, 9A.46, and 9A.48
 31 RCW.
 - (2) The principal must provide the information received under subsection (1) of this section to every teacher of any student who qualifies under subsection (1) of this section and any other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record. The principal must provide the information to teachers and other personnel based on any written records that the principal

- 1 maintains or receives from a juvenile court administrator or a law
 2 enforcement agency regarding the student.))
 - (iii) Any crime under chapter 9.41 RCW; or

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- 4 <u>(iv) Unlawful possession or delivery, or both, of a controlled</u> 5 substance in violation of chapter 69.50 RCW;
 - (b) Are twenty-one years of age or younger; and
 - (c) Have not received a high school diploma or its equivalent.
- 8 (2) (a) The court must provide written notification of the 9 juvenile court adjudication or adult criminal court conviction of a 10 person described in subsection (1) of this section to the designated 11 recipient of the school where the person:
- 12 (i) Was enrolled prior to adjudication or conviction; or
- 13 <u>(ii) Has expressed an intention to enroll following adjudication</u> 14 <u>or conviction.</u>
- 15 <u>(b) No notification is required if the person described in</u>
 16 <u>subsection (1) of this section is between eighteen and twenty-one</u>
 17 <u>years of age and:</u>
- 18 <u>(i) The person's prior or intended enrollment information cannot</u> 19 be obtained; or
- 20 <u>(ii) The person asserts no intention of enrolling in an</u> 21 <u>educational program.</u>
 - (3) Any information received by a ((principal or school personnel)) designated recipient under this section is ((confidential)) exempt from disclosure under chapter 42.56 RCW and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.
- (4) For the purposes of this section, "designated recipient"
 means: (a) The superintendent of the school district, or his or her
 designee, of a common school as defined in RCW 28A.150.020 or a
 school that is the subject of a state-tribal education compact under
 chapter 28A.715 RCW; (b) the administrator of a charter public school
 governed by chapter 28A.710 RCW; or (c) the administrator of a
 private school approved under chapter 28A.195 RCW.
- 36 **Sec. 7.** RCW 13.40.215 and 1999 c 198 s 1 are each amended to read as follows:
- 38 (1)(a) Except as provided in subsection (2) of this section, at
 39 the earliest ((possible)) practicable date, and in no event later

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- than thirty days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of a juvenile found to have committed a violent offense, a sex offense, or stalking, to
- 7 (i) The chief of police of the city, if any, in which the 8 juvenile will reside; and

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the following:

- 9 (ii) The sheriff of the county in which the juvenile will 10 reside((; and
 - (iii) The approved private schools and the common school district board of directors of the district in which the juvenile intends to reside or the approved private school or public school district in which the juvenile last attended school, whichever is appropriate, except when it has been determined by the department that the juvenile is twenty-one years old or will be in the community for less than seven consecutive days on approved leave and will not be attending school during that time)).
 - (b) ((After July 25, 1999, the department shall send a written notice to approved private and public schools under the same conditions identified in subsection (1)(a)(iii) of this section when a juvenile adjudicated of any offense is transferred to a community residential facility, discharged, paroled, released, or granted a leave.)) (i) Except as provided in subsection (2) of this section, at the earliest practicable date, and in no event later than thirty days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of an individual who is found to have committed a violent offense or a sex offense, is twenty-one years of age or younger, and has not received a high school diploma or its equivalent, to the designated recipient of the school where the juvenile either: (A) Was enrolled prior to incarceration or detention; or (B) has expressed an intention to enroll following his or her release. This notice must also include the restrictions described in subsection (5) of this section.
 - (ii) The community residential facility shall provide written notice of the offender's criminal history to the designated recipient of any school that the offender attends while residing at the

- 1 community residential facility and to any employer that employs the 2 offender while residing at the community residential facility.
- 3 (iii) As used in this subsection, "designated recipient" means:
- 4 (A) The superintendent of the school district, or his or her
- 5 designee, of a common school as defined in RCW 28A.150.020 or a
- 6 school that is the subject of a state-tribal education compact under
- 7 <u>chapter 28A.715 RCW; (B) the administrator of a charter public school</u>
- 8 governed by chapter 28A.710 RCW; or (C) the administrator of a
- 9 private school approved under chapter 28A.195 RCW.
- 10 (c) The same notice as required by (a) of this subsection shall 11 be sent to the following, if such notice has been requested in 12 writing about a specific juvenile:
- 13 (i) The victim of the offense for which the juvenile was found to 14 have committed or the victim's next of kin if the crime was a 15 homicide;
- 16 (ii) Any witnesses who testified against the juvenile in any 17 court proceedings involving the offense; and
- 18 (iii) Any person specified in writing by the prosecuting 19 attorney.
- 20 Information regarding victims, next of kin, or witnesses requesting
- 21 the notice, information regarding any other person specified in
- 22 writing by the prosecuting attorney to receive the notice, and the
- 23 notice are confidential and shall not be available to the juvenile.
- 24 The notice to the chief of police or the sheriff shall include the
- 25 identity of the juvenile, the residence where the juvenile will
- 26 reside, the identity of the person, if any, responsible for
- 27 supervising the juvenile, and the time period of any authorized
- leave.
- 29 (d) The thirty-day notice requirements contained in this 30 subsection shall not apply to emergency medical furloughs.
- 31 (e) The existence of the notice requirements in this subsection 32 will not require any extension of the release date in the event the 33 release plan changes after notification.
- (2) (a) If a juvenile found to have committed a violent offense, a 34 sex offense, or stalking escapes from a facility of the department, 35 36 the secretary shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the 37 sheriff of the county in which the juvenile resided immediately 38 39 before the juvenile's arrest. If previously requested, the secretary shall also notify the witnesses and the victim of the offense which 40 Code Rev/CL:akl 8 S-7209.1/20

the juvenile was found to have committed or the victim's next of kin if the crime was a homicide. If the juvenile is recaptured, the secretary shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

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6 (b) The secretary may authorize a leave, for a juvenile found to have committed a violent offense, a sex offense, or stalking, which 7 shall not exceed forty-eight hours plus travel time, to meet an 8 emergency situation such as a death or critical illness of a member 9 of the juvenile's family. The secretary may authorize a leave, which 10 11 shall not exceed the time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. 12 Prior to the commencement of an emergency or medical leave, the 13 secretary shall give notice of the leave to the appropriate law 14 enforcement agency in the jurisdiction in which the juvenile will be 15 16 during the leave period. The notice shall include the identity of the 17 juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for 18 supervising the juvenile during the leave. If previously requested, 19 the department shall also notify the witnesses and victim of the 20 offense which the juvenile was found to have committed or the 21 victim's next of kin if the offense was a homicide. 22

In case of an emergency or medical leave the secretary may waive all or any portion of the requirements for leaves pursuant to RCW 13.40.205 (2)(a), (3), (4), and (5).

- (3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.
- (4) The secretary shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.
- (5) Upon discharge, parole, transfer to a community residential facility, or other authorized leave or release, a convicted juvenile sex offender shall not attend a public or approved private elementary, middle, or high school that is attended by a victim or a sibling of a victim of the sex offender. The parents or legal guardians of the convicted juvenile sex offender shall be responsible for transportation or other costs associated with or required by the sex offender's change in school that otherwise would be paid by a

- 1 school district. ((Upon discharge, parole, transfer to a community
- 2 residential facility, or other authorized leave or release of a
- 3 convicted juvenile sex offender, the secretary shall send written
- 4 notice of the discharge, parole, or other authorized leave or release
- 5 and the requirements of this subsection to the common school district
- 6 board of directors of the district in which the sex offender intends
- 7 to reside or the district in which the sex offender last attended
- 8 school, whichever is appropriate. The secretary shall send a similar
- 9 notice to any approved private school the juvenile will attend, if
- 10 known, or if unknown, to the approved private schools within the
- 11 district the juvenile resides or intends to reside.))
- 12 (6) For purposes of this section the following terms have the 13 following meanings:
- 14 (a) "Violent offense" means a violent offense under RCW 15 9.94A.030;
- 16 (b) "Sex offense" means a sex offense under RCW 9.94A.030;
- 17 (c) "Stalking" means the crime of stalking as defined in RCW 9A.46.110;
- 19 (d) "Next of kin" means a person's spouse, parents, siblings, and 20 children.
- 21 **Sec. 8.** RCW 28A.225.330 and 2013 c 182 s 10 are each amended to 22 read as follows:
- 23 (1) When enrolling a student who has attended school in another 24 school district, the school enrolling the student may request the 25 parent and the student to briefly indicate in writing whether or not 26 the student has:
 - (a) Any history of placement in special educational programs;
 - (b) Any past, current, or pending disciplinary action;

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- 29 (c) Any history of violent behavior, or behavior listed in RCW 30 13.04.155;
 - (d) Any unpaid fines or fees imposed by other schools; and
- 32 (e) Any health conditions affecting the student's educational 33 needs.
- 34 (2) The school enrolling the student shall request ((the school the student previously attended to send)) the student's permanent record including records of disciplinary action, history of violent behavior or behavior listed in RCW 13.04.155, attendance, immunization records, and academic performance from the school the student previously attended. If the student has not paid a fine or

- fee under RCW 28A.635.060, or tuition, fees, or fines at approved private schools the school may withhold the student's official transcript, but shall transmit information about the student's academic performance, special placement, immunization records, records of disciplinary action, and history of violent behavior or behavior listed in RCW 13.04.155. If the official transcript is not sent due to unpaid tuition, fees, or fines, the enrolling school shall notify both the student and parent or quardian that the official transcript will not be sent until the obligation is met, and failure to have an official transcript may result in exclusion from extracurricular activities or failure to graduate.
 - (3) Upon request, school districts shall furnish a set of unofficial educational records to a parent or guardian of a student who is transferring out of state and who meets the definition of a child of a military family in transition under Article II of RCW 28A.705.010. School districts may charge the parent or guardian the actual cost of providing the copies of the records.

- (4) If information is requested under subsection (2) of this section, the information shall be transmitted within two school days after receiving the request and the records shall be sent as soon as possible. The records of a student who meets the definition of a child of a military family in transition under Article II of RCW 28A.705.010 shall be sent within ten days after receiving the request. Any school district or district employee who releases the information in compliance with this section is immune from civil liability for damages unless it is shown that the school district employee acted with gross negligence or in bad faith. The professional educator standards board shall provide by rule for the discipline under chapter 28A.410 RCW of a school principal or other chief administrator of a public school building who fails to make a good faith effort to assure compliance with this subsection.
- (5) Any school district or district employee who releases the information in compliance with federal and state law is immune from civil liability for damages unless it is shown that the school district or district employee acted with gross negligence or in bad faith.
- 37 (6) ((When a school receives information under this section or 38 RCW 13.40.215 that a student has a history of disciplinary actions, 39 criminal or violent behavior, or other behavior that indicates the 37 student could be a threat to the safety of educational staff or other 38 Code Rev/CL:akl 11 S-7209.1/20

1 students, the school shall provide this information to the student's 2 teachers and security personnel.

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- 3 (7)) A school may not prevent a student who is dependent pursuant to chapter 13.34 RCW from enrolling if there is incomplete information as enumerated in subsection (1) of this section during 6 the ten business days that the department of social and health services has to obtain that information under RCW 74.13.631. 7 addition, upon enrollment of a student who is dependent pursuant to 8 chapter 13.34 RCW, the school district must make reasonable efforts to obtain and assess that child's educational history in order to 11 meet the child's unique needs within two business days.
- Sec. 9. RCW 72.09.730 and 2011 c 107 s 1 are each amended to 12 read as follows: 13
 - (1) ((At the earliest possible date and in no event later than thirty days before)) The provisions of this section apply only to an offender ((is)) released from confinement((, the department shall provide notice to the school district board of directors of the district in which the offender last attended school if the offender)) who:
- 20 (a) Was convicted of a violent offense or sex offense as those 21 terms are defined in RCW 9.94A.030;
- 22 (b) Is twenty-one years of age or younger at the time of 23 release((+
- 24 (b) Has been convicted of a violent offense, a sex offense, or 25 stalking)); and
 - (c) ((Last attended)) <u>Has not received a high</u> school ((in this state)) diploma or its equivalent.
 - (2) At the earliest practicable date, and in no event later than thirty days before release from confinement, the department must provide written notification of the release of an offender described in subsection (1) of this section to the designated recipient of the school where the offender:
 - (a) Was enrolled prior to incarceration or detention; or
- (b) Has expressed an intention to enroll following his or her 34 35 release.
- (3) If after providing notification as required under subsection 36 (2) of this section, the release of an offender described in 37 38 subsection (1) of this section is delayed, the department must inform the designated recipient of the modified release date. 39

- 1 <u>(4)</u> This section applies whenever an offender is being released 2 from total confinement, regardless if the release is to parole, 3 community custody, work release placement, or furlough.
- (5) For the purposes of this section, "designated recipient" means: (a) The superintendent of the school district, or his or her designee, of a common school as defined in RCW 28A.150.020 or a school that is the subject of a state-tribal education compact under chapter 28A.715 RCW; (b) the administrator of a charter public school governed by chapter 28A.710 RCW; or (c) the administrator of a private school approved under chapter 28A.195 RCW.
- NEW SECTION. Sec. 10. A new section is added to chapter 42.56 RCW to read as follows:
- Information received by a school district superintendent, a designee of the superintendent, or a principal pursuant to RCW 28A.225.330, 9A.44.138, 13.04.155, 13.40.215, or 72.09.730 is exempt from disclosure under this chapter."

2SHB 1191 - S COMM AMD

By Committee on Early Learning & K-12 Education

ADOPTED 03/04/2020

On page 1, line 1 of the title, after "notifications;" strike the remainder of the title and insert "amending RCW 28A.320.128, 9A.44.138, 13.04.155, 13.40.215, 28A.225.330, and 72.09.730; adding a new section to chapter 28A.320 RCW; adding a new section to chapter 28A.195 RCW; adding a new section to chapter 28A.710 RCW; and adding a new section to chapter 42.56 RCW."

EFFECT: Provides that a court is not required to provide written notification of an adjudication or conviction to the school where the person was previously enrolled, or has expressed an intention to enroll, if the person is between eighteen and twenty-one years of age and (1) the person's prior or intended enrollment information cannot be obtained or (2) the person asserts no intention of enrolling in an educational program.

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