

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5461

66th Legislature
2019 Regular Session

Passed by the Senate February 25, 2019
Yeas 49 Nays 0

President of the Senate

Passed by the House April 11, 2019
Yeas 97 Nays 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5461** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5461

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By Senate Human Services, Reentry & Rehabilitation (originally sponsored by Senators Cleveland, Darneille, and Wilson, C.)

READ FIRST TIME 02/08/19.

1 AN ACT Relating to the sharing of information between
2 participants in multidisciplinary coordination of child sexual abuse
3 investigations; amending RCW 13.50.010 and 26.44.180; and adding a
4 new section to chapter 26.44 RCW.

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

6 **Sec. 1.** RCW 13.50.010 and 2018 c 58 s 78 are each amended to
7 read as follows:

8 (1) For purposes of this chapter:

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

16 (b) "Juvenile justice or care agency" means any of the following:
17 Police, diversion units, court, prosecuting attorney, defense
18 attorney, detention center, attorney general, the oversight board for
19 children, youth, and families, the office of the family and
20 children's ombuds, the department of social and health services and
21 its contracting agencies, the department of children, youth, and

1 families and its contracting agencies, schools; persons or public or
2 private agencies having children committed to their custody; and any
3 placement oversight committee created under RCW 72.05.415;

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

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

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

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

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

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

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

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

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

37 (5) Any person who has reasonable cause to believe information
38 concerning that person is included in the records of a juvenile
39 justice or care agency and who has been denied access to those
40 records by the agency may make a motion to the court for an order

1 authorizing that person to inspect the juvenile justice or care
2 agency record concerning that person. The court shall grant the
3 motion to examine records unless it finds that in the interests of
4 justice or in the best interests of the juvenile the records or parts
5 of them should remain confidential.

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

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

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

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

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

37 (11) Requirements in this chapter relating to the court's
38 authority to compel disclosure shall not apply to the oversight board
39 for children, youth, and families or the office of the family and
40 children's ombuds.

1 (12) For the purpose of research only, the administrative office
2 of the courts shall maintain an electronic research copy of all
3 records in the judicial information system related to juveniles.
4 Access to the research copy is restricted to the administrative
5 office of the courts for research purposes as authorized by the
6 supreme court or by state statute. The administrative office of the
7 courts shall maintain the confidentiality of all confidential records
8 and shall preserve the anonymity of all persons identified in the
9 research copy. Data contained in the research copy may be shared with
10 other governmental agencies as authorized by state statute, pursuant
11 to data-sharing and research agreements, and consistent with
12 applicable security and confidentiality requirements. The research
13 copy may not be subject to any records retention schedule and must
14 include records destroyed or removed from the judicial information
15 system pursuant to RCW 13.50.270 and 13.50.100(3).

16 (13) The court shall release to the Washington state office of
17 public defense records needed to implement the agency's oversight,
18 technical assistance, and other functions as required by RCW
19 2.70.020. Access to the records used as a basis for oversight,
20 technical assistance, or other agency functions is restricted to the
21 Washington state office of public defense. The Washington state
22 office of public defense shall maintain the confidentiality of all
23 confidential information included in the records.

24 (14) The court shall release to the Washington state office of
25 civil legal aid records needed to implement the agency's oversight,
26 technical assistance, and other functions as required by RCW
27 2.53.045. Access to the records used as a basis for oversight,
28 technical assistance, or other agency functions is restricted to the
29 Washington state office of civil legal aid. The Washington state
30 office of civil legal aid shall maintain the confidentiality of all
31 confidential information included in the records, and shall, as soon
32 as possible, destroy any retained notes or records obtained under
33 this section that are not necessary for its functions related to RCW
34 2.53.045.

35 (15) For purposes of providing for the educational success of
36 youth in foster care, the department of children, youth, and families
37 may disclose only those confidential child welfare records that
38 pertain to or may assist with meeting the educational needs of foster
39 youth to another state agency or state agency's contracted provider
40 responsible under state law or contract for assisting foster youth to

1 attain educational success. The records retain their confidentiality
2 pursuant to this chapter and federal law and cannot be further
3 disclosed except as allowed under this chapter and federal law.

4 (16) For the purpose of ensuring the safety and welfare of the
5 youth who are in foster care, the department of children, youth, and
6 families may disclose to the department of commerce and its
7 contracted providers responsible under state law or contract for
8 providing services to youth, only those confidential child welfare
9 records that pertain to ensuring the safety and welfare of the youth
10 who are in foster care who are admitted to crisis residential centers
11 or HOPE centers under contract with the office of homeless youth
12 prevention and protection. Records disclosed under this subsection
13 retain their confidentiality pursuant to this chapter and federal law
14 and may not be further disclosed except as permitted by this chapter
15 and federal law.

16 (17) For purposes of investigating and preventing child abuse and
17 neglect, and providing for the health care coordination and the well-
18 being of children in foster care, the department of children, youth,
19 and families may disclose only those confidential child welfare
20 records that pertain to or may assist with investigation and
21 prevention of child abuse and neglect, or may assist with providing
22 for the health and well-being of children in foster care to the
23 department of social and health services, the health care authority,
24 or their contracting agencies. For purposes of investigating and
25 preventing child abuse and neglect, and to provide for the
26 coordination of health care and the well-being of children in foster
27 care, the department of social and health services and the health
28 care authority may disclose only those confidential child welfare
29 records that pertain to or may assist with investigation and
30 prevention of child abuse and neglect, or may assist with providing
31 for the health care coordination and the well-being of children in
32 foster care to the department of children, youth, and families, or
33 its contracting agencies. The records retain their confidentiality
34 pursuant to this chapter and federal law and cannot be further
35 disclosed except as allowed under this chapter and federal law.

36 (18) For the purpose of investigating child sexual abuse, online
37 sexual exploitation and commercial sexual exploitation of minors, and
38 child fatality, child physical abuse, and criminal neglect cases for
39 the well-being of the child, the department of children, youth, and
40 families may disclose only those confidential child welfare records

1 that pertain to or may assist with such an investigation pursuant to
2 RCW 26.44.180 and section 3 of this act. The records retain their
3 confidentiality pursuant to this chapter and federal law and cannot
4 be further disclosed except as allowed under this chapter and federal
5 law.

6 **Sec. 2.** RCW 26.44.180 and 2010 c 176 s 2 are each amended to
7 read as follows:

8 (1) Each agency involved in investigating child sexual abuse,
9 online sexual exploitation and commercial sexual exploitation of
10 minors, as well as investigations of child fatality, child physical
11 abuse, and criminal child neglect cases, shall document its role in
12 handling cases and how it will coordinate with other local agencies
13 or systems and shall adopt a local protocol based on the state
14 guidelines. The department and local law enforcement agencies may
15 include other agencies and systems that are involved with child
16 sexual abuse victims in the multidisciplinary coordination.

17 (2) (a) Each county shall develop a written protocol for handling
18 investigations of criminal child sexual abuse ((investigations)),
19 online sexual exploitation and commercial sexual exploitation of
20 minors, and child fatality, child physical abuse, and criminal child
21 neglect cases. The protocol shall address the coordination of ((child
22 sexual—abuse)) such criminal investigations ((between)) among
23 multidisciplinary child protection team members, identified as
24 representatives from the prosecutor's office, law enforcement,
25 children's protective services, children's advocacy centers((~~τ~~))
26 where available, local advocacy groups, community sexual assault
27 programs((~~τ~~)) as defined in RCW 70.125.030, licensed physical and
28 mental health practitioners that are involved with child sexual abuse
29 victims, and any other local agency involved in ((the)) such criminal
30 investigations ((of—child—sexual—abuse)), including those
31 investigations involving multiple victims and multiple offenders. The
32 protocol shall be developed by the prosecuting attorney with the
33 assistance of the agencies referenced in this subsection.

34 (b) County protocol for handling investigations of online sexual
35 exploitation and commercial sexual exploitation of minors must be
36 implemented by July 1, 2021.

37 (3) Local protocols under this section shall be adopted and in
38 place by July 1, 2000, and shall be submitted to the legislature
39 prior to that date. Beginning on the effective date of this section,

1 local protocols under subsection (1) of this section must be reviewed
2 every two years to determine whether modifications are needed.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 26.44
4 RCW to read as follows:

5 (1) The legislature finds that the purpose of multidisciplinary
6 child protection teams as described in RCW 26.44.180 (1) and (2) is
7 to ensure the protection and well-being of the child and to advance
8 and coordinate the prompt investigation of suspected cases of child
9 abuse or neglect to reduce the trauma of any child victim.

10 (2)(a) When a case as described in RCW 26.44.180 (1) or (2) is
11 referred to the team, records pertaining to the case must be made
12 available to team members. Any member of the team may use or disclose
13 records made available by the team members under this subsection only
14 as necessary for the performance of the member's duties as a member
15 of the multidisciplinary child protection team.

16 (b) Team members may share information about criminal child abuse
17 investigations and case planning following such investigations with
18 other participants in the multidisciplinary coordination to the
19 extent necessary to protect a child from abuse or neglect. This
20 section is not intended to permit, direct, or compel team members to
21 share information if sharing would constitute a violation of their
22 professional ethical obligations or disclose privileged
23 communications as described in RCW 5.60.060, or if sharing is
24 otherwise impermissible under chapter 13.50 RCW or other applicable
25 statutes.

26 (3)(a) Every member of the multidisciplinary child protection
27 team who receives information or records regarding children and
28 families in his or her capacity as a member of the team is subject to
29 the same privacy and confidentiality obligations and confidentiality
30 penalties as the person disclosing or providing the information or
31 records. The information or records obtained by any team member must
32 be maintained in a manner that ensures the maximum protection of
33 privacy and confidentiality rights.

34 (b) Multidisciplinary child protection team members must execute
35 a confidentiality agreement every year.

36 (c) This section must not be construed to restrict guarantees of
37 confidentiality provided under state or federal law.

38 (4) As convened by the county prosecutor, or his or her designee,
39 a multidisciplinary child protection team should meet regularly, at

1 least monthly, unless the needs and resources of each team dictate
2 less frequent meetings. Team meetings are closed to the public and
3 are not subject to chapter 42.30 RCW.

4 (5) Information and records communicated or provided to the
5 multidisciplinary child protection team members by all providers and
6 agencies, as well as information and records created in the course of
7 a child abuse or neglect case investigation, are deemed private and
8 confidential and are protected from discovery and disclosure by all
9 applicable statutory and common law protections. Existing civil and
10 criminal penalties apply to the inappropriate disclosure of
11 information held by team members. To the extent that the records
12 communicated or provided are confidential under RCW 13.50.100, these
13 records may only be further released as authorized by RCW 13.50.100
14 or other applicable law.

15 (6) Any person who presented information before the
16 multidisciplinary child protection team or who is a team member may
17 testify as to matters within the person's knowledge. However, in a
18 civil or criminal proceeding, such person or team member may not be
19 questioned about opinions formed as a result of the case consultation
20 meetings.

21 (7) Any multidisciplinary child protection team member whose
22 action in facilitating the exchange and sharing of information in
23 serving any child in the course of the member's profession,
24 specialties, interests, or occupation, for the purpose of ensuring
25 the safety of the child and the community and providing early
26 intervention to avert more serious problems, is immune from any civil
27 liability arising out of any good faith act relevant to participation
28 on the team that might otherwise be incurred or imposed under this
29 section. In a proceeding regarding immunity from liability, there is
30 a rebuttable presumption of good faith.

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