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**SENATE BILL 5644**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Frame, C. Wilson, Kuderer, Lovelett, Nguyen, Nobles, Trudeau, and Wellman

Read first time 01/31/23. Referred to Committee on Human Services.

1 AN ACT Relating to juvenile records; amending RCW 13.50.050 and  
2 13.50.260; and adding new sections to chapter 13.50 RCW.

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

4 **Sec. 1.** RCW 13.50.050 and 2014 c 175 s 3 are each amended to  
5 read as follows:

6 (1) This section and RCW 13.50.260 and 13.50.270 govern records  
7 relating to the commission of juvenile offenses, including records  
8 relating to diversions.

9 ~~(2) ((The official juvenile court file of any alleged or proven~~  
10 ~~juvenile offender shall be open to public inspection, unless sealed~~  
11 ~~pursuant to RCW 13.50.260.~~

12 ~~(3))~~ All records ~~((other than the official juvenile court file))~~  
13 relating to the commission of juvenile offenses, including records  
14 related to diversions are confidential and may be released only as  
15 provided in this chapter ~~((,))~~ and RCW 13.40.215 and 4.24.550.

16 ~~((4))~~ (3) Except as otherwise provided in this chapter, records  
17 retained or produced by any juvenile justice or care agency may be  
18 released to other participants in the juvenile justice or care system  
19 only when an investigation or case involving the juvenile in question  
20 is being pursued by the other participant or when that other

1 participant is assigned the responsibility for supervising the  
2 juvenile.

3 ~~((+5))~~ (4) Except as provided in RCW 4.24.550, information not  
4 in an official juvenile court file concerning a juvenile or a  
5 juvenile's family may be released to the public only when that  
6 information could not reasonably be expected to identify the juvenile  
7 or the juvenile's family.

8 ~~((+6))~~ (5) Notwithstanding any other provision of this chapter,  
9 the release, to the juvenile or his or her attorney, of law  
10 enforcement and prosecuting attorneys' records pertaining to  
11 investigation, diversion, and prosecution of juvenile offenses shall  
12 be governed by the rules of discovery and other rules of law  
13 applicable in adult criminal investigations and prosecutions.

14 ~~((+7))~~ (6) Upon the decision to arrest or the arrest, law  
15 enforcement and prosecuting attorneys may cooperate with schools in  
16 releasing information to a school pertaining to the investigation,  
17 diversion, and prosecution of a juvenile attending the school. Upon  
18 the decision to arrest or the arrest, incident reports may be  
19 released unless releasing the records would jeopardize the  
20 investigation or prosecution or endanger witnesses. If release of  
21 incident reports would jeopardize the investigation or prosecution or  
22 endanger witnesses, law enforcement and prosecuting attorneys may  
23 release information to the maximum extent possible to assist schools  
24 in protecting other students, staff, and school property.

25 ~~((+8))~~ (7) The juvenile court and the prosecutor may set up and  
26 maintain a central recordkeeping system which may receive information  
27 on all alleged juvenile offenders against whom a complaint has been  
28 filed pursuant to RCW 13.40.070 whether or not their cases are  
29 currently pending before the court. The central recordkeeping system  
30 may be computerized. If a complaint has been referred to a diversion  
31 unit, the diversion unit shall promptly report to the juvenile court  
32 or the prosecuting attorney when the juvenile has agreed to  
33 diversion. An offense shall not be reported as criminal history in  
34 any central recordkeeping system without notification by the  
35 diversion unit of the date on which the offender agreed to diversion.

36 ~~((+9))~~ (8) Upon request of the victim of a crime or the victim's  
37 immediate family, the identity of an alleged or proven juvenile  
38 offender alleged or found to have committed a crime against the  
39 victim and the identity of the alleged or proven juvenile offender's  
40 parent, guardian, or custodian and the circumstance of the alleged or

1 proven crime shall be released to the victim of the crime or the  
2 victim's immediate family.

3 ~~((10))~~ (9) Subject to the rules of discovery applicable in  
4 adult criminal prosecutions, the juvenile offense records of an adult  
5 criminal defendant or witness in an adult criminal proceeding shall  
6 be released upon request to prosecution and defense counsel after a  
7 charge has actually been filed. The juvenile offense records of any  
8 adult convicted of a crime and placed under the supervision of the  
9 adult corrections system shall be released upon request to the adult  
10 corrections system.

11 ~~((11))~~ (10) Any juvenile to whom the provisions of this section  
12 or RCW 13.50.260 or 13.50.270 may apply shall be given written notice  
13 of his or her rights under this section at the time of his or her  
14 disposition hearing or during the diversion process.

15 ~~((12))~~ (11) Nothing in this section or RCW 13.50.260 or  
16 13.50.270 may be construed to prevent a crime victim or a member of  
17 the victim's family from divulging the identity of the alleged or  
18 proven juvenile offender or his or her family when necessary in a  
19 civil proceeding.

20 ~~((13))~~ (12) Except as provided in RCW 13.50.270(2), no  
21 identifying information held by the Washington state patrol in  
22 accordance with chapter 43.43 RCW is subject to destruction or  
23 sealing under this section. For the purposes of this subsection,  
24 identifying information includes photographs, fingerprints,  
25 palmprints, soleprints, toeprints and any other data that identifies  
26 a person by physical characteristics, name, birthdate or address, but  
27 does not include information regarding criminal activity, arrest,  
28 charging, diversion, conviction or other information about a person's  
29 treatment by the criminal justice system or about the person's  
30 behavior.

31 ~~((14))~~ (13) Information identifying child victims under age  
32 eighteen who are victims of sexual assaults by juvenile offenders is  
33 confidential and not subject to release to the press or public  
34 without the permission of the child victim or the child's legal  
35 guardian. Identifying information includes the child victim's name,  
36 addresses, location, photographs, and in cases in which the child  
37 victim is a relative of the alleged perpetrator, identification of  
38 the relationship between the child and the alleged perpetrator.  
39 Information identifying a child victim of sexual assault may be  
40 released to law enforcement, prosecutors, judges, defense attorneys,

1 or private or governmental agencies that provide services to the  
2 child victim of sexual assault.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.50  
4 RCW to read as follows:

5 (1) (a) Any corporation, business trust, estate, trust,  
6 partnership, association, joint venture, any other legal or  
7 commercial entity, government, governmental subdivision, agency,  
8 municipality, and other similar legal entities capable of being sued  
9 in courts of law that, directly or by means of an agent, disseminates  
10 sealed or destroyed records or links the subject of a sealed juvenile  
11 record to the commission of a juvenile offense in violation of this  
12 chapter shall be subject to legal action for damages, to be brought  
13 by the subject of those records, claiming that a violation of this  
14 chapter has occurred.

15 (b) An individual alleging that the individual's records were  
16 disseminated in violation of this chapter may bring a civil action in  
17 any court of competent jurisdiction.

18 (c) In a civil action under this section in which the plaintiff  
19 prevails, the court may award:

20 (i) A per day penalty of \$100 for each day since the record is  
21 shared in violation of this section without corrective action taken  
22 by the entity illegally sharing the record or actual damages,  
23 whichever is greater; and

24 (ii) Any other relief, including but not limited to an  
25 injunction, that the court deems appropriate.

26 (d) Actual damages under this section includes mental pain and  
27 suffering endured by the subject of the records that were  
28 disseminated in violation of this chapter.

29 (e) In addition to any relief awarded under (c) of this  
30 subsection, the court shall award reasonable attorneys' fees and  
31 costs to any prevailing plaintiff.

32 (2) Nothing in this section shall be construed to limit other  
33 remedies available for violations of the provisions of this chapter.

34 (3) County clerks and employees of governments, governmental  
35 subdivisions, agencies, and municipalities are not personally liable  
36 for civil damages under this section for actions within the scope of  
37 their employment.

38 (4) Any corporation, business trust, estate, trust, partnership,  
39 association, joint venture, any other legal or commercial entity,

1 government, governmental subdivision, agency, municipality, and other  
2 legal entities are not liable under this section for illegally  
3 sharing a sealed or destroyed juvenile record if the entity did not  
4 have notice that a record is sealed under RCW 13.50.260 or destroyed  
5 under RCW 13.50.270.

6 (5) Nothing in this section shall apply to the dissemination of  
7 records in connection with lawful and constitutionally protected  
8 activity.

9 **Sec. 3.** RCW 13.50.260 and 2020 c 184 s 1 are each amended to  
10 read as follows:

11 (1)(a) The court shall hold regular sealing hearings. During  
12 these regular sealing hearings, the court shall administratively seal  
13 an individual's juvenile record pursuant to the requirements of this  
14 subsection. Although the juvenile record shall be sealed, the social  
15 file may be available to any juvenile justice or care agency when an  
16 investigation or case involving the juvenile subject of the records  
17 is being prosecuted by the juvenile justice or care agency or when  
18 the juvenile justice or care agency is assigned the responsibility of  
19 supervising the juvenile. The juvenile respondent's presence is not  
20 required at any administrative sealing hearing.

21 (b)(i) At ~~((the))~~ a juvenile disposition hearing ~~((of a juvenile~~  
22 ~~offender))~~, the court shall provide notice of the juvenile's  
23 eligibility for juvenile records sealing to the juvenile and victims  
24 of the offense and schedule an administrative sealing hearing to take  
25 place during the first regularly scheduled sealing hearing after the  
26 latest of the following events that apply:

27 ~~((i))~~ (A) The respondent's ~~((eighteenth))~~ 18th birthday;

28 ~~((ii))~~ (B) Anticipated end date of a respondent's probation, if  
29 ordered;

30 ~~((iii))~~ (C) Anticipated release from confinement at the  
31 juvenile rehabilitation administration, or the completion of parole,  
32 if the respondent is transferred to the juvenile rehabilitation  
33 administration.

34 (ii) The court shall provide notice to a juvenile of an upcoming  
35 administrative sealing hearing at least six months in advance of the  
36 scheduled hearing.

37 (c) The court shall not schedule an administrative sealing  
38 hearing at the disposition and no administrative sealing hearing

1 shall occur if one of the offenses for which the court has entered a  
2 disposition is at the time of commission of the offense:

3 (i) A most serious offense, as defined in RCW 9.94A.030;

4 (ii) A sex offense under chapter 9A.44 RCW; or

5 (iii) A drug offense, as defined in RCW 9.94A.030.

6 (d) At the time of the scheduled administrative sealing hearing,  
7 the court shall enter a written order sealing the respondent's  
8 juvenile court record pursuant to this subsection if the court finds  
9 by a preponderance of the evidence that the respondent is no longer  
10 on supervision for the case being considered for sealing and has paid  
11 the full amount of restitution owing to the individual victim named  
12 in the restitution order, excluding restitution owed to any public or  
13 private entity providing insurance coverage or health care coverage.  
14 In determining whether the respondent is on supervision or owes  
15 restitution, the court shall take judicial notice of court records,  
16 including records of the county clerk, and, if necessary, sworn  
17 testimony from a representative of the juvenile department.

18 (e) At the time of the administrative sealing hearing, if the  
19 court finds the respondent remains on supervision for the case being  
20 considered for sealing, then the court shall continue the  
21 administrative sealing hearing to a date within (~~(thirty)~~) 30 days  
22 following the anticipated end date of the respondent's supervision.  
23 At the next administrative sealing hearing, the court shall again  
24 determine the respondent's eligibility for sealing (~~(his or her)~~) the  
25 respondent's juvenile court record pursuant to (d) of this  
26 subsection, and, if necessary, continue the hearing again as provided  
27 in this subsection.

28 (f)(i) During the administrative sealing hearing, if the court  
29 finds the respondent is no longer on supervision for the case being  
30 considered for sealing, but the respondent has not paid the full  
31 amount of restitution owing to the individual victim named in the  
32 restitution order, excluding any public or private entity providing  
33 insurance coverage or health care coverage, the court shall deny  
34 sealing the juvenile court record in a written order that: (A)  
35 Specifies the amount of restitution that remains unpaid to the  
36 original victim, excluding any public or private entity providing  
37 insurance coverage or health care coverage; and (B) provides  
38 direction to the respondent on how to pursue the sealing of records  
39 associated with this cause of action.

1 (ii) Within five business days of the entry of the written order  
2 denying the request to seal a juvenile court record, the juvenile  
3 court department staff shall notify the respondent of the denial by  
4 providing a copy of the order of denial to the respondent in person  
5 or in writing mailed to the respondent's last known address in the  
6 department of licensing database or the respondent's address provided  
7 to the court, whichever is more recent.

8 (iii) At any time following entry of the written order denying  
9 the request to seal a juvenile court record, the respondent may  
10 contact the juvenile court department, provide proof of payment of  
11 the remaining unpaid restitution to the original victim, excluding  
12 any public or private entity providing insurance coverage or health  
13 care coverage, and request an administrative sealing hearing. Upon  
14 verification of the satisfaction of the restitution payment, the  
15 juvenile court department staff shall circulate for signature an  
16 order sealing the file, and file the signed order with the clerk's  
17 office, who shall seal the record.

18 (iv) The administrative office of the courts must ensure that  
19 sealed juvenile records remain private in case of an appeal and are  
20 either not posted or redacted from any clerks papers that are posted  
21 online with the appellate record, as well as taking any other prudent  
22 steps necessary to avoid exposing sealed juvenile records to the  
23 public.

24 (2) Except for dismissal of a deferred disposition under RCW  
25 13.40.127, the court shall enter a written order immediately sealing  
26 the official juvenile court record upon the acquittal after a fact  
27 finding or upon the dismissal of charges with prejudice, subject to  
28 the state's right, if any, to appeal the dismissal.

29 (3) If a juvenile court record has not already been sealed  
30 pursuant to this section, in any case in which information has been  
31 filed pursuant to RCW 13.40.100 or a complaint has been filed with  
32 the prosecutor and referred for diversion pursuant to RCW 13.40.070,  
33 the person who is the subject of the information or complaint may  
34 file a motion with the court to have the court vacate its order and  
35 findings, if any; resolve the status of any debts owing; and, subject  
36 to RCW 13.50.050(~~((+13))~~) (12), order the sealing of the official  
37 juvenile court record, the social file, and records of the court and  
38 of any other agency in the case, with the exception of identifying  
39 information under RCW 13.50.050(~~((+13))~~) (12).

1 (4) (a) The court shall grant any motion to seal records for class  
2 A offenses made pursuant to subsection (3) of this section if:

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

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

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

12 (iv) The person is no longer required to register as a sex  
13 offender under RCW 9A.44.130 or has been relieved of the duty to  
14 register under RCW 9A.44.143 if the person was convicted of a sex  
15 offense;

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

19 (vi) The person has paid the full amount of restitution owing to  
20 the individual victim named in the restitution order, excluding  
21 restitution owed to any public or private entity providing insurance  
22 coverage or health care coverage.

23 (b) The court shall grant any motion to seal records for class B,  
24 class C, gross misdemeanor, and misdemeanor offenses and diversions  
25 made under subsection (3) of this section if:

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

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

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

35 (iv) The person is no longer required to register as a sex  
36 offender under RCW 9A.44.130 or has been relieved of the duty to  
37 register under RCW 9A.44.143 if the person was convicted of a sex  
38 offense; and

39 (v) The person has paid the full amount of restitution owing to  
40 the individual victim named in the restitution order, excluding



1 restitution owed to any insurance provider authorized under Title 48  
2 RCW.

3 (c) Notwithstanding the requirements in (a) or (b) of this  
4 subsection, the court shall grant any motion to seal records of any  
5 deferred disposition vacated under RCW 13.40.127(9) prior to June 7,  
6 2012, if restitution has been paid and the person is eighteen years  
7 of age or older at the time of the motion.

8 (5) The person making a motion pursuant to subsection (3) of this  
9 section shall give reasonable notice of the motion to the prosecution  
10 and to any person or agency whose records are sought to be sealed.

11 (6) (a) If the court enters a written order sealing the juvenile  
12 court record pursuant to this section, it shall, subject to RCW  
13 13.50.050(~~((13))~~) (12), order sealed the official juvenile court  
14 (~~(record)~~) file, the social file, and other records relating to the  
15 case as are named in the order. Thereafter, the adjudication and  
16 proceedings in the case shall be treated as if they never occurred  
17 (and the). The subject of the sealed records may reply accordingly to  
18 any inquiry about the (~~(events, records of which are sealed)~~)  
19 subject's commission of a juvenile offense, including an inquiry  
20 about whether the subject has a disqualifying arrest or adjudication,  
21 that the subject does not have a juvenile arrest or adjudication. Any  
22 agency shall reply to any inquiry concerning confidential or sealed  
23 records that any such records are confidential, and no information  
24 can be given about the existence or nonexistence of such records  
25 (~~(concerning an individual)~~).

26 (b) In the event the subject of the juvenile records receives a  
27 full and unconditional pardon, the proceedings in the matter upon  
28 which the pardon has been granted shall be treated as if they never  
29 occurred, and the subject of the records may reply accordingly to any  
30 inquiry about the events upon which the pardon was received. Any  
31 agency shall reply to any inquiry concerning the records pertaining  
32 to the events for which the subject received a pardon that records  
33 are confidential, and no information can be given about the existence  
34 or nonexistence of records concerning an individual.

35 (c) (~~(Effective July 1, 2019, the)~~) The department of licensing  
36 may release information related to records the court has ordered  
37 sealed only to the extent necessary to comply with federal law and  
38 regulation.

39 (d) The court shall provide written notice to individuals whose  
40 juvenile records are sealed under this section that includes

1 information about the meaning of having a sealed juvenile record. The  
2 written notice required under this subsection shall be in  
3 substantially the following form:

4 NOTICE

5 Your juvenile record is sealed. Under Washington law, if an  
6 employer asks about your sealed adjudication, you can respond that  
7 you have no prior juvenile arrest or adjudication. You might be  
8 required to disclose the existence of a sealed adjudication under  
9 federal law. If you have a subsequent juvenile adjudication or are  
10 charged with an adult felony, your record will be unsealed.

11 (e) All Washington state government agencies that conduct state-  
12 based background checks for licensing or hiring determinations may  
13 not consider or use any information provided by an applicant related  
14 to the commission of a juvenile offense or information produced by a  
15 state source related to the commission of a juvenile offense unless  
16 the agency confirms that the official juvenile court record related  
17 to that offense remains open for public inspection.

18 (7) Inspection of the files and records included in the order to  
19 seal may thereafter be permitted only by order of the court upon  
20 motion made by the person who is the subject of the information or  
21 complaint, except as otherwise provided in RCW 13.50.010(8) and  
22 13.50.050(~~((13))~~) (12).

23 (8) (a) Any adjudication of a juvenile offense or a crime  
24 subsequent to sealing has the effect of nullifying a sealing order;  
25 however, the court may order the juvenile court record resealed upon  
26 disposition of the subsequent matter if the case meets the sealing  
27 criteria under this section and the court record has not previously  
28 been resealed.

29 (b) Any charging of an adult felony subsequent to the sealing has  
30 the effect of nullifying the sealing order.

31 (c) The administrative office of the courts shall ensure that the  
32 superior court judicial information system provides prosecutors  
33 access to information on the existence of sealed juvenile records.

34 (d) The Washington state patrol shall ensure that the Washington  
35 state identification system provides Washington state criminal  
36 justice agencies access to sealed juvenile records information.

37 (9) If the juvenile court record has been sealed pursuant to this  
38 section, the record of an employee is not admissible in an action for  
39 liability against the employer based on the (~~former~~ juvenile

1 ~~offender's~~) conduct that is the subject of the sealed juvenile  
2 record to show that the employer knew or should have known of the  
3 juvenile record of the employee. The record may be admissible,  
4 however, if a background check conducted or authorized by the  
5 employer contained the information in the sealed record.

6 (10) County clerks may interact or correspond with the  
7 respondent, (~~his or her~~) the respondent's parents, restitution  
8 recipients, and any holders of potential assets or wages of the  
9 respondent for the purposes of collecting an outstanding legal  
10 financial obligation after juvenile court records have been sealed  
11 pursuant to this section.

12 (11) Persons and agencies that obtain sealed juvenile records  
13 information pursuant to this section may communicate about this  
14 information with the respondent, but may not disseminate or be  
15 compelled to release the information to any person or agency not  
16 specifically granted access to sealed juvenile records in this  
17 section.

18 (12) All criminal justice agencies must not disclose confidential  
19 information or sealed records accessed through the Washington state  
20 identification system or other means, and no information can be given  
21 to third parties other than Washington state criminal justice  
22 agencies about the existence or nonexistence of confidential or  
23 sealed records concerning an individual.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 13.50  
25 RCW to read as follows:

26 A respondent, whose records are eligible for sealing, may be  
27 provided, if necessary, with access to an attorney for assistance  
28 with the sealing process.

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