
ENGROSSED HOUSE BILL 1577

State of Washington

56th Legislature

1999 Regular Session

By Representatives Bush, Sheahan, Constantine, Barlean, Quall, Talcott, Cairnes, Keiser, McIntire, Santos, Sullivan, Hatfield, DeBolt, Benson, Dunshee, Boldt, Haigh, Mielke, Voloria, Conway and Kenney

Read first time 01/29/1999. Referred to Committee on Judiciary.

1 AN ACT Relating to juvenile records; and amending RCW 13.50.050.

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

3 **Sec. 1.** RCW 13.50.050 and 1997 c 338 s 40 are each amended to read
4 as follows:

5 (1) This section governs records relating to the commission of
6 juvenile offenses, including records relating to diversions.

7 (2) The official juvenile court file of any alleged or proven
8 juvenile offender shall be open to public inspection, unless sealed
9 pursuant to subsection (11) of this section.

10 (3) All records other than the official juvenile court file are
11 confidential and may be released only as provided in this section, RCW
12 13.50.010, 13.40.215, and 4.24.550.

13 (4) Except as otherwise provided in this section and RCW 13.50.010,
14 records retained or produced by any juvenile justice or care agency may
15 be released to other participants in the juvenile justice or care
16 system only when an investigation or case involving the juvenile in
17 question is being pursued by the other participant or when that other
18 participant is assigned the responsibility for supervising the
19 juvenile.

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

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

12 (7) The juvenile court and the prosecutor may set up and maintain
13 a central record-keeping system which may receive information on all
14 alleged juvenile offenders against whom a complaint has been filed
15 pursuant to RCW 13.40.070 whether or not their cases are currently
16 pending before the court. The central record-keeping system may be
17 computerized. If a complaint has been referred to a diversion unit,
18 the diversion unit shall promptly report to the juvenile court or the
19 prosecuting attorney when the juvenile has agreed to diversion. An
20 offense shall not be reported as criminal history in any central
21 record-keeping system without notification by the diversion unit of the
22 date on which the offender agreed to diversion.

23 (8) Upon request of the victim of a crime or the victim's immediate
24 family, the identity of an alleged or proven juvenile offender alleged
25 or found to have committed a crime against the victim and the identity
26 of the alleged or proven juvenile offender's parent, guardian, or
27 custodian and the circumstance of the alleged or proven crime shall be
28 released to the victim of the crime or the victim's immediate family.

29 (9) Subject to the rules of discovery applicable in adult criminal
30 prosecutions, the juvenile offense records of an adult criminal
31 defendant or witness in an adult criminal proceeding shall be released
32 upon request to prosecution and defense counsel after a charge has
33 actually been filed. The juvenile offense records of any adult
34 convicted of a crime and placed under the supervision of the adult
35 corrections system shall be released upon request to the adult
36 corrections system.

37 (10) In any case in which an information has been filed pursuant to
38 RCW 13.40.100 or a complaint has been filed with the prosecutor and
39 referred for diversion pursuant to RCW 13.40.070, the person the

1 subject of the information or complaint may file a motion with the
2 court to have the court vacate its order and findings, if any, and,
3 subject to subsection (22) of this section, order the sealing of the
4 official juvenile court file, the social file, and records of the court
5 and of any other agency in the case.

6 (11) The court shall grant the motion to seal records made pursuant
7 to subsection (10) of this section if it finds that:

8 (a) For class B offenses other than sex offenses, since the last
9 date of release from confinement, including full-time residential
10 treatment, if any, or entry of disposition, the person has spent ten
11 consecutive years in the community without committing any offense or
12 crime that subsequently results in conviction. For class C offenses
13 other than sex offenses, since the last date of release from
14 confinement, including full-time residential treatment, if any, or
15 entry of disposition, the person has spent five consecutive years in
16 the community without committing any offense or crime that subsequently
17 results in conviction. For misdemeanors and diversions, since the last
18 date of release from confinement, including full-time residential
19 treatment, if any, or entry of disposition, the person has spent two
20 consecutive years in the community without committing any offense or
21 crime that subsequently results in conviction and the person is at
22 least eighteen years old. For gross misdemeanors, since the last date
23 of release from confinement, including full-time residential treatment,
24 if any, or entry of disposition, the person has spent three consecutive
25 years in the community without committing any offense or crime that
26 subsequently results in conviction and the person is at least eighteen
27 years old;

28 (b) No proceeding is pending against the moving party seeking the
29 conviction of a juvenile offense or a criminal offense;

30 (c) No proceeding is pending seeking the formation of a diversion
31 agreement with that person;

32 (d) The person has not been convicted of a class A or sex offense;
33 and

34 (e) Full restitution has been paid.

35 (12) The person making a motion pursuant to subsection (10) of this
36 section shall give reasonable notice of the motion to the prosecution
37 and to any person or agency whose files are sought to be sealed.

38 (13) If the court grants the motion to seal made pursuant to
39 subsection (10) of this section, it shall, subject to subsection (22)

1 of this section, order sealed the official juvenile court file, the
2 social file, and other records relating to the case as are named in the
3 order. Thereafter, the proceedings in the case shall be treated as if
4 they never occurred, and the subject of the records may reply
5 accordingly to any inquiry about the events, records of which are
6 sealed. Any agency shall reply to any inquiry concerning confidential
7 or sealed records that records are confidential, and no information can
8 be given about the existence or nonexistence of records concerning an
9 individual.

10 (14) Inspection of the files and records included in the order to
11 seal may thereafter be permitted only by order of the court upon motion
12 made by the person who is the subject of the information or complaint,
13 except as otherwise provided in RCW 13.50.010(8) and subsection (22) of
14 this section.

15 (15) Any adjudication of a juvenile offense or a crime subsequent
16 to sealing has the effect of nullifying the sealing order. Any
17 charging of an adult felony subsequent to the sealing has the effect of
18 nullifying the sealing order for the purposes of chapter 9.94A RCW.

19 (16) A person eighteen years of age or older whose criminal history
20 consists of only one referral for diversion may request that the court
21 order the records in that case destroyed. The request shall be
22 granted, subject to subsection (22) of this section, if the court finds
23 that two years have elapsed since completion of the diversion
24 agreement.

25 (17) If the court grants the motion to destroy records made
26 pursuant to subsection (16) of this section, it shall, subject to
27 subsection (22) of this section, order the official juvenile court
28 file, the social file, and any other records named in the order to be
29 destroyed.

30 (18) The person making the motion pursuant to subsection (16) of
31 this section shall give reasonable notice of the motion to the
32 prosecuting attorney and to any agency whose records are sought to be
33 destroyed.

34 (19) Any juvenile to whom the provisions of this section may apply
35 shall be given written notice of his or her rights under this section
36 at the time of his or her disposition hearing or during the diversion
37 process.

38 (20) Nothing in this section may be construed to prevent a crime
39 victim or a member of the victim's family from divulging the identity

1 of the alleged or proven juvenile offender or his or her family when
2 necessary in a civil proceeding.

3 (21) Any juvenile justice or care agency may, subject to the
4 limitations in subsection (22) of this section and (a) and (b) of this
5 subsection, develop procedures for the routine destruction of records
6 relating to juvenile offenses and diversions.

7 (a) Records may be routinely destroyed only when the person the
8 subject of the information or complaint has attained twenty-three years
9 of age or older, or is eighteen years of age or older and his or her
10 criminal history consists entirely of one diversion agreement and two
11 years have passed since completion of the agreement.

12 (b) The court may not routinely destroy the official juvenile court
13 file or recordings or transcripts of any proceedings.

14 (22) No identifying information held by the Washington state patrol
15 in accordance with chapter 43.43 RCW is subject to destruction or
16 sealing under this section. For the purposes of this subsection,
17 identifying information includes photographs, fingerprints, palmprints,
18 soleprints, toeprints and any other data that identifies a person by
19 physical characteristics, name, birthdate or address, but does not
20 include information regarding criminal activity, arrest, charging,
21 diversion, conviction or other information about a person's treatment
22 by the criminal justice system or about the person's behavior.

23 (23) Information identifying child victims under age eighteen who
24 are victims of sexual assaults by juvenile offenders is confidential
25 and not subject to release to the press or public without the
26 permission of the child victim or the child's legal guardian.
27 Identifying information includes the child victim's name, addresses,
28 location, photographs, and in cases in which the child victim is a
29 relative of the alleged perpetrator, identification of the relationship
30 between the child and the alleged perpetrator. Information identifying
31 a child victim of sexual assault may be released to law enforcement,
32 prosecutors, judges, defense attorneys, or private or governmental
33 agencies that provide services to the child victim of sexual assault.

--- END ---