

2 **HB 2343** - S COMM AMD
3 By Committee on Education

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 13.40.215 and 1997 c 265 s 2 are each amended to read
8 as follows:

9 (1)(a) Except as provided in subsection (2) of this section, at the
10 earliest possible date, and in no event later than thirty days before
11 discharge, parole, or any other authorized leave or release, or before
12 transfer to a community residential facility, the secretary shall send
13 written notice of the discharge, parole, authorized leave or release,
14 or transfer of a juvenile found to have committed a violent offense, a
15 sex offense, or stalking, to the following:

16 (i) The chief of police of the city, if any, in which the juvenile
17 will reside;

18 (ii) The sheriff of the county in which the juvenile will reside;
19 and

20 (iii) The approved private schools and the common school district
21 board of directors of the district in which the juvenile intends to
22 reside or the approved private school or public school district in
23 which the juvenile last attended school, whichever is appropriate,
24 except when it has been determined by the department that the juvenile
25 is twenty-one years old(~~(; is not required to return to school under~~
26 ~~chapter 28A.225 RCW;))~~) or will be in the community for less than seven
27 consecutive days on approved leave and will not be attending school
28 during that time.

29 (b) After ~~((July 27, 1997))~~ the effective date of this section, the
30 department shall send a written notice to approved private and public
31 schools under the same conditions identified in subsection (1)(a)(iii)
32 of this section when a juvenile adjudicated of any offense is
33 transferred to a community residential facility, discharged, paroled,
34 released, or granted a leave.

1 (c) The same notice as required by (a) of this subsection shall be
2 sent to the following, if such notice has been requested in writing
3 about a specific juvenile:

4 (i) The victim of the offense for which the juvenile was found to
5 have committed or the victim's next of kin if the crime was a homicide;

6 (ii) Any witnesses who testified against the juvenile in any court
7 proceedings involving the offense; and

8 (iii) Any person specified in writing by the prosecuting attorney.
9 Information regarding victims, next of kin, or witnesses requesting the
10 notice, information regarding any other person specified in writing by
11 the prosecuting attorney to receive the notice, and the notice are
12 confidential and shall not be available to the juvenile. The notice to
13 the chief of police or the sheriff shall include the identity of the
14 juvenile, the residence where the juvenile will reside, the identity of
15 the person, if any, responsible for supervising the juvenile, and the
16 time period of any authorized leave.

17 (d) The thirty-day notice requirements contained in this subsection
18 shall not apply to emergency medical furloughs.

19 (e) The existence of the notice requirements in this subsection
20 will not require any extension of the release date in the event the
21 release plan changes after notification.

22 (2)(a) If a juvenile found to have committed a violent offense, a
23 sex offense, or stalking escapes from a facility of the department, the
24 secretary shall immediately notify, by the most reasonable and
25 expedient means available, the chief of police of the city and the
26 sheriff of the county in which the juvenile resided immediately before
27 the juvenile's arrest. If previously requested, the secretary shall
28 also notify the witnesses and the victim of the offense which the
29 juvenile was found to have committed or the victim's next of kin if the
30 crime was a homicide. If the juvenile is recaptured, the secretary
31 shall send notice to the persons designated in this subsection as soon
32 as possible but in no event later than two working days after the
33 department learns of such recapture.

34 (b) The secretary may authorize a leave, for a juvenile found to
35 have committed a violent offense, a sex offense, or stalking, which
36 shall not exceed forty-eight hours plus travel time, to meet an
37 emergency situation such as a death or critical illness of a member of
38 the juvenile's family. The secretary may authorize a leave, which
39 shall not exceed the time medically necessary, to obtain medical care

1 not available in a juvenile facility maintained by the department.
2 Prior to the commencement of an emergency or medical leave, the
3 secretary shall give notice of the leave to the appropriate law
4 enforcement agency in the jurisdiction in which the juvenile will be
5 during the leave period. The notice shall include the identity of the
6 juvenile, the time period of the leave, the residence of the juvenile
7 during the leave, and the identity of the person responsible for
8 supervising the juvenile during the leave. If previously requested,
9 the department shall also notify the witnesses and victim of the
10 offense which the juvenile was found to have committed or the victim's
11 next of kin if the offense was a homicide.

12 In case of an emergency or medical leave the secretary may waive
13 all or any portion of the requirements for leaves pursuant to RCW
14 13.40.205 (2)(a), (3), (4), and (5).

15 (3) If the victim, the victim's next of kin, or any witness is
16 under the age of sixteen, the notice required by this section shall be
17 sent to the parents or legal guardian of the child.

18 (4) The secretary shall send the notices required by this chapter
19 to the last address provided to the department by the requesting party.
20 The requesting party shall furnish the department with a current
21 address.

22 (5) Upon discharge, parole, or other authorized leave or release,
23 a convicted juvenile sex offender shall not attend a public or approved
24 private elementary, middle, or high school that is attended by a victim
25 or a sibling of a victim of the sex offender. The parents or legal
26 guardians of the convicted juvenile sex offender shall be responsible
27 for transportation or other costs associated with or required by the
28 sex offender's change in school that otherwise would be paid by a
29 school district. Upon discharge, parole, or other authorized leave or
30 release of a convicted juvenile sex offender, the secretary shall send
31 written notice of the discharge, parole, or other authorized leave or
32 release and the requirements of this subsection to the common school
33 district board of directors of the district in which the sex offender
34 intends to reside or the district in which the sex offender last
35 attended school, whichever is appropriate. The secretary shall send a
36 similar notice to any approved private school the juvenile will attend,
37 if known, or if unknown, to the approved private schools within the
38 district the juvenile resides or intends to reside.

1 (6) For purposes of this section the following terms have the
2 following meanings:

3 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

4 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

5 (c) "Stalking" means the crime of stalking as defined in RCW
6 9A.46.110;

7 (d) "Next of kin" means a person's spouse, parents, siblings, and
8 children.

9 **Sec. 2.** RCW 28A.225.330 and 1997 c 266 s 4 are each amended to
10 read as follows:

11 (1) When enrolling a student who has attended school in another
12 school district, the school enrolling the student may request the
13 parent and the student to briefly indicate in writing whether or not
14 the student has:

15 (a) Any history of placement in special educational programs;

16 (b) Any past, current, or pending disciplinary action;

17 (c) Any history of violent behavior, or behavior listed in RCW
18 13.04.155;

19 (d) Any unpaid fines or fees imposed by other schools; and

20 (e) Any health conditions affecting the student's educational
21 needs.

22 (2) The school enrolling the student shall request the school the
23 student previously attended to send the student's permanent record
24 including records of disciplinary action, history of violent behavior
25 or behavior listed in RCW 13.04.155, attendance, immunization records,
26 and academic performance. If the student has not paid a fine or fee
27 under RCW 28A.635.060, or tuition, fees, or fines at approved private
28 schools the school may withhold the student's official transcript, but
29 shall transmit information about the student's academic performance,
30 special placement, immunization records, ~~((and))~~ records of
31 disciplinary action, and history of violent behavior or behavior listed
32 in RCW 13.04.155. If the official transcript is not sent due to unpaid
33 tuition, fees, or fines, the enrolling school shall notify both the
34 student and parent or guardian that the official transcript will not be
35 sent until the obligation is met, and failure to have an official
36 transcript may result in exclusion from extracurricular activities or
37 failure to graduate.

1 (3) If information is requested under subsection (2) of this
2 section, the information shall be transmitted within two school days
3 after receiving the request and the records shall be sent as soon as
4 possible. Any school district or district employee who releases the
5 information in compliance with this section is immune from civil
6 liability for damages unless it is shown that the school district
7 employee acted with gross negligence or in bad faith. The state board
8 of education shall provide by rule for the discipline under chapter
9 28A.410 RCW of a school principal or other chief administrator of a
10 public school building who fails to make a good faith effort to assure
11 compliance with this subsection.

12 (4) Any school district or district employee who releases the
13 information in compliance with federal and state law is immune from
14 civil liability for damages unless it is shown that the school district
15 or district employee acted with gross negligence or in bad faith.

16 (5) If a parent fails to provide information requested under
17 subsection (1)(b) or (c) of this section, the school district may
18 suspend, transfer, or expel the student, as appropriate, upon learning
19 the information if the school district could have denied the student
20 admission based upon the information or would have placed the student
21 in an alternative placement. School districts shall advise parents of
22 the consequences of the failure to provide the requested information.

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

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

27 (2) The official juvenile court file of any alleged or proven
28 juvenile offender shall be open to public inspection, unless sealed
29 pursuant to subsection (~~((11))~~) (12) of this section.

30 (3) All records other than the official juvenile court file are
31 confidential and may be released only as provided in this section, RCW
32 13.50.010, 13.40.215, and 4.24.550.

33 (4) Except as otherwise provided in this section and RCW 13.50.010,
34 records retained or produced by any juvenile justice or care agency may
35 be released to other participants in the juvenile justice or care
36 system only when an investigation or case involving the juvenile in
37 question is being pursued by the other participant or when that other
38 participant is assigned the responsibility for supervising the

1 juvenile. A school that the juvenile attends shall be considered to
2 have responsibility for supervising the juvenile.

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

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

14 (7) Law enforcement and prosecuting attorneys shall cooperate with
15 schools in releasing information to a school pertaining to the
16 investigation, diversion, and prosecution of a juvenile supervised by
17 the school. Law enforcement and prosecuting attorneys shall release
18 information to the maximum extent possible to assist schools in
19 supervising the juvenile and protecting other students, staff, and
20 school property.

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

32 ((+8+)) (9) Upon request of the victim of a crime or the victim's
33 immediate family, the identity of an alleged or proven juvenile
34 offender alleged or found to have committed a crime against the victim
35 and the identity of the alleged or proven juvenile offender's parent,
36 guardian, or custodian and the circumstance of the alleged or proven
37 crime shall be released to the victim of the crime or the victim's
38 immediate family.

1 (~~(9)~~) (10) Subject to the rules of discovery applicable in adult
2 criminal prosecutions, the juvenile offense records of an adult
3 criminal defendant or witness in an adult criminal proceeding shall be
4 released upon request to prosecution and defense counsel after a charge
5 has actually been filed. The juvenile offense records of any adult
6 convicted of a crime and placed under the supervision of the adult
7 corrections system shall be released upon request to the adult
8 corrections system.

9 (~~(10)~~) (11) In any case in which an information has been filed
10 pursuant to RCW 13.40.100 or a complaint has been filed with the
11 prosecutor and referred for diversion pursuant to RCW 13.40.070, the
12 person the subject of the information or complaint may file a motion
13 with the court to have the court vacate its order and findings, if any,
14 and, subject to subsection (~~(22)~~) (23) of this section, order the
15 sealing of the official juvenile court file, the social file, and
16 records of the court and of any other agency in the case.

17 (~~(11)~~) (12) The court shall grant the motion to seal records made
18 pursuant to subsection (~~(10)~~) (11) of this section if it finds that:

19 (a) For class B offenses other than sex offenses, since the last
20 date of release from confinement, including full-time residential
21 treatment, if any, or entry of disposition, the person has spent ten
22 consecutive years in the community without committing any offense or
23 crime that subsequently results in conviction. For class C offenses
24 other than sex offenses, since the last date of release from
25 confinement, including full-time residential treatment, if any, or
26 entry of disposition, the person has spent five consecutive years in
27 the community without committing any offense or crime that subsequently
28 results in conviction;

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

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

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

35 (e) Full restitution has been paid.

36 (~~(12)~~) (13) The person making a motion pursuant to subsection
37 (~~(10)~~) (11) of this section shall give reasonable notice of the
38 motion to the prosecution and to any person or agency whose files are
39 sought to be sealed.

1 (~~(13)~~) (14) If the court grants the motion to seal made pursuant
2 to subsection (~~(10)~~) (11) of this section, it shall, subject to
3 subsection (~~(22)~~) (23) of this section, order sealed the official
4 juvenile court file, the social file, and other records relating to the
5 case as are named in the order. Thereafter, the proceedings in the
6 case shall be treated as if they never occurred, and the subject of the
7 records may reply accordingly to any inquiry about the events, records
8 of which are sealed. Any agency shall reply to any inquiry concerning
9 confidential or sealed records that records are confidential, and no
10 information can be given about the existence or nonexistence of records
11 concerning an individual.

12 (~~(14)~~) (15) Inspection of the files and records included in the
13 order to seal may thereafter be permitted only by order of the court
14 upon motion made by the person who is the subject of the information or
15 complaint, except as otherwise provided in RCW 13.50.010(8) and
16 subsection (~~(22)~~) (23) of this section.

17 (~~(15)~~) (16) Any adjudication of a juvenile offense or a crime
18 subsequent to sealing has the effect of nullifying the sealing order.
19 Any charging of an adult felony subsequent to the sealing has the
20 effect of nullifying the sealing order for the purposes of chapter
21 9.94A RCW.

22 (~~(16)~~) (17) A person eighteen years of age or older whose
23 criminal history consists of only one referral for diversion may
24 request that the court order the records in that case destroyed. The
25 request shall be granted, subject to subsection (~~(22)~~) (23) of this
26 section, if the court finds that two years have elapsed since
27 completion of the diversion agreement.

28 (~~(17)~~) (18) If the court grants the motion to destroy records
29 made pursuant to subsection (~~(16)~~) (17) of this section, it shall,
30 subject to subsection (~~(22)~~) (23) of this section, order the official
31 juvenile court file, the social file, and any other records named in
32 the order to be destroyed.

33 (~~(18)~~) (19) The person making the motion pursuant to subsection
34 (~~(16)~~) (17) of this section shall give reasonable notice of the
35 motion to the prosecuting attorney and to any agency whose records are
36 sought to be destroyed.

37 (~~(19)~~) (20) Any juvenile to whom the provisions of this section
38 may apply shall be given written notice of his or her rights under this

1 section at the time of his or her disposition hearing or during the
2 diversion process.

3 ~~((+20+))~~ (21) Nothing in this section may be construed to prevent
4 a crime victim or a member of the victim's family from divulging the
5 identity of the alleged or proven juvenile offender or his or her
6 family when necessary in a civil proceeding.

7 ~~((+21+))~~ (22) Any juvenile justice or care agency may, subject to
8 the limitations in subsection ~~((+22+))~~ (23) of this section and (a) and
9 (b) of this subsection, develop procedures for the routine destruction
10 of records relating to juvenile offenses and diversions.

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

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

18 ~~((+22+))~~ (23) No identifying information held by the Washington
19 state patrol in accordance with chapter 43.43 RCW is subject to
20 destruction or sealing under this section. For the purposes of this
21 subsection, identifying information includes photographs, fingerprints,
22 palmprints, soleprints, toeprints and any other data that identifies a
23 person by physical characteristics, name, birthdate or address, but
24 does not include information regarding criminal activity, arrest,
25 charging, diversion, conviction or other information about a person's
26 treatment by the criminal justice system or about the person's
27 behavior.

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

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2 By Committee on Education

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4 On page 1, line 1 of the title, after "safety;" strike the
5 remainder of the title and insert "and amending RCW 13.40.215,
6 28A.225.330, and 13.50.050."

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