

1 3900-S3.E AMS ZARE S3208.1

2 **E3SHB 3900** - S AMD TO S AMD (S-3172.1/97) - 436
3 By Senators Zarelli, Roach and Long

4

5 On page 54, after line 8 of the amendment, insert the following:

6 "Sec. 11. RCW 13.40.038 and 1992 c 205 s 105 are each amended to
7 read as follows:

8 It is the policy of this state that all county juvenile detention
9 facilities provide a humane, safe, and rehabilitative environment (~~and~~
10 ~~that unadjudicated youth remain in the community whenever possible,~~
11 ~~consistent with public safety and the provisions of chapter 13.40~~
12 ~~RCW)).~~ It is the policy of this state that a juvenile suspect be
13 removed from a confrontational situation as soon as possible. Counties
14 should emphasize immediate enforcement by arrest, booking, and release
15 to a responsible adult or the department of social and health services
16 as provided in RCW 13.40.040.

17 The counties shall develop and implement detention intake standards
18 and risk assessment standards to determine whether detention is
19 warranted and if so whether the juvenile should be placed in secure,
20 nonsecure, or home detention to implement the goals of this section.
21 Inability to pay for a less restrictive detention placement shall not
22 be a basis for denying a respondent a less restrictive placement in the
23 community. The detention and risk assessment standards shall be
24 developed and implemented no later than December 31, 1992."

25 Renumber the remaining sections consecutively and correct any
26 internal references accordingly.

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30 On page 140, line 10, of the title amendment, after "13.40.0357,"
31 insert "13.40.038,"

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4 Beginning on page 54, after line 8 of the amendment, strike all of
5 section 11 and insert the following:

6 "Sec. 11. RCW 13.40.040 and 1995 c 395 s 4 are each amended to
7 read as follows:

8 (1) A juvenile may be taken into custody:

9 (a) Pursuant to a court order if a complaint is filed with the
10 court alleging, and the court finds probable cause to believe, that the
11 juvenile has committed an offense or has violated terms of a
12 disposition order or release order; or

13 (b) Without a court order, by a law enforcement officer if grounds
14 exist for the arrest of an adult in identical circumstances. Admission
15 to, and continued custody in, a court detention facility shall be
16 governed by subsection (~~((2))~~) (3) of this section; or

17 (c) Pursuant to a court order that the juvenile be held as a
18 material witness; or

19 (d) Where the secretary or the secretary's designee has suspended
20 the parole of a juvenile offender.

21 (2) A juvenile taken into custody may be held in detention until
22 the juvenile can be released to a responsible adult.

23 (3) Except as provided in subsection (2) of this section, a
24 juvenile may not be held in detention unless there is probable cause to
25 believe that:

26 (a) The juvenile has committed an offense or has violated the terms
27 of a disposition order; and

28 (i) The juvenile will likely fail to appear for further
29 proceedings; or

30 (ii) Detention is required to protect the juvenile from himself or
31 herself; or

32 (iii) The juvenile is a threat to community safety; or

33 (iv) The juvenile will intimidate witnesses or otherwise unlawfully
34 interfere with the administration of justice; or

1 (v) The juvenile has committed a crime while another case was
2 pending; or

3 (b) The juvenile is a fugitive from justice; or

4 (c) The juvenile's parole has been suspended or modified; or

5 (d) The juvenile is a material witness.

6 ~~((3))~~ (4) Upon a finding that members of the community have
7 threatened the health of a juvenile taken into custody, at the
8 juvenile's request the court may order continued detention pending
9 further order of the court.

10 ~~((4))~~ (5) A juvenile detained under this section may be released
11 upon posting a probation bond set by the court. The juvenile's parent
12 or guardian may sign for the probation bond. A court authorizing such
13 a release shall issue an order containing a statement of conditions
14 imposed upon the juvenile and shall set the date of his or her next
15 court appearance. The court shall advise the juvenile of any
16 conditions specified in the order and may at any time amend such an
17 order in order to impose additional or different conditions of release
18 upon the juvenile or to return the juvenile to custody for failing to
19 conform to the conditions imposed. In addition to requiring the
20 juvenile to appear at the next court date, the court may condition the
21 probation bond on the juvenile's compliance with conditions of release.
22 The juvenile's parent or guardian may notify the court that the
23 juvenile has failed to conform to the conditions of release or the
24 provisions in the probation bond. If the parent notifies the court of
25 the juvenile's failure to comply with the probation bond, the court
26 shall notify the surety. As provided in the terms of the bond, the
27 surety shall provide notice to the court of the offender's
28 noncompliance. A juvenile may be released only to a responsible adult
29 or the department of social and health services. Failure to appear on
30 the date scheduled by the court pursuant to this section shall
31 constitute the crime of bail jumping."

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33 By Senators Zarelli, Roach and Long

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35 On page 57, line 12 of the amendment, after "13.40.040" strike
36 "(4)" and insert "~~((4))~~ (5)"

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4 On page 92, line 34 of the amendment, after "13.40.040" strike
5 "(4)" and insert "((~~4~~)) (5)"

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4 Beginning on page 65, after line 27 of the amendment, strike all of
5 section 17 and insert the following:

6 "**Sec. 17.** RCW 13.40.080 and 1996 c 124 s 1 are each amended to
7 read as follows:

8 (1) A diversion agreement shall be a contract between a juvenile
9 accused of an offense and a diversionary unit whereby the juvenile
10 agrees to fulfill certain conditions in lieu of prosecution. Such
11 agreements may be entered into only after the prosecutor, or probation
12 counselor pursuant to this chapter, has determined that probable cause
13 exists to believe that a crime has been committed and that the juvenile
14 committed it. Such agreements shall be entered into as expeditiously
15 as possible.

16 (2) A diversion agreement shall be limited to one or more of the
17 following:

18 (a) Community service not to exceed one hundred fifty hours, not to
19 be performed during school hours if the juvenile is attending school;

20 (b) Restitution limited to the amount of actual loss incurred by
21 the victim;

22 (c) Attendance at up to ten hours of counseling and/or up to twenty
23 hours of educational or informational sessions at a community agency.
24 The educational or informational sessions may include sessions relating
25 to respect for self, others, and authority; victim awareness;
26 accountability; self-worth; responsibility; work ethics; good
27 citizenship; and life skills. For purposes of this section, "community
28 agency" may also mean a community-based nonprofit organization, if
29 approved by the diversion unit. The state shall not be liable for
30 costs resulting from the diversionary unit exercising the option to
31 permit diversion agreements to mandate attendance at up to ten hours of
32 counseling and/or up to twenty hours of educational or informational
33 sessions;

34 (d) A fine, not to exceed one hundred dollars. (~~In determining~~
35 ~~the amount of the fine, the diversion unit shall consider only the~~

1 juvenile's financial resources and whether the juvenile has the means
2 to pay the fine. The diversion unit shall not consider the financial
3 resources of the juvenile's parents, guardian, or custodian in
4 determining the fine to be imposed)); and

5 (e) Requirements to remain during specified hours at home, school,
6 or work, and restrictions on leaving or entering specified geographical
7 areas.

8 (3) In assessing periods of community service to be performed and
9 restitution to be paid by a juvenile who has entered into a diversion
10 agreement, the court officer to whom this task is assigned shall
11 consult with the juvenile's custodial parent or parents or guardian and
12 victims who have contacted the diversionary unit and, to the extent
13 possible, involve members of the community. Such members of the
14 community shall meet with the juvenile and advise the court officer as
15 to the terms of the diversion agreement and shall supervise the
16 juvenile in carrying out its terms.

17 (4)(a) A diversion agreement may not exceed a period of six months
18 and may include a period extending beyond the eighteenth birthday of
19 the divertee.

20 (b) If additional time is necessary for the juvenile to complete
21 restitution to the victim, the time period limitations of this
22 subsection may be extended by an additional six months.

23 (c) If the juvenile has not paid the full amount of restitution by
24 the end of the additional six-month period, then the juvenile shall be
25 referred to the juvenile court for entry of an order establishing the
26 amount of restitution still owed to the victim. In this order, the
27 court shall also determine the terms and conditions of the restitution,
28 including a payment plan extending up to ten years if the court
29 determines that the juvenile does not have the means to make full
30 restitution over a shorter period. For the purposes of this subsection
31 (4)(c), the juvenile shall remain under the court's jurisdiction for a
32 maximum term of ten years or longer after the juvenile's eighteenth
33 birthday(~~(. The court may not require the juvenile to pay full or~~
34 ~~partial restitution if the juvenile reasonably satisfies the court that~~
35 ~~he or she does not have the means to make full or partial restitution~~
36 ~~and could not reasonably acquire the means to pay the restitution over~~
37 ~~a ten-year period)) or longer if necessary to recover the full amount
38 of restitution. The county clerk shall make disbursements to victims
39 named in the order. The restitution to victims named in the order~~

1 shall be paid prior to any payment for other penalties or monetary
2 assessments. A juvenile under obligation to pay restitution may
3 petition the court for modification of the restitution order.

4 (5) The juvenile shall retain the right to be referred to the court
5 at any time prior to the signing of the diversion agreement.

6 (6) Divertees and potential divertees shall be afforded due process
7 in all contacts with a diversionary unit regardless of whether the
8 juveniles are accepted for diversion or whether the diversion program
9 is successfully completed. Such due process shall include, but not be
10 limited to, the following:

11 (a) A written diversion agreement shall be executed stating all
12 conditions in clearly understandable language;

13 (b) Violation of the terms of the agreement shall be the only
14 grounds for termination;

15 (c) No divertee may be terminated from a diversion program without
16 being given a court hearing, which hearing shall be preceded by:

17 (i) Written notice of alleged violations of the conditions of the
18 diversion program; and

19 (ii) Disclosure of all evidence to be offered against the divertee;

20 (d) The hearing shall be conducted by the juvenile court and shall
21 include:

22 (i) Opportunity to be heard in person and to present evidence;

23 (ii) The right to confront and cross-examine all adverse witnesses;

24 (iii) A written statement by the court as to the evidence relied on
25 and the reasons for termination, should that be the decision; and

26 (iv) Demonstration by evidence that the divertee has substantially
27 violated the terms of his or her diversion agreement.

28 (e) The prosecutor may file an information on the offense for which
29 the divertee was diverted:

30 (i) In juvenile court if the divertee is under eighteen years of
31 age; or

32 (ii) In superior court or the appropriate court of limited
33 jurisdiction if the divertee is eighteen years of age or older.

34 (7) The diversion unit shall, subject to available funds, be
35 responsible for providing interpreters when juveniles need interpreters
36 to effectively communicate during diversion unit hearings or
37 negotiations.

38 (8) The diversion unit shall be responsible for advising a divertee
39 of his or her rights as provided in this chapter.

1 (9) The diversion unit may refer a juvenile to community-based
2 counseling or treatment programs.

3 (10) The right to counsel shall inure prior to the initial
4 interview for purposes of advising the juvenile as to whether he or she
5 desires to participate in the diversion process or to appear in the
6 juvenile court. The juvenile may be represented by counsel at any
7 critical stage of the diversion process, including intake interviews
8 and termination hearings. The juvenile shall be fully advised at the
9 intake of his or her right to an attorney and of the relevant services
10 an attorney can provide. For the purpose of this section, intake
11 interviews mean all interviews regarding the diversion agreement
12 process.

13 The juvenile shall be advised that a diversion agreement shall
14 constitute a part of the juvenile's criminal history ((as defined by
15 RCW 13.40.020(9))). A signed acknowledgment of such advisement shall
16 be obtained from the juvenile, and the document shall be maintained by
17 the diversionary unit together with the diversion agreement, and a copy
18 of both documents shall be delivered to the prosecutor if requested by
19 the prosecutor. The supreme court shall promulgate rules setting forth
20 the content of such advisement in simple language.

21 (11) When a juvenile enters into a diversion agreement, the
22 juvenile court may receive only the following information for
23 dispositional purposes:

- 24 (a) The fact that a charge or charges were made;
- 25 (b) The fact that a diversion agreement was entered into;
- 26 (c) The juvenile's obligations under such agreement;
- 27 (d) Whether the alleged offender performed his or her obligations
28 under such agreement; and
- 29 (e) The facts of the alleged offense.

30 (12) A diversionary unit may refuse to enter into a diversion
31 agreement with a juvenile. When a diversionary unit refuses to enter
32 a diversion agreement with a juvenile, it shall immediately refer such
33 juvenile to the court for action and shall forward to the court the
34 criminal complaint and a detailed statement of its reasons for refusing
35 to enter into a diversion agreement. The diversionary unit shall also
36 immediately refer the case to the prosecuting attorney for action if
37 such juvenile violates the terms of the diversion agreement.

38 (13) A diversionary unit may, in instances where it determines that
39 the act or omission of an act for which a juvenile has been referred to

1 it involved no victim, or where it determines that the juvenile
2 referred to it has no prior criminal history and is alleged to have
3 committed an illegal act involving no threat of or instance of actual
4 physical harm and involving not more than fifty dollars in property
5 loss or damage and that there is no loss outstanding to the person or
6 firm suffering such damage or loss, counsel and release or release such
7 a juvenile without entering into a diversion agreement. A diversion
8 unit's authority to counsel and release a juvenile under this
9 subsection shall include the authority to refer the juvenile to
10 community-based counseling or treatment programs. Any juvenile
11 released under this subsection shall be advised that the act or
12 omission of any act for which he or she had been referred shall
13 constitute a part of the juvenile's criminal history ((as defined by
14 RCW 13.40.020(9))). A signed acknowledgment of such advisement shall
15 be obtained from the juvenile, and the document shall be maintained by
16 the unit, and a copy of the document shall be delivered to the
17 prosecutor if requested by the prosecutor. The supreme court shall
18 promulgate rules setting forth the content of such advisement in simple
19 language. A juvenile determined to be eligible by a diversionary unit
20 for release as provided in this subsection shall retain the same right
21 to counsel and right to have his or her case referred to the court for
22 formal action as any other juvenile referred to the unit.

23 (14) A diversion unit may supervise the fulfillment of a diversion
24 agreement entered into before the juvenile's eighteenth birthday and
25 which includes a period extending beyond the diverttee's eighteenth
26 birthday.

27 (15) If a fine required by a diversion agreement cannot reasonably
28 be paid due to a change of circumstance, the diversion agreement may be
29 modified at the request of the diverttee and with the concurrence of the
30 diversion unit to convert an unpaid fine into community service. The
31 modification of the diversion agreement shall be in writing and signed
32 by the diverttee and the diversion unit. The number of hours of
33 community service in lieu of a monetary penalty shall be converted at
34 the rate of the prevailing state minimum wage per hour.

35 (16) Fines imposed under this section shall be collected and paid
36 into the county general fund in accordance with procedures established
37 by the juvenile court administrator under RCW 13.04.040 and may be used
38 only for juvenile services. In the expenditure of funds for juvenile
39 services, there shall be a maintenance of effort whereby counties

1 exhaust existing resources before using amounts collected under this
2 section."

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4 Beginning on page 85, after line 12 of the amendment, strike all of
5 section 26 and insert the following:

6 "**Sec. 26.** RCW 13.40.190 and 1996 c 124 s 2 are each amended to
7 read as follows:

8 (1) In its dispositional order, the court shall require the
9 respondent to make restitution to any persons who have suffered loss or
10 damage as a result of the offense committed by the respondent. In
11 addition, restitution (~~((may))~~) shall be ordered for loss or damage if
12 the offender pleads guilty to a lesser offense or fewer offenses and
13 agrees with the prosecutor's recommendation that the offender be
14 required to pay restitution to a victim of an offense or offenses
15 which, pursuant to a plea agreement, are not prosecuted. The payment
16 of restitution shall be in addition to any punishment which is imposed
17 pursuant to the other provisions of this chapter. The court may
18 determine the amount, terms, and conditions of the restitution
19 including a payment plan extending up to ten years after the
20 respondent's eighteenth birthday if the court determines that the
21 respondent does not have the means to make full restitution over a
22 shorter period. Restitution may include the costs of counseling
23 reasonably related to the offense. If the respondent participated in
24 the crime with another person or other persons, all such participants
25 shall be jointly and severally responsible for the payment of
26 restitution. For the purposes of this section, the respondent shall
27 remain under the court's jurisdiction for a maximum term of ten years
28 after the respondent's eighteenth birthday. (~~((The court may not
29 require the respondent to pay full or partial restitution if the
30 respondent reasonably satisfies the court that he or she does not have
31 the means to make full or partial restitution and could not reasonably
32 acquire the means to pay such restitution over a ten year period.))~~)

33 (2) Regardless of the provisions of subsection (1) of this section,
34 the court shall order restitution in all cases where the victim is
35 entitled to benefits under the crime victims' compensation act, chapter

1 7.68 RCW. If the court does not order restitution and the victim of
2 the crime has been determined to be entitled to benefits under the
3 crime victims' compensation act, the department of labor and
4 industries, as administrator of the crime victims' compensation
5 program, may petition the court within one year of entry of the
6 disposition order for entry of a restitution order. Upon receipt of a
7 petition from the department of labor and industries, the court shall
8 hold a restitution hearing and shall enter a restitution order.

9 (3) If an order includes restitution as one of the monetary
10 assessments, the county clerk shall make disbursements to victims named
11 in the order. The restitution to victims named in the order shall be
12 paid prior to any payment for other penalties or monetary assessments.

13 (4) A respondent under obligation to pay restitution may petition
14 the court for modification of the restitution order."

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4 Beginning on page 94, after line 21 of the amendment, strike all of
5 section 33 and insert the following:

6 "**Sec. 33.** RCW 13.40.320 and 1995 c 40 s 1 are each amended to read
7 as follows:

8 (1) The department of social and health services shall establish
9 and operate a medium security juvenile offender basic training camp
10 program. The department shall site a juvenile offender basic training
11 camp facility in the most cost-effective facility possible and shall
12 review the possibility of using an existing abandoned and/or available
13 state, federally, or military-owned site or facility.

14 (2) The department may contract under this chapter with private
15 companies, the national guard, or other federal, state, or local
16 agencies to operate the juvenile offender basic training camp,
17 notwithstanding the provisions of RCW 41.06.380. Requests for
18 proposals from possible contractors shall not call for payment on a per
19 diem basis.

20 (3) The juvenile offender basic training camp shall accommodate at
21 least seventy offenders. The beds shall count as additions to, and not
22 be used as replacements for, existing bed capacity at existing
23 department of social and health services juvenile facilities.

24 (4) The juvenile offender basic training camp shall be a structured
25 and regimented model lasting one hundred twenty days emphasizing the
26 building up of an offender's self-esteem, confidence, and discipline.
27 The juvenile offender basic training camp program shall provide
28 participants with basic education, (~~prevocational training,~~) work-
29 based learning, live work, work ethic skills, (~~conflict resolution~~
30 ~~counseling,~~ ~~substance abuse intervention,~~ ~~anger management~~
31 ~~counseling,~~) and structured intensive physical training. The juvenile
32 offender basic training camp program shall have a curriculum training
33 and work schedule that incorporates a balanced assignment of these (~~or~~
34 ~~other rehabilitation and training~~) components for no less than sixteen
35 hours per day, six days a week.

1 The department shall adopt rules for the safe and effective
2 operation of the juvenile offender basic training camp program,
3 standards for an offender's successful program completion, and rules
4 for the continued after-care supervision of offenders who have
5 successfully completed the program.

6 (5) Offenders eligible for the juvenile offender basic training
7 camp option shall be those with a disposition of not more than
8 (~~seventy-eight~~) sixty-five weeks. Violent and sex offenders shall
9 not be eligible for the juvenile offender basic training camp program.

10 (6) If the court determines that the offender is eligible for the
11 juvenile offender basic training camp option, the court may recommend
12 that the department place the offender in the program. The department
13 shall evaluate the offender and may place the offender in the program.
14 The evaluation shall include, at a minimum, a risk assessment developed
15 by the department and designed to determine the offender's suitability
16 for the program. No juvenile who is assessed as a high risk offender
17 or suffers from any mental or physical problems that could endanger his
18 or her health or drastically affect his or her performance in the
19 program shall be admitted to or retained in the juvenile offender basic
20 training camp program.

21 (7) All juvenile offenders eligible for the juvenile offender basic
22 training camp sentencing option shall spend one hundred twenty days of
23 their disposition in a juvenile offender basic training camp. If the
24 juvenile offender's activities while in the juvenile offender basic
25 training camp are so disruptive to the juvenile offender basic training
26 camp program, as determined by the secretary according to rules adopted
27 by the department, as to result in the removal of the juvenile offender
28 from the juvenile offender basic training camp program, (~~or if the~~
29 ~~offender cannot complete the juvenile offender basic training camp~~
30 ~~program due to medical problems,~~) the secretary shall require that the
31 offender be committed to a juvenile institution to serve the entire
32 (~~remainder~~) standard range of his or her disposition(~~(, less the~~
33 ~~amount of time already served in the juvenile offender basic training~~
34 ~~camp program)~~). If the offender cannot complete the juvenile offender
35 basic training camp program due to a medical problem, the secretary
36 shall require that the offender be committed to a juvenile institution
37 to serve the entire remainder of his or her disposition.

38 (8) All offenders who successfully graduate from the one hundred
39 twenty day juvenile offender basic training camp program shall spend

1 the remainder of their disposition on parole in a division of juvenile
2 rehabilitation intensive aftercare program in the local community. The
3 program shall provide for the needs of the offender based on his or her
4 progress in the aftercare program as indicated by ongoing assessment of
5 those needs and progress. The program shall make available
6 prevocational training, conflict resolution, anger management
7 counseling, and substance abuse intervention and treatment. The
8 intensive aftercare program shall monitor postprogram juvenile
9 offenders and assist them to successfully reintegrate into the
10 community. In addition, the program shall develop a process for
11 closely monitoring and assessing public safety risks. The intensive
12 aftercare program shall be designed and funded by the department of
13 social and health services.

14 (9) The department shall also develop and maintain a data base to
15 measure recidivism rates specific to this incarceration program. The
16 data base shall maintain data on all juvenile offenders who complete
17 the juvenile offender basic training camp program for a period of two
18 years after they have completed the program. The data base shall also
19 maintain data on the criminal activity, educational progress, and
20 employment activities of all juvenile offenders who participated in the
21 program. (~~The department shall produce an outcome evaluation report~~
22 ~~on the progress of the juvenile offender basic training camp program to~~
23 ~~the appropriate committees of the legislature no later than December~~
24 ~~12, 1996.))"~~

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4 Beginning on page 98, after line 36 of the amendment, strike all of
5 section 35 and insert the following:

6 **"Sec. 35.** RCW 13.50.050 and 1992 c 188 s 7 are each amended to
7 read as follows:

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

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

13 (3) All records other than the official juvenile court file are
14 confidential and may be released only as provided in this section, RCW
15 13.50.010, 13.40.215, and 4.24.550.

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

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

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

34 (7) The juvenile court and the prosecutor may set up and maintain
35 a central record-keeping system which may receive information on all

1 alleged juvenile offenders against whom a complaint has been filed
2 pursuant to RCW 13.40.070 whether or not their cases are currently
3 pending before the court. The central record-keeping system may be
4 computerized. If a complaint has been referred to a diversion unit,
5 the diversion unit shall promptly report to the juvenile court or the
6 prosecuting attorney when the juvenile has agreed to diversion. An
7 offense shall not be reported as criminal history in any central
8 record-keeping system without notification by the diversion unit of the
9 date on which the offender agreed to diversion.

10 (8) Upon request of the victim of a crime or the victim's immediate
11 family, the identity of an alleged or proven juvenile offender alleged
12 or found to have committed a crime against the victim and the identity
13 of the alleged or proven juvenile offender's parent, guardian, or
14 custodian and the circumstance of the alleged or proven crime shall be
15 released to the victim of the crime or the victim's immediate family.

16 (9) Subject to the rules of discovery applicable in adult criminal
17 prosecutions, the juvenile offense records of an adult criminal
18 defendant or witness in an adult criminal proceeding shall be released
19 upon request to prosecution and defense counsel after a charge has
20 actually been filed. The juvenile offense records of any adult
21 convicted of a crime and placed under the supervision of the adult
22 corrections system shall be released upon request to the adult
23 corrections system.

24 (10) In any case in which an information has been filed pursuant to
25 RCW 13.40.100 or a complaint has been filed with the prosecutor and
26 referred for diversion pursuant to RCW 13.40.070, the person the
27 subject of the information or complaint may file a motion with the
28 court to have the court vacate its order and findings, if any, and,
29 subject to subsection ~~((+24))~~ (22) of this section, order the sealing
30 of the official juvenile court file, the social file, and records of
31 the court and of any other agency in the case. However, the official
32 juvenile court file, the social file, and the records of the court and
33 any other agency in the case of any person convicted of a sex offense
34 may not be sealed.

35 (11) Except as otherwise provided in subsection (10) of this
36 section, the court shall grant the motion to seal records made pursuant
37 to subsection (10) of this section if it finds that:

38 (a) ~~((Two years have elapsed from the later of: (i) Final~~
39 ~~discharge of the person from the supervision of any agency charged with~~

1 supervising juvenile offenders; or (ii) from the entry of a court order
2 relating to the commission of a juvenile offense or a criminal
3 offense)) For class B felonies other than sex offenses, since the last
4 date of release from confinement, including full-time residential
5 treatment, pursuant to a felony conviction, if any, or entry of
6 judgment and sentence, the person has spent ten consecutive years in
7 the community without committing any crime that subsequently results in
8 conviction. For class C felonies other than sex offenses, since the
9 last date of release from confinement, including full-time residential
10 treatment, pursuant to a felony conviction, if any, or entry of
11 judgment and sentence, the person has spent five consecutive years in
12 the community without committing any crime that subsequently results in
13 conviction;

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

16 (c) No proceeding is pending seeking the formation of a diversion
17 agreement with that person; and

18 (d) Full restitution has been paid.

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

22 (13) If the court grants the motion to seal made pursuant to
23 subsection (10) of this section, it shall, subject to subsection
24 ~~((+24))~~ (22) of this section, order sealed the official juvenile court
25 file, the social file, and other records relating to the case as are
26 named in the order. Thereafter, the proceedings in the case shall be
27 treated as if they never occurred, and the subject of the records may
28 reply accordingly to any inquiry about the events, records of which are
29 sealed. Any agency shall reply to any inquiry concerning confidential
30 or sealed records that records are confidential, and no information can
31 be given about the existence or nonexistence of records concerning an
32 individual.

33 (14) Inspection of the files and records included in the order to
34 seal may thereafter be permitted only by order of the court upon motion
35 made by the person who is the subject of the information or complaint,
36 except as otherwise provided in RCW 13.50.010(8) and subsection
37 ~~((+24))~~ (22) of this section.

38 (15) Any adjudication of a juvenile offense or a crime subsequent
39 to sealing has the effect of nullifying the sealing order. Any

1 (~~(conviction for any)~~) charging of an adult felony subsequent to the
2 sealing has the effect of nullifying the sealing order for the purposes
3 of chapter 9.94A RCW (~~(for any juvenile adjudication of guilt for a~~
4 ~~class A offense or a sex offense as defined in RCW 9.94A.030)~~).

5 (16) (~~In any case in which an information has been filed pursuant~~
6 ~~to RCW 13.40.100 or a complaint has been filed with the prosecutor and~~
7 ~~referred for diversion pursuant to RCW 13.40.070, the person who is the~~
8 ~~subject of the information or complaint may file a motion with the~~
9 ~~court to have the court vacate its order and findings, if any, and,~~
10 ~~subject to subsection (24) of this section, order the destruction of~~
11 ~~the official juvenile court file, the social file, and records of the~~
12 ~~court and of any other agency in the case.~~

13 (~~17~~) The court may grant the motion to destroy records made
14 pursuant to subsection (16) of this section if it finds:

15 (a) The person making the motion is at least twenty three years of
16 age;

17 (b) The person has not subsequently been convicted of a felony;

18 (c) No proceeding is pending against that person seeking the
19 conviction of a criminal offense; and

20 (d) The person has never been found guilty of a serious offense.

21 (~~18~~)) A person eighteen years of age or older whose criminal
22 history consists of only one referral for diversion may request that
23 the court order the records in that case destroyed. The request shall
24 be granted, subject to subsection (~~(24)~~) (22) of this section, if the
25 court finds that two years have elapsed since completion of the
26 diversion agreement.

27 (~~19~~)) (17) If the court grants the motion to destroy records
28 made pursuant to subsection (16) (~~(or 18)~~) of this section, it shall,
29 subject to subsection (~~(24)~~) (22) of this section, order the official
30 juvenile court file, the social file, and any other records named in
31 the order to be destroyed.

32 (~~20~~)) (18) The person making the motion pursuant to subsection
33 (16) (~~(or 18)~~) of this section shall give reasonable notice of the
34 motion to the prosecuting attorney and to any agency whose records are
35 sought to be destroyed.

36 (~~21~~)) (19) Any juvenile to whom the provisions of this section
37 may apply shall be given written notice of his or her rights under this
38 section at the time of his or her disposition hearing or during the
39 diversion process.

1 (~~(22)~~) (20) Nothing in this section may be construed to prevent
2 a crime victim or a member of the victim's family from divulging the
3 identity of the alleged or proven juvenile offender or his or her
4 family when necessary in a civil proceeding.

5 (~~(23)~~) (21) Any juvenile justice or care agency may, subject to
6 the limitations in subsection (~~(24)~~) (22) of this section and
7 (~~subparagraphs~~) (a) and (b) of this subsection, develop procedures
8 for the routine destruction of records relating to juvenile offenses
9 and diversions.

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

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

17 (~~(24)~~) (22) No identifying information held by the Washington
18 state patrol in accordance with chapter 43.43 RCW is subject to
19 destruction or sealing under this section. For the purposes of this
20 subsection, identifying information includes photographs, fingerprints,
21 palmprints, soleprints, toeprints and any other data that identifies a
22 person by physical characteristics, name, birthdate or address, but
23 does not include information regarding criminal activity, arrest,
24 charging, diversion, conviction or other information about a person's
25 treatment by the criminal justice system or about the person's
26 behavior.

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

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