
HOUSE BILL 1601

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By Representatives Lambert, Rockefeller, Talcott, Carrell, Sullivan, Kagi, Benson, Delvin, Clements, Esser, Romero and Kenney

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1 AN ACT Relating to cooperation between courts and schools regarding
2 juveniles; amending RCW 13.04.145 and 13.50.050; adding new sections to
3 chapter 13.40 RCW; and adding a new section to chapter 13.50 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 13.40 RCW
6 to read as follows:

7 (1) The court may consider any past or current individualized
8 education program of a juvenile, if such program is available and
9 applicable, prior to issuing a disposition order under this chapter.

10 (2) The court shall inquire whether a juvenile has or had an
11 existing individualized education program. When the court receives
12 information that the juvenile has had at any time an individualized
13 education program, the court may obtain the individualized education
14 program from the juvenile, a parent, legal guardian, guardian ad litem,
15 or the appropriate school district. The court may issue an order for
16 the individualized education program from the appropriate school
17 district if the school district does not voluntarily provide it under
18 RCW 28A.600.475.

1 (3) For purposes of this section, an "individualized education
2 program" means the program designed for an individual student under
3 federal law regarding students with certain disabilities and state law
4 regarding special education.

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

7 An individualized education program provided to the court under
8 section 1 of this act is confidential, and the court shall release it
9 only in accordance with RCW 13.50.010.

10 **Sec. 3.** RCW 13.04.145 and 1990 c 33 s 551 are each amended to read
11 as follows:

12 (1) A program of education shall be provided for by the several
13 counties and school districts of the state for common school age
14 persons confined in each of the detention facilities staffed and
15 maintained by the several counties of the state under this chapter and
16 chapters 13.16 and 13.20 RCW. The division of duties, authority, and
17 liabilities of the several counties and school districts of the state
18 respecting the educational programs is the same in all respects as set
19 forth in RCW 28A.190.030 through 28A.190.060 respecting programs of
20 education for state residential school residents. For the purposes of
21 this section, the terms "department of social and health services,"
22 "residential school" or "schools," and "superintendent or chief
23 administrator of a residential school" as used in RCW 28A.190.030
24 through 28A.190.060 shall be respectively construed to mean "the
25 several counties of the state," "detention facilities," and "the
26 administrator of juvenile court detention services." Nothing in this
27 section shall prohibit a school district from utilizing the services of
28 an educational service district subject to RCW 28A.310.180.

29 (2) As part of the program of education under subsection (1) of
30 this section, emphasis shall be placed on raising the reading skills of
31 each confined juvenile who is at least eleven years old to at least the
32 sixth grade level prior to the juvenile's release from court
33 supervision, unless the court determines that the juvenile is mentally
34 or physically incapable of reading at that level.

35 NEW SECTION. **Sec. 4.** A new section is added to chapter 13.40 RCW
36 to read as follows:

1 (1) The court shall continue to supervise a juvenile who is under
2 court supervision for any reason or who has been released from a
3 detention facility under RCW 13.04.145(2), and is at least eleven years
4 old, but has not achieved a sixth grade reading level; the court shall
5 continue that supervision until the juvenile reads at a sixth grade
6 level or is no longer a juvenile.

7 (2) In determining whether a juvenile has attained the sixth grade
8 reading level as required under subsection (1) of this section, the
9 court may order that the juvenile be tested by the nearest school
10 district using the test or program of the school district's choice. If
11 the court has reason to doubt that a tested juvenile does not read at
12 the sixth grade level, the court may order additional testing.

13 **Sec. 5.** RCW 13.50.050 and 1997 c 338 s 40 are each amended to read
14 as follows:

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

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

20 (3) All records other than the official juvenile court file are
21 confidential and may be released only as provided in this section, RCW
22 13.50.010, 13.40.215, and 4.24.550.

23 (4) Except as otherwise provided in this section and RCW 13.50.010,
24 records retained or produced by any juvenile justice or care agency may
25 be released to other participants in the juvenile justice or care
26 system only when an investigation or case involving the juvenile in
27 question is being pursued by the other participant ((or)), when that
28 other participant is assigned the responsibility for supervising the
29 juvenile, or when the other participant is the school in which the
30 juvenile is enrolled or is requesting enrollment. Law enforcement
31 agencies and prosecuting attorneys shall cooperate with schools in
32 releasing information to a school pertaining to the investigation,
33 diversion, and prosecution of a juvenile enrolled in the school.

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

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

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

18 (8) Upon request of the victim of a crime or the victim's immediate
19 family, the identity of an alleged or proven juvenile offender alleged
20 or found to have committed a crime against the victim and the identity
21 of the alleged or proven juvenile offender's parent, guardian, or
22 custodian and the circumstance of the alleged or proven crime shall be
23 released to the victim of the crime or the victim's immediate family.

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

32 (10) In any case in which an information has been filed pursuant to
33 RCW 13.40.100 or a complaint has been filed with the prosecutor and
34 referred for diversion pursuant to RCW 13.40.070, the person the
35 subject of the information or complaint may file a motion with the
36 court to have the court vacate its order and findings, if any, and,
37 subject to subsection (22) of this section, order the sealing of the
38 official juvenile court file, the social file, and records of the court
39 and of any other agency in the case.

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

3 (a) For class B offenses other than sex offenses, since the last
4 date of release from confinement, including full-time residential
5 treatment, if any, or entry of disposition, the person has spent ten
6 consecutive years in the community without committing any offense or
7 crime that subsequently results in conviction. For class C offenses
8 other than sex offenses, since the last date of release from
9 confinement, including full-time residential treatment, if any, or
10 entry of disposition, the person has spent five consecutive years in
11 the community without committing any offense or crime that subsequently
12 results in conviction;

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

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

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

19 (e) Full restitution has been paid.

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

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

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

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

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

11 (17) If the court grants the motion to destroy records made
12 pursuant to subsection (16) of this section, it shall, subject to
13 subsection (22) of this section, order the official juvenile court
14 file, the social file, and any other records named in the order to be
15 destroyed.

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

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

24 (20) Nothing in this section may be construed to prevent a crime
25 victim or a member of the victim's family from divulging the identity
26 of the alleged or proven juvenile offender or his or her family when
27 necessary in a civil proceeding.

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

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

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

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

10 (23) Information identifying child victims under age eighteen who
11 are victims of sexual assaults by juvenile offenders is confidential
12 and not subject to release to the press or public without the
13 permission of the child victim or the child's legal guardian.
14 Identifying information includes the child victim's name, addresses,
15 location, photographs, and in cases in which the child victim is a
16 relative of the alleged perpetrator, identification of the relationship
17 between the child and the alleged perpetrator. Information identifying
18 a child victim of sexual assault may be released to law enforcement,
19 prosecutors, judges, defense attorneys, or private or governmental
20 agencies that provide services to the child victim of sexual assault.

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