

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1153

Chapter 198, Laws of 1999

56th Legislature
1999 Regular Session

STUDENT SAFETY--NOTIFICATION OF VIOLENT BEHAVIOR

EFFECTIVE DATE: 7/25/99

Passed by the House April 20, 1999
Yeas 94 Nays 0

CLYDE BALLARD
Speaker of the House of Representatives

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 14, 1999
Yeas 47 Nays 0

BRAD OWEN
President of the Senate

Approved May 7, 1999

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1153** as passed by the House of Representatives and the Senate on the dates hereon set forth.

DEAN R. FOSTER
Chief Clerk

TIMOTHY A. MARTIN
Chief Clerk

FILED

May 7, 1999 - 3:36 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1153

AS AMENDED BY THE SENATE

Passed Legislature - 1999 Regular Session

State of Washington

56th Legislature

1999 Regular Session

By House Committee on Education (originally sponsored by Representatives McDonald, Kastama, Sump, Delvin, Hurst, Rockefeller, Kessler, Stensen, O'Brien, Bush, Lovick, Dickerson, Carlson, Keiser, Ogden, Hatfield, Wood, Ruderman, Tokuda, Santos, McIntire, Conway and Lantz)

Read first time 02/26/1999.

1 AN ACT Relating to the sharing of information relating to student
2 safety; and amending RCW 13.40.215, 28A.225.225, 28A.225.330, and
3 13.50.050.

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

5 **Sec. 1.** RCW 13.40.215 and 1997 c 265 s 2 are each amended to read
6 as follows:

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

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

16 (ii) The sheriff of the county in which the juvenile will reside;
17 and

18 (iii) The approved private schools and the common school district
19 board of directors of the district in which the juvenile intends to

1 reside or the approved private school or public school district in
2 which the juvenile last attended school, whichever is appropriate,
3 except when it has been determined by the department that the juvenile
4 is twenty-one years old(~~(/ is not required to return to school under~~
5 ~~chapter 28A.225 RCW/)) or will be in the community for less than seven
6 consecutive days on approved leave and will not be attending school
7 during that time.~~

8 (b) After (~~July 27, 1997~~) the effective date of this section, the
9 department shall send a written notice to approved private and public
10 schools under the same conditions identified in subsection (1)(a)(iii)
11 of this section when a juvenile adjudicated of any offense is
12 transferred to a community residential facility, discharged, paroled,
13 released, or granted a leave. The community residential facility shall
14 provide written notice of the offender's criminal history to any school
15 that the offender attends while residing at the community residential
16 facility and to any employer that employs the offender while residing
17 at the community residential facility.

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

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

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

25 (iii) Any person specified in writing by the prosecuting attorney.
26 Information regarding victims, next of kin, or witnesses requesting the
27 notice, information regarding any other person specified in writing by
28 the prosecuting attorney to receive the notice, and the notice are
29 confidential and shall not be available to the juvenile. The notice to
30 the chief of police or the sheriff shall include the identity of the
31 juvenile, the residence where the juvenile will reside, the identity of
32 the person, if any, responsible for supervising the juvenile, and the
33 time period of any authorized leave.

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

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

1 (2)(a) If a juvenile found to have committed a violent offense, a
2 sex offense, or stalking escapes from a facility of the department, the
3 secretary shall immediately notify, by the most reasonable and
4 expedient means available, the chief of police of the city and the
5 sheriff of the county in which the juvenile resided immediately before
6 the juvenile's arrest. If previously requested, the secretary shall
7 also notify the witnesses and the victim of the offense which the
8 juvenile was found to have committed or the victim's next of kin if the
9 crime was a homicide. If the juvenile is recaptured, the secretary
10 shall send notice to the persons designated in this subsection as soon
11 as possible but in no event later than two working days after the
12 department learns of such recapture.

13 (b) The secretary may authorize a leave, for a juvenile found to
14 have committed a violent offense, a sex offense, or stalking, which
15 shall not exceed forty-eight hours plus travel time, to meet an
16 emergency situation such as a death or critical illness of a member of
17 the juvenile's family. The secretary may authorize a leave, which
18 shall not exceed the time medically necessary, to obtain medical care
19 not available in a juvenile facility maintained by the department.
20 Prior to the commencement of an emergency or medical leave, the
21 secretary shall give notice of the leave to the appropriate law
22 enforcement agency in the jurisdiction in which the juvenile will be
23 during the leave period. The notice shall include the identity of the
24 juvenile, the time period of the leave, the residence of the juvenile
25 during the leave, and the identity of the person responsible for
26 supervising the juvenile during the leave. If previously requested,
27 the department shall also notify the witnesses and victim of the
28 offense which the juvenile was found to have committed or the victim's
29 next of kin if the offense was a homicide.

30 In case of an emergency or medical leave the secretary may waive
31 all or any portion of the requirements for leaves pursuant to RCW
32 13.40.205 (2)(a), (3), (4), and (5).

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

36 (4) The secretary shall send the notices required by this chapter
37 to the last address provided to the department by the requesting party.
38 The requesting party shall furnish the department with a current
39 address.

1 (5) Upon discharge, parole, transfer to a community residential
2 facility, or other authorized leave or release, a convicted juvenile
3 sex offender shall not attend a public or approved private elementary,
4 middle, or high school that is attended by a victim or a sibling of a
5 victim of the sex offender. The parents or legal guardians of the
6 convicted juvenile sex offender shall be responsible for transportation
7 or other costs associated with or required by the sex offender's change
8 in school that otherwise would be paid by a school district. Upon
9 discharge, parole, transfer to a community residential facility, or
10 other authorized leave or release of a convicted juvenile sex offender,
11 the secretary shall send written notice of the discharge, parole, or
12 other authorized leave or release and the requirements of this
13 subsection to the common school district board of directors of the
14 district in which the sex offender intends to reside or the district in
15 which the sex offender last attended school, whichever is appropriate.
16 The secretary shall send a similar notice to any approved private
17 school the juvenile will attend, if known, or if unknown, to the
18 approved private schools within the district the juvenile resides or
19 intends to reside.

20 (6) For purposes of this section the following terms have the
21 following meanings:

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

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

24 (c) "Stalking" means the crime of stalking as defined in RCW
25 9A.46.110;

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

28 **Sec. 2.** RCW 28A.225.225 and 1997 c 265 s 3 are each amended to
29 read as follows:

30 (1) All districts accepting applications from nonresident students
31 or from students receiving home-based instruction for admission to the
32 district's schools shall consider equally all applications received.
33 Each school district shall adopt a policy establishing rational, fair,
34 and equitable standards for acceptance and rejection of applications by
35 June 30, 1990. The policy may include rejection of a nonresident
36 student if:

37 (a) Acceptance of a nonresident student would result in the
38 district experiencing a financial hardship;

1 (b) The student's disciplinary records indicate a history of
2 convictions for offenses or crimes, violent or disruptive behavior, or
3 gang membership; or

4 (c) The student has been expelled or suspended from a public school
5 for more than ten consecutive days. Any policy allowing for
6 readmission of expelled or suspended students under this subsection
7 (1)(c) must apply uniformly to both resident and nonresident
8 applicants.

9 For purposes of subsection (1)(b) of this section, "gang" means a
10 group which: (i) Consists of three or more persons; (ii) has
11 identifiable leadership; and (iii) on an ongoing basis, regularly
12 conspires and acts in concert mainly for criminal purposes.

13 (2) The district shall provide to applicants written notification
14 of the approval or denial of the application in a timely manner. If
15 the application is rejected, the notification shall include the reason
16 or reasons for denial and the right to appeal under RCW 28A.225.230(3).

17 **Sec. 3.** RCW 28A.225.330 and 1997 c 266 s 4 are each amended to
18 read as follows:

19 (1) When enrolling a student who has attended school in another
20 school district, the school enrolling the student may request the
21 parent and the student to briefly indicate in writing whether or not
22 the student has:

- 23 (a) Any history of placement in special educational programs;
- 24 (b) Any past, current, or pending disciplinary action;
- 25 (c) Any history of violent behavior, or behavior listed in RCW
26 13.04.155;
- 27 (d) Any unpaid fines or fees imposed by other schools; and
- 28 (e) Any health conditions affecting the student's educational
29 needs.

30 (2) The school enrolling the student shall request the school the
31 student previously attended to send the student's permanent record
32 including records of disciplinary action, history of violent behavior
33 or behavior listed in RCW 13.04.155, attendance, immunization records,
34 and academic performance. If the student has not paid a fine or fee
35 under RCW 28A.635.060, or tuition, fees, or fines at approved private
36 schools the school may withhold the student's official transcript, but
37 shall transmit information about the student's academic performance,
38 special placement, immunization records, ((and)) records of

1 disciplinary action, and history of violent behavior or behavior listed
2 in RCW 13.04.155. If the official transcript is not sent due to unpaid
3 tuition, fees, or fines, the enrolling school shall notify both the
4 student and parent or guardian that the official transcript will not be
5 sent until the obligation is met, and failure to have an official
6 transcript may result in exclusion from extracurricular activities or
7 failure to graduate.

8 (3) If information is requested under subsection (2) of this
9 section, the information shall be transmitted within two school days
10 after receiving the request and the records shall be sent as soon as
11 possible. Any school district or district employee who releases the
12 information in compliance with this section is immune from civil
13 liability for damages unless it is shown that the school district
14 employee acted with gross negligence or in bad faith. The state board
15 of education shall provide by rule for the discipline under chapter
16 28A.410 RCW of a school principal or other chief administrator of a
17 public school building who fails to make a good faith effort to assure
18 compliance with this subsection.

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

23 (5) When a school receives information under this section or RCW
24 13.40.215 that a student has a history of disciplinary actions,
25 criminal or violent behavior, or other behavior that indicates the
26 student could be a threat to the safety of educational staff or other
27 students, the school shall provide this information to the student's
28 teachers and security personnel.

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

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

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

36 (3) All records other than the official juvenile court file are
37 confidential and may be released only as provided in this section, RCW
38 13.50.010, 13.40.215, and 4.24.550.

1 (4) Except as otherwise provided in this section and RCW 13.50.010,
2 records retained or produced by any juvenile justice or care agency may
3 be released to other participants in the juvenile justice or care
4 system only when an investigation or case involving the juvenile in
5 question is being pursued by the other participant or when that other
6 participant is assigned the responsibility for supervising the
7 juvenile.

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

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

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

30 (8) The juvenile court and the prosecutor may set up and maintain
31 a central record-keeping system which may receive information on all
32 alleged juvenile offenders against whom a complaint has been filed
33 pursuant to RCW 13.40.070 whether or not their cases are currently
34 pending before the court. The central record-keeping system may be
35 computerized. If a complaint has been referred to a diversion unit,
36 the diversion unit shall promptly report to the juvenile court or the
37 prosecuting attorney when the juvenile has agreed to diversion. An
38 offense shall not be reported as criminal history in any central

1 record-keeping system without notification by the diversion unit of the
2 date on which the offender agreed to diversion.

3 ~~((+8+))~~ (9) Upon request of the victim of a crime or the victim's
4 immediate family, the identity of an alleged or proven juvenile
5 offender alleged or found to have committed a crime against the victim
6 and the identity of the alleged or proven juvenile offender's parent,
7 guardian, or custodian and the circumstance of the alleged or proven
8 crime shall be released to the victim of the crime or the victim's
9 immediate family.

10 ~~((+9+))~~ (10) Subject to the rules of discovery applicable in adult
11 criminal prosecutions, the juvenile offense records of an adult
12 criminal defendant or witness in an adult criminal proceeding shall be
13 released upon request to prosecution and defense counsel after a charge
14 has actually been filed. The juvenile offense records of any adult
15 convicted of a crime and placed under the supervision of the adult
16 corrections system shall be released upon request to the adult
17 corrections system.

18 ~~((+10+))~~ (11) In any case in which an information has been filed
19 pursuant to RCW 13.40.100 or a complaint has been filed with the
20 prosecutor and referred for diversion pursuant to RCW 13.40.070, the
21 person the subject of the information or complaint may file a motion
22 with the court to have the court vacate its order and findings, if any,
23 and, subject to subsection ~~((+22+))~~ (23) of this section, order the
24 sealing of the official juvenile court file, the social file, and
25 records of the court and of any other agency in the case.

26 ~~((+11+))~~ (12) The court shall grant the motion to seal records made
27 pursuant to subsection ~~((+10+))~~ (11) of this section if it finds that:

28 (a) For class B offenses other than sex offenses, since the last
29 date of release from confinement, including full-time residential
30 treatment, if any, or entry of disposition, the person has spent ten
31 consecutive years in the community without committing any offense or
32 crime that subsequently results in conviction. For class C offenses
33 other than sex offenses, since the last date of release from
34 confinement, including full-time residential treatment, if any, or
35 entry of disposition, the person has spent five consecutive years in
36 the community without committing any offense or crime that subsequently
37 results in conviction;

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

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

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

5 (e) Full restitution has been paid.

6 (~~(12)~~) (13) The person making a motion pursuant to subsection
7 (~~(10)~~) (11) of this section shall give reasonable notice of the
8 motion to the prosecution and to any person or agency whose files are
9 sought to be sealed.

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

21 (~~(14)~~) (15) Inspection of the files and records included in the
22 order to seal may thereafter be permitted only by order of the court
23 upon motion made by the person who is the subject of the information or
24 complaint, except as otherwise provided in RCW 13.50.010(8) and
25 subsection (~~(22)~~) (23) of this section.

26 (~~(15)~~) (16) Any adjudication of a juvenile offense or a crime
27 subsequent to sealing has the effect of nullifying the sealing order.
28 Any charging of an adult felony subsequent to the sealing has the
29 effect of nullifying the sealing order for the purposes of chapter
30 9.94A RCW.

31 (~~(16)~~) (17) A person eighteen years of age or older whose
32 criminal history consists of only one referral for diversion may
33 request that the court order the records in that case destroyed. The
34 request shall be granted, subject to subsection (~~(22)~~) (23) of this
35 section, if the court finds that two years have elapsed since
36 completion of the diversion agreement.

37 (~~(17)~~) (18) If the court grants the motion to destroy records
38 made pursuant to subsection (~~(16)~~) (17) of this section, it shall,
39 subject to subsection (~~(22)~~) (23) of this section, order the official

1 juvenile court file, the social file, and any other records named in
2 the order to be destroyed.

3 ~~((+18+))~~ (19) The person making the motion pursuant to subsection
4 ~~((+16+))~~ (17) of this section shall give reasonable notice of the
5 motion to the prosecuting attorney and to any agency whose records are
6 sought to be destroyed.

7 ~~((+19+))~~ (20) Any juvenile to whom the provisions of this section
8 may apply shall be given written notice of his or her rights under this
9 section at the time of his or her disposition hearing or during the
10 diversion process.

11 ~~((+20+))~~ (21) Nothing in this section may be construed to prevent
12 a crime victim or a member of the victim's family from divulging the
13 identity of the alleged or proven juvenile offender or his or her
14 family when necessary in a civil proceeding.

15 ~~((+21+))~~ (22) Any juvenile justice or care agency may, subject to
16 the limitations in subsection ~~((+22+))~~ (23) of this section and (a) and
17 (b) of this subsection, develop procedures for the routine destruction
18 of records relating to juvenile offenses and diversions.

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

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

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

36 ~~((+23+))~~ (24) Information identifying child victims under age
37 eighteen who are victims of sexual assaults by juvenile offenders is
38 confidential and not subject to release to the press or public without
39 the permission of the child victim or the child's legal guardian.

1 Identifying information includes the child victim's name, addresses,
2 location, photographs, and in cases in which the child victim is a
3 relative of the alleged perpetrator, identification of the relationship
4 between the child and the alleged perpetrator. Information identifying
5 a child victim of sexual assault may be released to law enforcement,
6 prosecutors, judges, defense attorneys, or private or governmental
7 agencies that provide services to the child victim of sexual assault.

Passed the House April 20, 1999.

Passed the Senate April 14, 1999.

Approved by the Governor May 7, 1999.

Filed in Office of Secretary of State May 7, 1999.