

FINAL BILL REPORT

2SHB 1191

C 167 L 20
Synopsis as Enacted

Brief Description: Concerning school notifications.

Sponsors: House Committee on Education (originally sponsored by Representatives Goodman and Frame).

House Committee on Education
Senate Committee on Early Learning & K-12 Education

Background:

Notifications to Schools and School Districts of Student Criminal Offences.

There are multiple requirements for schools and school districts to receive notifications and otherwise relay information regarding students who have committed certain crimes or have violated controlled substance or liquor laws. The notification requirements establish duties and some confidentiality and immunity provisions for state agencies, local law enforcement agencies, and school officials.

Policy Requirements—School District Boards of Directors/Superintendent of Public Instruction. Each school district board of directors must adopt policies that address:

- procedures for providing notice of threats of violence or harm to the student or school employee who is the subject of the threat;
- procedures for disclosing information that is provided to the school administrators about a student's conduct, including prior disciplinary records, juvenile court records, and history of violence, to classroom teachers, school staff, and school security who, in the judgment of the principal, should be notified; and
- procedures for determining whether any threats or conduct established in the policy may be grounds for suspension or expulsion.

The Superintendent of Public Instruction (SPI), in consultation with educators and representatives of law enforcement, classified staff, and organizations with expertise in violence prevention and intervention, must adopt a model policy that includes the required notification procedures. School districts, in drafting their own policies, must review the model policy of the SPI.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

School districts, including school directors and employees, that provide notice in good faith as required by state law and the school board's adopted policies, are immune from any liability arising out of such notification.

County Sheriffs and School Principals. When a county sheriff receives notice from a registered sex or kidnapping offender that they will be attending or employed by a school or institution of higher education, the sheriff must promptly notify the school district and the school principal or institution's department of public safety.

A school principal or public safety department that is notified by a sheriff must disclose the received information as follows:

- if the student is classified as a risk level II or III, the principal must provide the information to every teacher of the student and to any other personnel who, in the judgment of the principal, supervises the student or, for security purposes, should be aware of the student's record; or
- if the student is classified as a risk level I, the principal or department must provide the information only to personnel who, in the judgment of the principal or department should be aware of the student's record for security purposes.

Court Notifications and Actions of School Principals. When a minor enrolled in a common school is convicted or adjudicated of a crime or is entered into a diversion agreement for a criminal offense, the related court must provide notice to the parent or legal guardian that the principal of the minor's school will be notified of the disposition of the case. The notification requirements apply to the following offenses:

- a violent offense;
- a sex offense;
- unlawful inhalation of toxic fumes;
- a violation of controlled substances requirements;
- a violation of liquor possession and consumption prohibitions for minors; and
- various other specified crimes.

The principal must provide information from the court notification to the student's teachers and other personnel who, in the judgment of the principal, supervise the student, or for security purposes, should be aware of the student's record. The information provided by the principal must be based on written records for the student that the principal maintains or receives from a court administrator or a law enforcement agency.

Secretary of the Department of Children, Youth, and Families. For a juvenile adjudicated of a violent offense, sex offense, or stalking, who is under the jurisdiction of the Department of Children, Youth, and Families (DCYF), the Secretary of DCYF must provide timely notifications regarding their discharge, parole, authorized leave or release, or transfer to a community residential facility. The written notice must be sent to specified entities and parties, including:

- the chief of police of the city, if any, in which the juvenile will reside;
- the sheriff of the county in which the juvenile will reside;
- the private schools and the school district board of directors of the school district in which the juvenile intends to reside, or the approved private school or school district in which the juvenile last attended school. (This requirement does not apply if the

- juvenile is 21 years old or will be in the community for less than seven consecutive days under specified circumstances); and
- the applicable private and public schools if a juvenile adjudicated of any offense is transferred to a community residential facility, discharged, paroled, released, or granted a leave. The community residential facility must provide written notice of the offender's criminal history to any school or employer that the offender attends while residing at the community residential facility.

Separate notification requirements specifically apply for convicted juvenile sex offenders. Upon discharge, parole, transfer to a community residential facility, or other authorized leave or release of a convicted juvenile sex offender, the Secretary must send written notice of the discharge, parole, or other authorized leave or release and other required information to the school district board of directors of the school district in which the sex offender intends to reside, or the school district in which the sex offender last attended school, whichever is appropriate. The Secretary must send a similar notice to any private school the juvenile will attend, if known, or if unknown, to the private schools within the school district the juvenile resides or intends to reside.

Department of Corrections—Notice to School Districts. For a person convicted of a violent offense, sex offense, or stalking, who is under the jurisdiction of the Department of Corrections (DOC), the DOC must provide notice to the school district in which the offender last attended school at the earliest possible date and in no event later than 30 days before the person is released from confinement if the person is 21 years of age or younger at the time of release; and last attended school in this state.

These notification requirements apply when a person is being released from total confinement, regardless of whether the release is to parole, community custody, work release placement, or furlough.

School Districts—Sending and Receiving Districts. When enrolling a student who has attended school in another school district, the enrolling school may request the parent and student to indicate in writing whether the student has any:

- history of placement in special educational programs;
- past, current, or pending disciplinary actions;
- history of violent behavior, or other specified violations of law;
- unpaid fines or fees imposed by other schools; and
- health conditions affecting the student's educational needs.

The enrolling school must request the student's permanent record, including records relating to disciplinary actions, violent behavior and other specified violations of law, attendance, immunization records, academic performance, and unpaid fines or fees. Upon receipt of the request, the student's former school generally must transmit the information within two school days and the records must be sent as soon as possible.

When a school receives information from the student's family or prior school that the student has a history of disciplinary actions, criminal or violent behavior, or other behavior indicating that the student could be a threat to the safety of educational staff or other students, the school must provide the information to the student's teachers and security personnel.

Performance Audits by State Auditor.

In 2018 the Office of the Washington State Auditor issued two audits that examined requirements governing school and school district notifications of student criminal offenses. The first audit, *Ensuring Notification to Schools and Districts of Student Criminal Offenses*, was released on May 7, 2018, and examined whether courts and state agencies notified schools and school districts of offenses committed by students, as prescribed by law, and whether there were opportunities to improve the notification practices.

The second audit, *Evaluating School Responses to Notifications of Student Criminal Offenses*, was released on November 5, 2018, and examined what happens to notifications after principals and district officials receive them. The audit also examined ways that principals and school district officials might better share criminal history information with teachers and students' subsequent schools.

Public Records Act.

The Public Records Act (PRA) requires state and local agencies to make their written records available to the public for inspection and copying upon request, unless the information is exempt from disclosure in the PRA or as otherwise provided in law. The stated policy of the PRA favors disclosure and requires narrow application of listed exemptions.

Summary:

Notifications to Schools and School Districts of Student Criminal Offences.

General Notification Duties of School Officials. If a school district superintendent, his or her designee, or a school principal receives notice from a county sheriff, a court, the DOC, or other specified designees, regarding a student who has committed a violent or sex offense, a violation of firearms and dangerous weapons laws, or a violation of controlled substance laws, the recipient must comply with the following:

- the superintendent or designee must provide the received information to the principal of the school that the student was or will be enrolled in;
- if the information is about a sex offense, the principal must comply with specified notification requirements that vary according to the risk level of the student;
- upon receipt of information about a violent offense, a violation of firearms and dangerous weapons laws, unlawful possession or delivery, or both, of a controlled substance, or a school disciplinary action, the principal may, subject to certain requirements, share the information with a staff member if, in the principal's judgment, the information is necessary for: the staff member to supervise the student; the staff member to provide or refer the student to therapeutic or behavioral health services; or security purposes; and
- upon receipt of information about an adjudication in juvenile court for an unlawful possession of a controlled substance, the principal must notify the student and the parent or legal guardian at least five days before sharing the information with a school district staff member. If the student or the student's parent or guardian objects to the proposed sharing of the information, the student, parent, or guardian may appeal the decision to share the information to the superintendent of the district who must make a written and final determination on the matter.

The administrator of a private school or charter public school must comply with the notification provisions that apply to superintendents, designees of superintendents, and principals.

School District Boards of Directors/Superintendent of Public Instruction and Washington State School Directors' Association. Provisions governing school district obligations for notifications of criminal offenses by students are modified. By September 1, 2020, each school district board of directors must adopt a policy that addresses:

- procedures for providing notice of threats of violence or harm to the student or school employee who is the subject of the threat; and
- procedures for complying with the general notification duties of school officials.

The Washington State School Directors' Association (WSSDA), rather than the Office of the Superintendent of Public Instruction (OSPI), must adopt and revise as necessary a related model policy. The development of the model policy must include consultation with organizations that provide free legal services for youth. The model policy must be disseminated by the WSSDA and made available to the public on its website. School districts, in drafting their own policies, must review the model policy, and each school district must adopt the model policy unless it has a compelling reason to develop and adopt a policy that addresses the same content requirements as the model policy.

School Officials and Sheriffs. Notification-related duties assigned to the school district or school principal, or a department of public safety of an institution of higher education are reassigned to a "designated recipient," a term defined to mean:

- a school district superintendent or state-tribal education compact school superintendent or a designee of either;
- the administrator of a charter public school;
- the administrator of a private school; or
- the director of a department of public safety at an institution of higher education.

If the notification is from a sheriff and in accordance with sex offender notice requirements, the sheriff is no longer required to include the offender's Social Security number in the notice.

If the designated recipient is also the administrator of the school district, that person has an obligation to provide the information received from the sheriff to the applicable principal in accordance with requirements based on the student's risk level classification.

Court Notifications and Actions of School Principals. Provisions governing the obligations of courts and principals for notifications of criminal offenses by students are modified as described below.

If a person is adjudicated or convicted of a violent or sex offense, a violation of firearms and dangerous weapons laws, or a violation of controlled substance laws, the court must provide written notification of the adjudication or conviction to the designated recipient, a defined term, of the school where the person was enrolled prior to adjudication or conviction or has expressed an intention to enroll following adjudication or conviction.

These notification requirements generally apply only if the adjudicated or convicted person is 21 years of age or younger and has not received a high school diploma or its equivalent. Additionally, a provision specifying that the required notification can only be made after informing the person's parent or guardian of the notification requirements is removed.

Court notification requirements do not apply if the adjudicated or convicted person is between 18 and 21 years of age and either his or her prior or intended enrollment information cannot be obtained, or the person asserts no intention of enrolling in an educational program.

Provisions requiring notifications from courts to school principals because of the following offenses are removed:

- unlawful inhalation of toxic fumes;
- a violation of liquor possession and consumption prohibitions for minors; and
- various crimes specified in enumerated statutes.

School staff notification-related duties specifically assigned to school principals upon receipt of the information from the court are removed and school personnel are instead obligated to comply with the general notification duties of school officials described above.

Secretary of the Department of Children, Youth, and Families. With limited exceptions, the Secretary must, at the earliest practicable date and in no event later than 30 days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility, send written notice of the discharge, parole, authorized leave or release, or transfer of a juvenile found to have committed a violent offense, a sex offense, or stalking, to:

- the chief of police of the city, if any, in which the juvenile will reside; and
- the sheriff of the county in which the juvenile will reside.

Provisions directing the Secretary to send notice to the applicable public schools, school district boards of directors, and private schools regarding juveniles who have committed sex or violent offenses, and in certain circumstances, stalking offenses, are replaced with new notification requirements for the Secretary. With limited exceptions, the Secretary must, at the earliest practicable date, and in no event later than 30 days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility, send written notice of the discharge, parole, authorized leave or release, or transfer of an individual who is found to have committed a violent offense or a sex offense to the designated recipient of the school where the juvenile either was enrolled prior to incarceration or detention or has expressed an intention to enroll following his or her release.

These modified requirements apply if the individual who is the subject of the notification is 21 years of age or younger and has not received a high school diploma or its equivalent.

Department of Corrections—Notice to School Districts. Requirements governing notifications from the DOC to school district boards of directors regarding the release persons who have been convicted of a violent offense, a sex offense, or stalking are modified by removing the stalking requirement and changing the criteria for providing notice.

More specifically, at the earliest practicable date and in no event later than 30 days before release from confinement, the DOC must provide written notification of the release of an

offender to the designated recipient of the school where the offender was enrolled prior to incarceration or detention, or to the school where the offender has expressed an intention to enroll following his or her release.

School Districts—Sending and Receiving Districts. Notification-related duties specifically assigned to schools upon receiving information that a student has a history of disciplinary actions, criminal or violent behavior, or other behavior indicating that the student could be a threat to the safety of educational staff or other students, are removed and school personnel are instead obligated to comply with the general notification duties of school officials described above.

Public Records Act.

Information received by superintendents, designees of superintendents, and principals in accordance with specified notification requirements for certain criminal offenses by students is not subject to disclosure under the PRA.

Votes on Final Passage:

House	57	41	
Senate	29	17	(Senate amended)
House	58	38	(House concurred)

Effective: June 11, 2020