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HOUSE BILL 2313

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State of Washington

53rd Legislature

1994 Regular Session

By Representatives J. Kohl, Cothorn, Carlson, Karahalios, Dorn, King and Brumsickle

Read first time 01/12/94. Referred to Committee on Judiciary.

1 AN ACT Relating to schools; amending RCW 9.41.280, 13.32A.040,  
2 28A.225.160, and 13.40.080; reenacting and amending RCW 42.17.310;  
3 adding a new section to chapter 28A.415 RCW; and providing an effective  
4 date.

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

6 **Sec. 1.** RCW 9.41.280 and 1993 c 347 s 1 are each amended to read  
7 as follows:

8 (1) It is unlawful for a person to carry onto public or private  
9 elementary or secondary school premises, school-provided transporta-  
10 tion, or areas of facilities while being used exclusively by public or  
11 private schools:

12 (a) Any firearm; or

13 (b) Any dangerous weapon as defined in RCW 9.41.250; or

14 (c) Any device commonly known as "nun-chu-ka sticks", consisting of  
15 two or more lengths of wood, metal, plastic, or similar substance  
16 connected with wire, rope, or other means; or

17 (d) Any device, commonly known as "throwing stars", which are  
18 multi-pointed, metal objects designed to embed upon impact from any  
19 aspect; or

1 (e) Any air gun, including any air pistol or air rifle, designed to  
2 propel a BB, pellet, or other projectile by the discharge of compressed  
3 air, carbon dioxide, or other gas; or

4 (f) Any explosive devices such as pipe bombs, dynamite caps, or  
5 illegal fireworks.

6 (2) Any such person violating subsection (1) of this section is  
7 guilty of a gross misdemeanor.

8 Any violation of subsection (1) of this section by elementary or  
9 secondary school students constitutes grounds for expulsion from the  
10 state's public schools in accordance with RCW 28A.600.010. However,  
11 any violation of subsection (1)(a) of this section by an elementary or  
12 secondary school student shall result in expulsion in accordance with  
13 RCW 28A.600.010. An appropriate school authority shall promptly notify  
14 law enforcement and the student's parent or guardian regarding any  
15 allegation or indication of such violation.

16 (3) Subsection (1) of this section does not apply to:

17 (a) Any student or employee of a private military academy when on  
18 the property of the academy;

19 (b) Any person engaged in military, law enforcement, or school  
20 district security activities;

21 (c) Any person who is involved in a convention, showing,  
22 demonstration, lecture, or firearms safety course authorized by school  
23 authorities in which the firearms of collectors or instructors are  
24 handled or displayed;

25 (d) Any person who possesses nun-chu-ka sticks, throwing stars, or  
26 other dangerous weapons to be used in martial arts classes authorized  
27 to be conducted on the school premises;

28 (e) Any person while the person is participating in a firearms or  
29 air gun competition approved by the school or school district;

30 (f) Any person who has been issued a license under RCW 9.41.070,  
31 while picking up or dropping off a student;

32 (g) Any person legally in possession of a firearm or dangerous  
33 weapon that is secured within an attended vehicle or concealed from  
34 view within a locked unattended vehicle while conducting legitimate  
35 business at the school;

36 (h) Any person who is in lawful possession of an unloaded firearm,  
37 secured in a vehicle while conducting legitimate business at the  
38 school; or

1 (i) Any law enforcement officer of the federal, state, or local  
2 government agency.

3 (4) Chemical devices such as mace, pepper spray, or other sprays  
4 used for debilitating purposes may be carried onto public or private  
5 elementary school premises, school-provided transportation, or areas of  
6 facilities while being used exclusively by public or private schools,  
7 however, the above-named devices shall be used solely for the purposes  
8 of self-defense or the defense of others.

9 (5) Except as provided in subsection (3)(b), (c), (e), and (i) of  
10 this section, firearms are not permitted in a public or private school  
11 building.

12 (~~(+5)~~) (6) "GUN-FREE ZONE" signs shall be posted around school  
13 facilities giving warning of the prohibition of the possession of  
14 firearms on school grounds.

15 **Sec. 2.** RCW 42.17.310 and 1993 c 360 s 2, 1993 c 320 s 9, and 1993  
16 c 280 s 35 are each reenacted and amended to read as follows:

17 (1) The following are exempt from public inspection and copying:

18 (a) Personal information in any files maintained for students in  
19 public schools, patients or clients of public institutions or public  
20 health agencies, or welfare recipients, however, such information must  
21 be provided on request to:

22 (i) School officials of any public school district in which a  
23 student is enrolled, including teachers and other school employees  
24 within the educational institution or local educational agency, who  
25 have been determined by such agency or institution to have legitimate  
26 educational interests;

27 (ii) School officials of other schools or school systems in which  
28 the student seeks or requests to enroll, including teachers and other  
29 school employees, upon condition that the student's parents be notified  
30 of the transfer, receive a copy of the information if desired, and have  
31 an opportunity for a hearing to challenge the content of the record;  
32 and

33 (iii) State and local officials, probation officers, or other  
34 authorities, who have a legitimate interest in such information in  
35 order to protect the health, safety, and welfare of the student or  
36 other persons.

1 (b) Personal information in files maintained for employees,  
2 appointees, or elected officials of any public agency to the extent  
3 that disclosure would violate their right to privacy.

4 (c) Information required of any taxpayer in connection with the  
5 assessment or collection of any tax if the disclosure of the  
6 information to other persons would (i) be prohibited to such persons by  
7 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result  
8 in unfair competitive disadvantage to the taxpayer.

9 (d) Specific intelligence information and specific investigative  
10 records compiled by investigative, law enforcement, and penology  
11 agencies, and state agencies vested with the responsibility to  
12 discipline members of any profession, the nondisclosure of which is  
13 essential to effective law enforcement or for the protection of any  
14 person's right to privacy.

15 (e) Information revealing the identity of persons who are witnesses  
16 to or victims of crime or who file complaints with investigative, law  
17 enforcement, or penology agencies, other than the public disclosure  
18 commission, if disclosure would endanger any person's life, physical  
19 safety, or property. If at the time a complaint is filed the  
20 complainant, victim or witness indicates a desire for disclosure or  
21 nondisclosure, such desire shall govern. However, all complaints filed  
22 with the public disclosure commission about any elected official or  
23 candidate for public office must be made in writing and signed by the  
24 complainant under oath.

25 (f) Test questions, scoring keys, and other examination data used  
26 to administer a license, employment, or academic examination.

27 (g) Except as provided by chapter 8.26 RCW, the contents of real  
28 estate appraisals, made for or by any agency relative to the  
29 acquisition or sale of property, until the project or prospective sale  
30 is abandoned or until such time as all of the property has been  
31 acquired or the property to which the sale appraisal relates is sold,  
32 but in no event shall disclosure be denied for more than three years  
33 after the appraisal.

34 (h) Valuable formulae, designs, drawings, and research data  
35 obtained by any agency within five years of the request for disclosure  
36 when disclosure would produce private gain and public loss.

37 (i) Preliminary drafts, notes, recommendations, and intra-agency  
38 memorandums in which opinions are expressed or policies formulated or

1 recommended except that a specific record shall not be exempt when  
2 publicly cited by an agency in connection with any agency action.

3 (j) Records which are relevant to a controversy to which an agency  
4 is a party but which records would not be available to another party  
5 under the rules of pretrial discovery for causes pending in the  
6 superior courts.

7 (k) Records, maps, or other information identifying the location of  
8 archaeological sites in order to avoid the looting or depredation of  
9 such sites.

10 (l) Any library record, the primary purpose of which is to maintain  
11 control of library materials, or to gain access to information, which  
12 discloses or could be used to disclose the identity of a library user.

13 (m) Financial information supplied by or on behalf of a person,  
14 firm, or corporation for the purpose of qualifying to submit a bid or  
15 proposal for (i) a ferry system construction or repair contract as  
16 required by RCW 47.60.680 through 47.60.750 or (ii) highway  
17 construction or improvement as required by RCW 47.28.070.

18 (n) Railroad company contracts filed prior to July 28, 1991, with  
19 the utilities and transportation commission under RCW 81.34.070, except  
20 that the summaries of the contracts are open to public inspection and  
21 copying as otherwise provided by this chapter.

22 (o) Financial and commercial information and records supplied by  
23 private persons pertaining to export services provided pursuant to  
24 chapter 43.163 RCW and chapter 53.31 RCW.

25 (p) Financial disclosures filed by private vocational schools under  
26 chapter 28C.10 RCW.

27 (q) Records filed with the utilities and transportation commission  
28 or attorney general under RCW 80.04.095 that a court has determined are  
29 confidential under RCW 80.04.095.

30 (r) Financial and commercial information and records supplied by  
31 businesses during application for loans or program services provided by  
32 chapters 43.163, 43.160, 43.330, and 43.168 RCW.

33 (s) Membership lists or lists of members or owners of interests of  
34 units in timeshare projects, subdivisions, camping resorts,  
35 condominiums, land developments, or common-interest communities  
36 affiliated with such projects, regulated by the department of  
37 licensing, in the files or possession of the department.

1 (t) All applications for public employment, including the names of  
2 applicants, resumes, and other related materials submitted with respect  
3 to an applicant.

4 (u) The residential addresses and residential telephone numbers of  
5 employees or volunteers of a public agency which are held by the agency  
6 in personnel records, employment or volunteer rosters, or mailing lists  
7 of employees or volunteers.

8 (v) The residential addresses and residential telephone numbers of  
9 the customers of a public utility contained in the records or lists  
10 held by the public utility of which they are customers.

11 (w)(i) The federal social security number of individuals governed  
12 under chapter 18.130 RCW maintained in the files of the department of  
13 health, except this exemption does not apply to requests made directly  
14 to the department from federal, state, and local agencies of  
15 government, and national and state licensing, credentialing,  
16 investigatory, disciplinary, and examination organizations; (ii) the  
17 current residential address and current residential telephone number of  
18 a health care provider governed under chapter 18.130 RCW maintained in  
19 the files of the department, if the provider requests that this  
20 information be withheld from public inspection and copying, and  
21 provides to the department an accurate alternate or business address  
22 and business telephone number. On or after January 1, 1995, the  
23 current residential address and residential telephone number of a  
24 health care provider governed under RCW 18.130.140 maintained in the  
25 files of the department shall automatically be withheld from public  
26 inspection and copying if the provider has provided the department with  
27 an accurate alternative or business address and telephone number.

28 (x) Information obtained by the board of pharmacy as provided in  
29 RCW 69.45.090.

30 (y) Information obtained by the board of pharmacy or the department  
31 of health and its representatives as provided in RCW 69.41.044,  
32 69.41.280, and 18.64.420.

33 (z) Financial information, business plans, examination reports, and  
34 any information produced or obtained in evaluating or examining a  
35 business and industrial development corporation organized or seeking  
36 certification under chapter 31.24 RCW.

37 (aa) Financial and commercial information supplied to the state  
38 investment board by any person when the information relates to the  
39 investment of public trust or retirement funds and when disclosure

1 would result in loss to such funds or in private loss to the providers  
2 of this information.

3 (bb) Financial and valuable trade information under RCW 51.36.120.

4 (cc) Client records maintained by an agency that is a domestic  
5 violence program as defined in RCW 70.123.020 or a rape crisis center  
6 as defined in RCW 70.125.030.

7 (dd) Information that identifies a person who, while an agency  
8 employee: (i) Seeks advice, under an informal process established by  
9 the employing agency, in order to ascertain his or her rights in  
10 connection with a possible unfair practice under chapter 49.60 RCW  
11 against the person; and (ii) requests his or her identity or any  
12 identifying information not be disclosed.

13 (ee) Business related information protected from public inspection  
14 and copying under RCW 15.86.110.

15 (2) Except for information described in subsection (1)(c)(i) of  
16 this section and confidential income data exempted from public  
17 inspection pursuant to RCW 84.40.020, the exemptions of this section  
18 are inapplicable to the extent that information, the disclosure of  
19 which would violate personal privacy or vital governmental interests,  
20 can be deleted from the specific records sought. No exemption may be  
21 construed to permit the nondisclosure of statistical information not  
22 descriptive of any readily identifiable person or persons.

23 (3) Inspection or copying of any specific records exempt under the  
24 provisions of this section may be permitted if the superior court in  
25 the county in which the record is maintained finds, after a hearing  
26 with notice thereof to every person in interest and the agency, that  
27 the exemption of such records is clearly unnecessary to protect any  
28 individual's right of privacy or any vital governmental function.

29 (4) Agency responses refusing, in whole or in part, inspection of  
30 any public record shall include a statement of the specific exemption  
31 authorizing the withholding of the record (or part) and a brief  
32 explanation of how the exemption applies to the record withheld.

33 **Sec. 3.** RCW 13.32A.040 and 1990 c 276 s 4 are each amended to read  
34 as follows:

35 Families who are in conflict or who are experiencing problems with  
36 at-risk youth may request family reconciliation services from the  
37 department. Such services shall be provided to alleviate personal or  
38 family situations which present a serious and imminent threat to the

1 health or stability of the child or family and to maintain families  
2 intact wherever possible. Family reconciliation services shall be  
3 designed to develop skills and supports within families to resolve  
4 problems related to at-risk youth or family conflicts and may include  
5 but are not limited to referral to services for suicide prevention,  
6 psychiatric or other medical care, or psychological, welfare, legal,  
7 educational, or other social services, as appropriate to the needs of  
8 the child and the family. Upon a referral by a school or other  
9 appropriate agency, family reconciliation services may also include  
10 training in parenting, conflict management, and dispute resolution  
11 skills.

12 **Sec. 4.** RCW 28A.225.160 and 1986 c 166 s 1 are each amended to  
13 read as follows:

14 Except as otherwise provided by law, it is the general policy of  
15 the state that the common schools shall be open to the admission of all  
16 persons who are five years of age and less than twenty-one years  
17 residing in that school district. Except as otherwise provided by law,  
18 the state board of education is hereby authorized to adopt rules in  
19 accordance with chapter 34.05 RCW which establish uniform entry  
20 qualifications, including but not limited to birth date requirements,  
21 for admission to kindergarten and first grade programs of the common  
22 schools. Such rules may provide for exceptions based upon the ability,  
23 or the need, or both, of an individual student. For the purpose of  
24 complying with any rule adopted by the state board of education which  
25 authorizes a preadmission screening process as a prerequisite to  
26 granting exceptions to the uniform entry qualifications, a school  
27 district may collect fees not to exceed seventy-five dollars per  
28 preadmission student to cover expenses incurred in the administration  
29 of such a screening process: PROVIDED, That in so establishing such  
30 fee or fees, the district shall adopt regulations for waiving and  
31 reducing such fees in the cases of those persons whose families, by  
32 reason of their low income, would have difficulty in paying the entire  
33 amount of such fees. A school district may delay admission of a  
34 transfer student until academic, counseling, conduct, or other relevant  
35 records are obtained from a previous school district or districts.

36 **Sec. 5.** RCW 13.40.080 and 1992 c 205 s 108 are each amended to  
37 read as follows:



1 (1) A diversion agreement shall be a contract between a juvenile  
2 accused of an offense and a diversionary unit whereby the juvenile  
3 agrees to fulfill certain conditions in lieu of prosecution. Such  
4 agreements may be entered into only after the prosecutor, or probation  
5 counselor pursuant to this chapter, has determined that probable cause  
6 exists to believe that a crime has been committed and that the juvenile  
7 committed it. Such agreements shall be entered into as expeditiously  
8 as possible. When a juvenile is released under a diversion agreement  
9 and placed in a public school program, such agreement must contain  
10 provisions describing required conduct and behavior of the juvenile  
11 while under the supervision of the school or school district. School  
12 officials shall be included in the development of the school program  
13 portion of the diversion agreement.

14 (2) A diversion agreement shall be limited to:

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

17 (b) Restitution limited to the amount of actual loss incurred by  
18 the victim, and to an amount the juvenile has the means or potential  
19 means to pay;

20 (c) Attendance at up to ten hours of counseling and/or up to twenty  
21 hours of educational or informational sessions at a community agency:  
22 PROVIDED, That the state shall not be liable for costs resulting from  
23 the diversionary unit exercising the option to permit diversion  
24 agreements to mandate attendance at up to ten hours of counseling and/  
25 or up to twenty hours of educational or informational sessions; and

26 (d) A fine, not to exceed one hundred dollars. In determining the  
27 amount of the fine, the diversion unit shall consider only the  
28 juvenile's financial resources and whether the juvenile has the means  
29 to pay the fine. The diversion unit shall not consider the financial  
30 resources of the juvenile's parents, guardian, or custodian in  
31 determining the fine to be imposed.

32 (3) In assessing periods of community service to be performed and  
33 restitution to be paid by a juvenile who has entered into a diversion  
34 agreement, the court officer to whom this task is assigned shall  
35 consult with victims who have contacted the diversionary unit and, to  
36 the extent possible, involve members of the community. Such members of  
37 the community shall meet with the juvenile and advise the court officer  
38 as to the terms of the diversion agreement and shall supervise the  
39 juvenile in carrying out its terms.

1 (4) A diversion agreement may not exceed a period of six months and  
2 may include a period extending beyond the eighteenth birthday of the  
3 divertee. Any restitution assessed during its term may not exceed an  
4 amount which the juvenile could be reasonably expected to pay during  
5 this period. If additional time is necessary for the juvenile to  
6 complete restitution to the victim, the time period limitations of this  
7 subsection may be extended by an additional six months.

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

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

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

17 (b) Violation of the terms of the agreement shall be the only  
18 grounds for termination;

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

21 (i) Written notice of alleged violations of the conditions of the  
22 diversion program; and

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

24 (d) The hearing shall be conducted by the juvenile court and shall  
25 include:

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

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

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

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

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

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

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

38 (7) The diversion unit shall, subject to available funds, be  
39 responsible for providing interpreters when juveniles need interpreters

1 to effectively communicate during diversion unit hearings or  
2 negotiations.

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

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

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

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

26 (11) When a juvenile enters into a diversion agreement, the  
27 juvenile court may receive only the following information for  
28 dispositional purposes:

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

35 (12) A diversionary unit may refuse to enter into a diversion  
36 agreement with a juvenile. When a diversionary unit refuses to enter  
37 a diversion agreement with a juvenile, it shall immediately refer such  
38 juvenile to the court for action and shall forward to the court the  
39 criminal complaint and a detailed statement of its reasons for refusing

1 to enter into a diversion agreement. The diversionary unit shall also  
2 immediately refer the case to the prosecuting attorney for action if  
3 such juvenile violates the terms of the diversion agreement.

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

29 (14) A diversion unit may supervise the fulfillment of a diversion  
30 agreement entered into before the juvenile's eighteenth birthday and  
31 which includes a period extending beyond the diverttee's eighteenth  
32 birthday.

33 (15) If a fine required by a diversion agreement cannot reasonably  
34 be paid due to a change of circumstance, the diversion agreement may be  
35 modified at the request of the diverttee and with the concurrence of the  
36 diversion unit to convert an unpaid fine into community service. The  
37 modification of the diversion agreement shall be in writing and signed  
38 by the diverttee and the diversion unit. The number of hours of

1 community service in lieu of a monetary penalty shall be converted at  
2 the rate of the prevailing state minimum wage per hour.

3 (16) Fines imposed under this section shall be collected and paid  
4 into the county general fund in accordance with procedures established  
5 by the juvenile court administrator under RCW 13.04.040 and may be used  
6 only for juvenile services. In the expenditure of funds for juvenile  
7 services, there shall be a maintenance of effort whereby counties  
8 exhaust existing resources before using amounts collected under this  
9 section.

10 NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.415  
11 RCW to read as follows:

12 The legislature believes that teachers, principals, administrators,  
13 parents, community members and organizations, law enforcement, and the  
14 judicial system can best work together locally to identify the  
15 educational goals, needs, and conditions to provide safe school  
16 environments. To assist in this effort, the superintendent of public  
17 instruction shall award grants for the conduct of school staff  
18 development training programs for school/community teams for the  
19 purpose of promoting safe schools and preventing acts of violence.  
20 Grants shall be made to organizations qualified to offer professional  
21 in-service training programs in accord with rules and regulations of  
22 the state board of education.

23 NEW SECTION. **Sec. 7.** This act shall take effect July 1, 1994.

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