

2 **SHB 1401** - S COMM AMD
3 By Committee on Education

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "**Sec. 1.** RCW 13.40.215 and 1994 c 129 s 6 and 1994 c 78 s 1 are
8 each reenacted and amended to read as follows:

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

16 (i) The chief of police of the city, if any, in which the juvenile
17 will reside; (~~and~~)

18 (ii) The sheriff of the county in which the juvenile will reside;
19 and

20 (iii) The approved private schools and the common school district
21 board of directors of the district in which the juvenile intends to
22 reside or the approved private school or public school district in
23 which the juvenile last attended school, whichever is appropriate,
24 except when it has been determined by the department that the juvenile
25 is twenty-one years old; is not required to return to school under
26 chapter 28A.225 RCW; or will be in the community for less than seven
27 consecutive days on approved leave and will not be attending school
28 during that time.

29 (b) The same notice as required by (a) of this subsection shall be
30 sent to the following, if such notice has been requested in writing
31 about a specific juvenile:

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

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

36 (iii) Any person specified in writing by the prosecuting attorney.

1 Information regarding victims, next of kin, or witnesses requesting the
2 notice, information regarding any other person specified in writing by
3 the prosecuting attorney to receive the notice, and the notice are
4 confidential and shall not be available to the juvenile. The notice to
5 the chief of police or the sheriff shall include the identity of the
6 juvenile, the residence where the juvenile will reside, the identity of
7 the person, if any, responsible for supervising the juvenile, and the
8 time period of any authorized leave.

9 (c) The thirty-day notice requirements contained in this subsection
10 shall not apply to emergency medical furloughs.

11 (d) The existence of the notice requirements in this subsection
12 will not require any extension of the release date in the event the
13 release plan changes after notification.

14 (2)(a) If a juvenile found to have committed a violent offense, a
15 sex offense, or stalking escapes from a facility of the department, the
16 secretary shall immediately notify, by the most reasonable and
17 expedient means available, the chief of police of the city and the
18 sheriff of the county in which the juvenile resided immediately before
19 the juvenile's arrest. If previously requested, the secretary shall
20 also notify the witnesses and the victim of the offense which the
21 juvenile was found to have committed or the victim's next of kin if the
22 crime was a homicide. If the juvenile is recaptured, the secretary
23 shall send notice to the persons designated in this subsection as soon
24 as possible but in no event later than two working days after the
25 department learns of such recapture.

26 (b) The secretary may authorize a leave, for a juvenile found to
27 have committed a violent offense, a sex offense, or stalking, which
28 shall not exceed forty-eight hours plus travel time, to meet an
29 emergency situation such as a death or critical illness of a member of
30 the juvenile's family. The secretary may authorize a leave, which
31 shall not exceed the time medically necessary, to obtain medical care
32 not available in a juvenile facility maintained by the department.
33 Prior to the commencement of an emergency or medical leave, the
34 secretary shall give notice of the leave to the appropriate law
35 enforcement agency in the jurisdiction in which the juvenile will be
36 during the leave period. The notice shall include the identity of the
37 juvenile, the time period of the leave, the residence of the juvenile
38 during the leave, and the identity of the person responsible for
39 supervising the juvenile during the leave. If previously requested,

1 the department shall also notify the witnesses and victim of the
2 offense which the juvenile was found to have committed or the victim's
3 next of kin if the offense was a homicide.

4 In case of an emergency or medical leave the secretary may waive
5 all or any portion of the requirements for leaves pursuant to RCW
6 13.40.205 (2)(a), (3), (4), and (5).

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

10 (4) The secretary shall send the notices required by this chapter
11 to the last address provided to the department by the requesting party.
12 The requesting party shall furnish the department with a current
13 address.

14 (5) Upon discharge, parole, or other authorized leave or release,
15 a convicted juvenile sex offender shall not attend a public elementary,
16 middle, or high school that is attended by a victim of the sex
17 offender. The parents or legal guardians of the convicted juvenile sex
18 offender shall be responsible for transportation or other costs
19 associated with or required by the sex offender's change in school that
20 otherwise would be paid by a school district. Upon discharge, parole,
21 or other authorized leave or release of a convicted juvenile sex
22 offender, the secretary shall send written notice of the discharge,
23 parole, or other authorized leave or release and the requirements of
24 this subsection to the common school district board of directors of the
25 district in which the sex offender intends to reside or the district in
26 which the sex offender last attended school, whichever is appropriate.

27 (6) For purposes of this section the following terms have the
28 following meanings:

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

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

31 (c) "Stalking" means the crime of stalking as defined in RCW
32 9A.46.110;

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

35 **Sec. 2.** RCW 13.50.050 and 1992 c 188 s 7 are each amended to read
36 as follows:

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

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

4 (3) All records other than the official juvenile court file are
5 confidential and may be released only as provided in this section, RCW
6 13.50.010, 13.40.215, and 4.24.550.

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

14 (5) Except as provided in RCW 4.24.550, information not in an
15 official juvenile court file concerning a juvenile or a juvenile's
16 family may be released to the public only when that information could
17 not reasonably be expected to identify the juvenile or the juvenile's
18 family.

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

25 (7) The juvenile court and the prosecutor may set up and maintain
26 a central record-keeping system which may receive information on all
27 alleged juvenile offenders against whom a complaint has been filed
28 pursuant to RCW 13.40.070 whether or not their cases are currently
29 pending before the court. The central record-keeping system may be
30 computerized. If a complaint has been referred to a diversion unit,
31 the diversion unit shall promptly report to the juvenile court or the
32 prosecuting attorney when the juvenile has agreed to diversion. An
33 offense shall not be reported as criminal history in any central
34 record-keeping system without notification by the diversion unit of the
35 date on which the offender agreed to diversion.

36 (8) Upon request of the victim of a crime or the victim's immediate
37 family, the identity of an alleged or proven juvenile offender alleged
38 or found to have committed a crime against the victim and the identity
39 of the alleged or proven juvenile offender's parent, guardian, or

1 custodian and the circumstance of the alleged or proven crime shall be
2 released to the victim of the crime or the victim's immediate family.

3 (9) Subject to the rules of discovery applicable in adult criminal
4 prosecutions, the juvenile offense records of an adult criminal
5 defendant or witness in an adult criminal proceeding shall be released
6 upon request to prosecution and defense counsel after a charge has
7 actually been filed. The juvenile offense records of any adult
8 convicted of a crime and placed under the supervision of the adult
9 corrections system shall be released upon request to the adult
10 corrections system.

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

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

21 (a) Two years have elapsed from the later of: (i) Final discharge
22 of the person from the supervision of any agency charged with
23 supervising juvenile offenders; or (ii) from the entry of a court order
24 relating to the commission of a juvenile offense or a criminal offense;

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

27 (c) No proceeding is pending seeking the formation of a diversion
28 agreement with that person.

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

32 (13) If the court grants the motion to seal made pursuant to
33 subsection (10) of this section, it shall, subject to subsection (24)
34 of this section, order sealed the official juvenile court file, the
35 social file, and other records relating to the case as are named in the
36 order. Thereafter, the proceedings in the case shall be treated as if
37 they never occurred, and the subject of the records may reply
38 accordingly to any inquiry about the events, records of which are
39 sealed. Any agency shall reply to any inquiry concerning confidential

1 or sealed records that records are confidential, and no information can
2 be given about the existence or nonexistence of records concerning an
3 individual.

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

9 (15) Any adjudication of a juvenile offense or a crime subsequent
10 to sealing has the effect of nullifying the sealing order. Any
11 conviction for any adult felony subsequent to the sealing has the
12 effect of nullifying the sealing order for the purposes of chapter
13 9.94A RCW for any juvenile adjudication of guilt for a class A offense
14 or a sex offense as defined in RCW 9.94A.030.

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

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

25 (a) The person making the motion is at least twenty-three years of
26 age;

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

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

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

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

37 (19) If the court grants the motion to destroy records made
38 pursuant to subsection (16) or (18) of this section, it shall, subject
39 to subsection (24) of this section, order the official juvenile court

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

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

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

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

15 (23) Any juvenile justice or care agency may, subject to the
16 limitations in subsection (24) of this section and subparagraphs (a)
17 and (b) of this subsection, develop procedures for the routine
18 destruction 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 (24) No identifying information held by the Washington state patrol
27 in accordance with chapter 43.43 RCW is subject to destruction or
28 sealing under this section. For the purposes of this subsection,
29 identifying information includes photographs, fingerprints, palmprints,
30 soleprints, toeprints and any other data that identifies a person by
31 physical characteristics, name, birthdate or address, but does not
32 include information regarding criminal activity, arrest, charging,
33 diversion, conviction or other information about a person's treatment
34 by the criminal justice system or about the person's behavior.

35 (25) Information identifying child victims under age eighteen who
36 are victims of sexual assaults by juvenile offenders is confidential
37 and not subject to release to the press or public without the
38 permission of the child victim or the child's legal guardian.
39 Identifying information includes the child victim's name, addresses,

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

7 **Sec. 3.** RCW 13.50.100 and 1990 c 246 s 9 are each amended to read
8 as follows:

9 (1) This section governs records not covered by RCW 13.50.050.

10 (2) Records covered by this section shall be confidential and shall
11 be released only pursuant to this section and RCW 13.50.010.

12 (3) Records retained or produced by any juvenile justice or care
13 agency may be released to other participants in the juvenile justice or
14 care system (~~only~~) when an investigation or case involving the
15 juvenile in question is being pursued by the other participant or when
16 that other participant is assigned the responsibility of supervising
17 the juvenile. Records covered under this section and maintained by the
18 juvenile courts which relate to the official actions of the agency may
19 be entered in the state-wide juvenile court information system.

20 (4) A juvenile, his or her parents, the juvenile's attorney and the
21 juvenile's parent's attorney, shall, upon request, be given access to
22 all records and information collected or retained by a juvenile justice
23 or care agency which pertain to the juvenile except:

24 (a) If it is determined by the agency that release of this
25 information is likely to cause severe psychological or physical harm to
26 the juvenile or his or her parents the agency may withhold the
27 information subject to other order of the court: PROVIDED, That if the
28 court determines that limited release of the information is
29 appropriate, the court may specify terms and conditions for the release
30 of the information; or

31 (b) If the information or record has been obtained by a juvenile
32 justice or care agency in connection with the provision of counseling,
33 psychological, psychiatric, or medical services to the juvenile, and
34 the juvenile has a legal right to receive those services without the
35 consent of any person or agency, then the information or record may not
36 be disclosed to the juvenile's parents without the informed consent of
37 the juvenile; or

38 (c) That the department of social and health services may delete

1 the name and identifying information regarding persons or organizations
2 who have reported suspected child abuse or neglect.

3 (5) A juvenile or his or her parent denied access to any records
4 following an agency determination under subsection (4) of this section
5 may file a motion in juvenile court requesting access to the records.
6 The court shall grant the motion unless it finds access may not be
7 permitted according to the standards found in subsections (4) (a) and
8 (b) of this section.

9 (6) The person making a motion under subsection (5) of this section
10 shall give reasonable notice of the motion to all parties to the
11 original action and to any agency whose records will be affected by the
12 motion.

13 (7) Subject to the rules of discovery in civil cases, any party to
14 a proceeding seeking a declaration of dependency or a termination of
15 the parent-child relationship and any party's counsel and the guardian
16 ad litem of any party, shall have access to the records of any natural
17 or adoptive child of the parent, subject to the limitations in
18 subsection (4) of this section.

19 (8) Information concerning a juvenile or a juvenile's family
20 contained in records covered by this section may be released to the
21 public only when that information could not reasonably be expected to
22 identify the juvenile or the juvenile's family.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 13.50 RCW
24 to read as follows:

25 (1) Each juvenile justice or care agency shall use the handbook
26 developed under section 8 of this act to develop a policy regarding the
27 disclosure of juvenile information as allowed by federal and state law.
28 The agency shall implement the policy developed. The policy shall
29 include, but not be limited to the following:

- 30 (a) What information may be shared;
- 31 (b) The conditions for sharing the information;
- 32 (c) The method for providing the information;
- 33 (d) Which individuals, by position, at the juvenile justice or care
34 agency are permitted to receive the information;
- 35 (e) Which individuals, by position, at the juvenile justice or care
36 agency are responsible for providing reasonable safeguards to protect
37 the confidentiality of the information, including limiting the use and
38 disclosure of the information to persons necessary to provide

1 appropriate services for the juvenile who is the subject of the
2 information, and to provide a safe environment for the juvenile and
3 others; and

4 (f) Whether disclosure of juvenile records requires parental
5 notification.

6 (2) Any juvenile justice or care agency or agency employee who
7 discloses information in compliance with federal and state law is
8 immune from civil liability for damages, unless it is shown that the
9 agency or agency employee acted with gross negligence or in bad faith.

10 **Sec. 5.** RCW 28A.225.330 and 1994 c 304 s 2 are each amended to
11 read as follows:

12 (1) When enrolling a student who has attended school in another
13 school district, the school enrolling the student may request the
14 parent and the student to briefly indicate in writing whether or not
15 the student has:

16 (a) Any history of placement in special educational programs;

17 (b) Any past, current, or pending disciplinary action;

18 (c) Any history of violent behavior;

19 (d) Any unpaid fines or fees imposed by other schools; and

20 (e) Any health conditions affecting the student's educational
21 needs.

22 (2) The school enrolling the student shall request the school the
23 student previously attended to send the student's permanent record
24 including records of disciplinary action. If the student has not paid
25 a fine or fee under RCW 28A.635.060, the school may withhold the
26 student's official transcript, but shall transmit information about the
27 student's academic performance, special placement, and records of
28 disciplinary action. If the official transcript is not sent due to
29 unpaid fees or fines, the enrolling school shall notify both the
30 student and parent or guardian that the official transcript will not be
31 sent until the obligation is met, and failure to have an official
32 transcript may result in exclusion from extracurricular activities or
33 failure to graduate.

34 (3) If information is requested under subsection (2) of this
35 section, the information shall be transmitted within two school days
36 after receiving the request and the records shall be sent as soon as
37 possible.

38 (4) Any school district or district employee who releases the

1 information in compliance with federal and state law is immune from
2 civil liability for damages unless it is shown that the school district
3 or district employee acted with gross negligence or in bad faith.

4 NEW SECTION. Sec. 6. A new section is added to chapter 28A.320
5 RCW to read as follows:

6 (1) Each school district shall use the handbook developed under
7 section 8 of this act to develop a policy regarding the disclosure of
8 juvenile information as allowed by federal and state law. The school
9 district shall implement the policy developed. The policy shall
10 include, but not be limited to the following:

11 (a) What information may be shared;

12 (b) The conditions for sharing the information;

13 (c) The method for providing the information;

14 (d) Which individuals, by position, within the school district may
15 receive the information;

16 (e) Which individuals, by position, within the school district are
17 responsible for providing reasonable safeguards to protect the
18 confidentiality of the information, including limiting the use and
19 disclosure of the information to persons necessary to provide
20 appropriate educational and support services for the juvenile who is
21 the subject of the information, and to provide a safe environment for
22 the juvenile, other students, and staff; and

23 (f) Whether disclosure of juvenile records requires parental
24 notification.

25 (2) Any school district or district employee who discloses
26 information in compliance with federal and state law is immune from
27 civil liability for damages unless it is shown that the school district
28 or district employee acted with gross negligence or in bad faith.

29 NEW SECTION. Sec. 7. A new section is added to chapter 28A.195
30 RCW to read as follows:

31 Any approved private school or employee of an approved private
32 school who discloses student record information in compliance with
33 federal and state law governing public schools is immune from civil
34 liability for damages, unless it is shown that the approved private
35 school or the employee of an approved private school acted with gross
36 negligence or in bad faith.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 28A.300
2 RCW to read as follows:

3 By July 1, 1996, the superintendent of public instruction, the
4 department of social and health services, and the office of the
5 attorney general shall jointly develop and publish a handbook on the
6 current laws and policies governing the disclosure of information
7 related to juveniles among and within juvenile justice or care agencies
8 as defined by RCW 13.50.010. The handbook shall be jointly reviewed
9 every two years and updated as needed.

10 The handbook shall neither discourage nor promote disclosure of
11 information, but shall be designed to assist agency personnel in
12 complying with applicable state and federal law. The handbook shall
13 provide model policies that individual juvenile justice or care
14 agencies may use in drafting a policy for the entity. The handbook
15 shall also address each of the following:

- 16 (1) What constitutes juvenile records;
- 17 (2) Which laws govern disclosure of juvenile records;
- 18 (3) Who maintains juvenile records;
- 19 (4) Who can obtain juvenile records;
- 20 (5) How juvenile records can be obtained; and
- 21 (6) Whether disclosure of juvenile records requires parental
22 notification.

23 NEW SECTION. **Sec. 9.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected."

27 **SHB 1401** - S COMM AMD
28 By Committee on Education

29
30 On page 1, line 2 of the title, after "agencies;" strike the
31 remainder of the title and insert "amending RCW 13.50.050, 13.50.100,
32 and 28A.225.330; reenacting and amending RCW 13.40.215; adding a new
33 section to chapter 13.50 RCW; adding a new section to chapter 28A.320
34 RCW; adding a new section to chapter 28A.195 RCW; and adding a new

1 section to chapter 28A.300 RCW."

--- **END** ---