
SENATE BILL 6284

State of Washington

56th Legislature

2000 Regular Session

By Senator Hargrove

Read first time . Referred to Committee on .

1 AN ACT Relating to individually identifiable DNA testing
2 information; amending RCW 10.97.060, 10.97.130, 13.50.050, 70.02.010,
3 70.41.190, and 70.83.050; reenacting and amending RCW 70.24.105; and
4 adding a new section to chapter 70.02 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.02 RCW
7 to read as follows:

8 A person's DNA or individual sequence of chemical base pairs is
9 private information, which may not be obtained and utilized in an
10 individually identifiable form by others without express written
11 informed consent or pursuant to federal or state law.

12 **Sec. 2.** RCW 10.97.060 and 1977 ex.s. c 314 s 6 are each amended to
13 read as follows:

14 Criminal history record information which consists of nonconviction
15 data only, which includes individually identifiable DNA testing
16 information, shall be subject to deletion from criminal justice agency
17 files which are available and generally searched for the purpose of
18 responding to inquiries concerning the criminal history of a named or

1 otherwise identified individual when two years or longer have elapsed
2 since the record became nonconviction data as a result of the entry of
3 a disposition favorable to the defendant, or upon the passage of three
4 years from the date of arrest or issuance of a citation or warrant for
5 an offense for which a conviction was not obtained unless the defendant
6 is a fugitive, or the case is under active prosecution according to a
7 current certification made by the prosecuting attorney.

8 Such criminal history record information consisting of
9 nonconviction data shall be deleted upon the request of the person who
10 is the subject of the record: PROVIDED, HOWEVER, That the criminal
11 justice agency maintaining the data may, at its option, refuse to make
12 the deletion if:

13 (1) The disposition was a deferred prosecution or similar diversion
14 of the alleged offender;

15 (2) The person who is the subject of the record has had a prior
16 conviction for a felony or gross misdemeanor;

17 (3) The individual who is the subject of the record has been
18 arrested for or charged with another crime during the intervening
19 period.

20 Nothing in this chapter is intended to restrict the authority of
21 any court, through appropriate judicial proceedings, to order the
22 modification or deletion of a record in a particular cause or
23 concerning a particular individual or event.

24 **Sec. 3.** RCW 10.97.130 and 1992 c 188 s 8 are each amended to read
25 as follows:

26 Information identifying child victims under age eighteen who are
27 victims of sexual assaults is confidential and not subject to release
28 to the press or public without the permission of the child victim or
29 the child's legal guardian. Identifying information includes the child
30 victim's name, addresses, location, photographs, DNA testing
31 information, and in cases in which the child victim is a relative or
32 stepchild of the alleged perpetrator, identification of the
33 relationship between the child and the alleged perpetrator.
34 Information identifying the child victim of sexual assault may be
35 released to law enforcement, prosecutors, judges, defense attorneys, or
36 private or governmental agencies that provide services to the child
37 victim of sexual assault. Prior to release of any criminal history
38 record information, the releasing agency shall delete any information

1 identifying a child victim of sexual assault from the information
2 except as provided in this section.

3 **Sec. 4.** RCW 13.50.050 and 1999 c 198 s 4 are each amended to read
4 as follows:

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

7 (2) The official juvenile court file of any alleged or proven
8 juvenile offender shall be open to public inspection, unless sealed
9 pursuant to subsection (12) of this section.

10 (3) All records other than the official juvenile court file are
11 confidential and may be released only as provided in this section, RCW
12 13.50.010, 13.40.215, and 4.24.550.

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

20 (5) Except as provided in RCW 4.24.550, information not in an
21 official juvenile court file concerning a juvenile or a juvenile's
22 family may be released to the public only when that information could
23 not reasonably be expected to identify the juvenile or the juvenile's
24 family.

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

31 (7) Upon the decision to arrest or the arrest, law enforcement and
32 prosecuting attorneys may cooperate with schools in releasing
33 information to a school pertaining to the investigation, diversion, and
34 prosecution of a juvenile attending the school. Upon the decision to
35 arrest or the arrest, incident reports may be released unless releasing
36 the records would jeopardize the investigation or prosecution or
37 endanger witnesses. If release of incident reports would jeopardize
38 the investigation or prosecution or endanger witnesses, law enforcement

1 and prosecuting attorneys may release information to the maximum extent
2 possible to assist schools in protecting other students, staff, and
3 school property.

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

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

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

29 (11) In any case in which an information has been filed pursuant to
30 RCW 13.40.100 or a complaint has been filed with the prosecutor and
31 referred for diversion pursuant to RCW 13.40.070, the person the
32 subject of the information or complaint may file a motion with the
33 court to have the court vacate its order and findings, if any, and,
34 subject to subsection (23) of this section, order the sealing of the
35 official juvenile court file, the social file, and records of the court
36 and of any other agency in the case.

37 (12) The court shall grant the motion to seal records made pursuant
38 to subsection (11) of this section if it finds that:

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

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

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

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

17 (e) Full restitution has been paid.

18 (13) The person making a motion pursuant to subsection (11) of this
19 section shall give reasonable notice of the motion to the prosecution
20 and to any person or agency whose files are sought to be sealed.

21 (14) If the court grants the motion to seal made pursuant to
22 subsection (11) of this section, it shall, subject to subsection (23)
23 of this section, order sealed the official juvenile court file, the
24 social file, and other records relating to the case as are named in the
25 order. Thereafter, the proceedings in the case shall be treated as if
26 they never occurred, and the subject of the records may reply
27 accordingly to any inquiry about the events, records of which are
28 sealed. Any agency shall reply to any inquiry concerning confidential
29 or sealed records that records are confidential, and no information can
30 be given about the existence or nonexistence of records concerning an
31 individual.

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

37 (16) Any adjudication of a juvenile offense or a crime subsequent
38 to sealing has the effect of nullifying the sealing order. Any

1 charging of an adult felony subsequent to the sealing has the effect of
2 nullifying the sealing order for the purposes of chapter 9.94A RCW.

3 (17) A person eighteen years of age or older whose criminal history
4 consists of only one referral for diversion may request that the court
5 order the records in that case destroyed. The request shall be
6 granted, subject to subsection (23) of this section, if the court finds
7 that two years have elapsed since completion of the diversion
8 agreement.

9 (18) If the court grants the motion to destroy records made
10 pursuant to subsection (17) of this section, it shall, subject to
11 subsection (23) of this section, order the official juvenile court
12 file, the social file, and any other records named in the order to be
13 destroyed.

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

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

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

26 (22) Any juvenile justice or care agency may, subject to the
27 limitations in subsection (23) of this section and (a) and (b) of this
28 subsection, develop procedures for the routine destruction of records
29 relating to juvenile offenses and diversions.

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

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

37 (23) No identifying information held by the Washington state patrol
38 in accordance with chapter 43.43 RCW is subject to destruction or
39 sealing under this section. For the purposes of this subsection,

1 identifying information includes photographs, fingerprints, palmprints,
2 soleprints, toeprints and any other data that identifies a person by
3 physical characteristics, name, birthdate or address, but does not
4 include information regarding criminal activity, arrest, charging,
5 diversion, conviction or other information about a person's treatment
6 by the criminal justice system or about the person's behavior.

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

19 **Sec. 5.** RCW 70.02.010 and 1993 c 448 s 1 are each amended to read
20 as follows:

21 As used in this chapter, unless the context otherwise requires:

22 (1) "Audit" means an assessment, evaluation, determination, or
23 investigation of a health care provider by a person not employed by or
24 affiliated with the provider to determine compliance with:

25 (a) Statutory, regulatory, fiscal, medical, or scientific
26 standards;

27 (b) A private or public program of payments to a health care
28 provider; or

29 (c) Requirements for licensing, accreditation, or certification.

30 (2) "Directory information" means information disclosing the
31 presence, and for the purpose of identification, the name, residence,
32 sex, and the general health condition of a particular patient who is a
33 patient in a health care facility or who is currently receiving
34 emergency health care in a health care facility.

35 (3) "General health condition" means the patient's health status
36 described in terms of "critical," "poor," "fair," "good," "excellent,"
37 or terms denoting similar conditions.

1 (4) "Health care" means any care, service, or procedure provided by
2 a health care provider:

3 (a) To diagnose, treat, or maintain a patient's physical or mental
4 condition; or

5 (b) That affects the structure or any function of the human body.

6 (5) "Health care facility" means a hospital, clinic, nursing home,
7 laboratory, office, or similar place where a health care provider
8 provides health care to patients.

9 (6) "Health care information" means any information, whether oral
10 or recorded in any form or medium, that identifies or can readily be
11 associated with the identity of a patient and directly relates to the
12 patient's health care. The term includes any record of disclosures of
13 health care information. The term includes genetic information in a
14 person's DNA.

15 (7) "Health care provider" means a person who is licensed,
16 certified, registered, or otherwise authorized by the law of this state
17 to provide health care in the ordinary course of business or practice
18 of a profession.

19 (8) "Institutional review board" means any board, committee, or
20 other group formally designated by an institution, or authorized under
21 federal or state law, to review, approve the initiation of, or conduct
22 periodic review of research programs to assure the protection of the
23 rights and welfare of human research subjects.

24 (9) "Maintain," as related to health care information, means to
25 hold, possess, preserve, retain, store, or control that information.

26 (10) "Patient" means an individual who receives or has received
27 health care. The term includes a deceased individual who has received
28 health care.

29 (11) "Person" means an individual, corporation, business trust,
30 estate, trust, partnership, association, joint venture, government,
31 governmental subdivision or agency, or any other legal or commercial
32 entity.

33 (12) "Reasonable fee" means the charges for duplicating or
34 searching the record, but shall not exceed sixty-five cents per page
35 for the first thirty pages and fifty cents per page for all other
36 pages. In addition, a clerical fee for searching and handling may be
37 charged not to exceed fifteen dollars. These amounts shall be adjusted
38 biennially in accordance with changes in the consumer price index, all
39 consumers, for Seattle-Tacoma metropolitan statistical area as

1 determined by the secretary of health. However, where editing of
2 records by a health care provider is required by statute and is done by
3 the provider personally, the fee may be the usual and customary charge
4 for a basic office visit.

5 (13) "Third-party payor" means an insurer regulated under Title 48
6 RCW authorized to transact business in this state or other
7 jurisdiction, including a health care service contractor, and health
8 maintenance organization; or an employee welfare benefit plan; or a
9 state or federal health benefit program.

10 **Sec. 6.** RCW 70.24.105 and 1997 c 345 s 2 and 1997 c 196 s 6 are
11 each reenacted and amended to read as follows:

12 (1) No person may disclose or be compelled to disclose the identity
13 of any person who has investigated, considered, or requested a test or
14 treatment for a sexually transmitted disease, except as authorized by
15 this chapter.

16 (2) No person may disclose or be compelled to disclose the identity
17 of any person upon whom an HIV antibody test is performed, or the
18 results of such a test, nor may the result of a test for any other
19 sexually transmitted disease when it is positive be disclosed. This
20 protection against disclosure of test subject, diagnosis, or treatment
21 also applies to any information relating to diagnosis of or treatment
22 for HIV infection and for any other confirmed sexually transmitted
23 disease. This protection applies to any genetic information derived
24 from DNA analysis. The following persons, however, may receive such
25 information:

26 (a) The subject of the test or the subject's legal representative
27 for health care decisions in accordance with RCW 7.70.065, with the
28 exception of such a representative of a minor child over fourteen years
29 of age and otherwise competent;

30 (b) Any person who secures a specific release of test results or
31 information relating to HIV or confirmed diagnosis of or treatment for
32 any other sexually transmitted disease executed by the subject or the
33 subject's legal representative for health care decisions in accordance
34 with RCW 7.70.065, with the exception of such a representative of a
35 minor child over fourteen years of age and otherwise competent;

36 (c) The state public health officer, a local public health officer,
37 or the centers for disease control of the United States public health

1 service in accordance with reporting requirements for a diagnosed case
2 of a sexually transmitted disease;

3 (d) A health facility or health care provider that procures,
4 processes, distributes, or uses: (i) A human body part, tissue, or
5 blood from a deceased person with respect to medical information
6 regarding that person; (ii) semen, including that provided prior to
7 March 23, 1988, for the purpose of artificial insemination; or (iii)
8 blood specimens;

9 (e) Any state or local public health officer conducting an
10 investigation pursuant to RCW 70.24.024, provided that such record was
11 obtained by means of court ordered HIV testing pursuant to RCW
12 70.24.340 or 70.24.024;

13 (f) A person allowed access to the record by a court order granted
14 after application showing good cause therefor. In assessing good
15 cause, the court shall weigh the public interest and the need for
16 disclosure against the injury to the patient, to the physician-patient
17 relationship, and to the treatment services. Upon the granting of the
18 order, the court, in determining the extent to which any disclosure of
19 all or any part of the record of any such test is necessary, shall
20 impose appropriate safeguards against unauthorized disclosure. An
21 order authorizing disclosure shall: (i) Limit disclosure to those
22 parts of the patient's record deemed essential to fulfill the objective
23 for which the order was granted; (ii) limit disclosure to those persons
24 whose need for information is the basis for the order; and (iii)
25 include any other appropriate measures to keep disclosure to a minimum
26 for the protection of the patient, the physician-patient relationship,
27 and the treatment services, including but not limited to the written
28 statement set forth in subsection (5) of this section;

29 (~~(g) ((Local law enforcement agencies to the extent provided in RCW
30 70.24.034;~~

31 ~~(h))~~) Persons who, because of their behavioral interaction with the
32 infected individual, have been placed at risk for acquisition of a
33 sexually transmitted disease, as provided in RCW 70.24.022, if the
34 health officer or authorized representative believes that the exposed
35 person was unaware that a risk of disease exposure existed and that the
36 disclosure of the identity of the infected person is necessary;

37 ~~((+i))~~) (h) A law enforcement officer, fire fighter, health care
38 provider, health care facility staff person, department of correction's
39 staff person, jail staff person, or other persons as defined by the

1 board in rule pursuant to RCW 70.24.340(4), who has requested a test of
2 a person whose bodily fluids he or she has been substantially exposed
3 to, pursuant to RCW 70.24.340(4), if a state or local public health
4 officer performs the test;

5 ~~((+j))~~ (i) Claims management personnel employed by or associated
6 with an insurer, health care service contractor, health maintenance
7 organization, self-funded health plan, state-administered health care
8 claims payer, or any other payer of health care claims where such
9 disclosure is to be used solely for the prompt and accurate evaluation
10 and payment of medical or related claims. Information released under
11 this subsection shall be confidential and shall not be released or
12 available to persons who are not involved in handling or determining
13 medical claims payment; and

14 ~~((+k))~~ (j) A department of social and health services worker, a
15 child placing agency worker, or a guardian ad litem who is responsible
16 for making or reviewing placement or case-planning decisions or
17 recommendations to the court regarding a child, who is less than
18 fourteen years of age, has a sexually transmitted disease, and is in
19 the custody of the department of social and health services or a
20 licensed child placing agency; this information may also be received by
21 a person responsible for providing residential care for such a child
22 when the department of social and health services or a licensed child
23 placing agency determines that it is necessary for the provision of
24 child care services.

25 (3) No person to whom the results of a test for a sexually
26 transmitted disease have been disclosed pursuant to subsection (2) of
27 this section may disclose the test results to another person except as
28 authorized by that subsection.

29 (4) The release of sexually transmitted disease information
30 regarding an offender or detained person, except as provided in
31 subsection (2)(e) of this section, shall be governed as follows:

32 (a) The sexually transmitted disease status of a department of
33 corrections offender who has had a mandatory test conducted pursuant to
34 RCW 70.24.340(1), 70.24.360, or 70.24.370 shall be made available by
35 department of corrections health care providers and local public health
36 officers to the department of corrections health care administrator or
37 infection control coordinator of the facility in which the offender is
38 housed. The information made available to the health care
39 administrator or the infection control coordinator under this

1 subsection (4)(a) shall be used only for disease prevention or control
2 and for protection of the safety and security of the staff, offenders,
3 and the public. The information may be submitted to transporting
4 officers and receiving facilities, including facilities that are not
5 under the department of corrections' jurisdiction according to the
6 provisions of (d) and (e) of this subsection.

7 (b) The sexually transmitted disease status of a person detained in
8 a jail who has had a mandatory test conducted pursuant to RCW
9 70.24.340(1), 70.24.360, or 70.24.370 shall be made available by the
10 local public health officer to a jail health care administrator or
11 infection control coordinator. The information made available to a
12 health care administrator under this subsection (4)(b) shall be used
13 only for disease prevention or control and for protection of the safety
14 and security of the staff, offenders, detainees, and the public. The
15 information may be submitted to transporting officers and receiving
16 facilities according to the provisions of (d) and (e) of this
17 subsection.

18 (c) Information regarding the sexually transmitted disease status
19 of an offender or detained person is confidential and may be disclosed
20 by a correctional health care administrator or infection control
21 coordinator or local jail health care administrator or infection
22 control coordinator only as necessary for disease prevention or control
23 and for protection of the safety and security of the staff, offenders,
24 and the public. Unauthorized disclosure of this information to any
25 person may result in disciplinary action, in addition to the penalties
26 prescribed in RCW 70.24.080 or any other penalties as may be prescribed
27 by law.

28 (d) Notwithstanding the limitations on disclosure contained in (a),
29 (b), and (c) of this subsection, whenever any member of a jail staff or
30 department of corrections staff has been substantially exposed to the
31 bodily fluids of an offender or detained person, then the results of
32 any tests conducted pursuant to RCW 70.24.340(1), 70.24.360, or
33 70.24.370, shall be immediately disclosed to the staff person in
34 accordance with the Washington Administrative Code rules governing
35 employees' occupational exposure to bloodborne pathogens. Disclosure
36 must be accompanied by appropriate counseling for the staff member,
37 including information regarding follow-up testing and treatment.
38 Disclosure shall also include notice that subsequent disclosure of the
39 information in violation of this chapter or use of the information to

1 harass or discriminate against the offender or detainee may result in
2 disciplinary action, in addition to the penalties prescribed in RCW
3 70.24.080, and imposition of other penalties prescribed by law.

4 (e) The staff member shall also be informed whether the offender or
5 detained person had any other communicable disease, as defined in RCW
6 72.09.251(3), when the staff person was substantially exposed to the
7 offender's or detainee's bodily fluids.

8 (f) The test results of voluntary and anonymous HIV testing or HIV-
9 related condition may not be disclosed to a staff person except as
10 provided in subsection (2)((+i)) (h) of this section and RCW
11 70.24.340(4). A health care administrator or infection control
12 coordinator may provide the staff member with information about how to
13 obtain the offender's or detainee's test results under subsection
14 (2)((+i)) (h) of this section and RCW 70.24.340(4).

15 (5) Whenever disclosure is made pursuant to this section, except
16 for subsections (2)(a) and (6) of this section, it shall be accompanied
17 by a statement in writing which includes the following or substantially
18 similar language: "This information has been disclosed to you from
19 records whose confidentiality is protected by state law. State law
20 prohibits you from making any further disclosure of it without the
21 specific written consent of the person to whom it pertains, or as
22 otherwise permitted by state law. A general authorization for the
23 release of medical or other information is NOT sufficient for this
24 purpose." An oral disclosure shall be accompanied or followed by such
25 a notice within ten days.

26 (6) The requirements of this section shall not apply to the
27 customary methods utilized for the exchange of medical information
28 among health care providers in order to provide health care services to
29 the patient, nor shall they apply within health care facilities where
30 there is a need for access to confidential medical information to
31 fulfill professional duties.

32 (7) Upon request of the victim, disclosure of test results under
33 this section to victims of sexual offenses under chapter 9A.44 RCW
34 shall be made if the result is negative or positive. The county
35 prosecuting attorney shall notify the victim of the right to such
36 disclosure. Such disclosure shall be accompanied by appropriate
37 counseling, including information regarding follow-up testing.

1 **Sec. 7.** RCW 70.41.190 and 1985 c 213 s 27 are each amended to read
2 as follows:

3 Unless specified otherwise by the department, a hospital shall
4 retain and preserve all medical records which relate directly to the
5 care and treatment of a patient for a period of no less than ten years
6 following the most recent discharge of the patient; except the records
7 of minors, which shall be retained and preserved for a period of no
8 less than three years following attainment of the age of eighteen
9 years, or ten years following such discharge, whichever is longer.

10 If a hospital ceases operations, it shall make immediate
11 arrangements, as approved by the department, for preservation of its
12 records.

13 The department shall by regulation define the type of records and
14 the information required to be included in the medical records to be
15 retained and preserved under this section; which records may be
16 retained in photographic form pursuant to chapter 5.46 RCW.

17 Any individually identifiable DNA information or substances shall
18 be confidential and may not be used for purposes other than care of the
19 patient in an individually identifiable form without the express
20 written consent of the patient or under specific authorization of an
21 institutional review board protocol with appropriate confidentiality
22 protections.

23 **Sec. 8.** RCW 70.83.050 and 1967 c 82 s 5 are each amended to read
24 as follows:

25 The state board of health shall adopt rules and regulations
26 necessary to carry out the intent of this chapter. The department of
27 health shall adopt rules and regulations necessary to protect an
28 individual's confidentiality of their genetic information obtained
29 under this chapter.

--- END ---