
SUBSTITUTE SENATE BILL 6292

State of Washington

62nd Legislature

2012 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Harper and Carrell)

READ FIRST TIME 02/03/12.

1 AN ACT Relating to access to juvenile records; amending RCW
2 10.97.050 and 19.182.040; reenacting and amending RCW 13.50.050;
3 creating a new section; and providing an effective date.

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

5 **Sec. 1.** RCW 13.50.050 and 2011 c 338 s 4 and 2011 c 333 s 4 are
6 each reenacted and amended to read as follows:

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

9 (2) Except as provided in RCW 13.50.010(8), the official juvenile
10 court file of any alleged or proven juvenile offender shall be ((open
11 to public inspection, unless sealed pursuant to subsection (12) of this
12 section)) confidential, unless:

13 (a) The juvenile has been charged by information with a serious
14 violent offense, as defined in RCW 9.94A.030, a sex offense as defined
15 in RCW 9.94A.030(46)(a)(i), burglary as provided in chapter 9A.52 RCW,
16 or any crime committed with a firearm, in which case, the official
17 juvenile court file shall be open to the public;

18 (b) The juvenile has been convicted or adjudicated for his or her

1 third offense, in which case, the official juvenile court file shall be
2 open to the public; or

3 (c) The juvenile court has ordered that the official juvenile court
4 file be open to public inspection, either in its entirety, or in part,
5 as provided in subsection (6) of this section.

6 (3) The court, prosecuting attorney, law enforcement, the parties
7 and their attorneys shall have access to the confidential official
8 juvenile court file of any alleged or proven juvenile offender.

9 (4) A juvenile justice or care agency shall have access to the
10 confidential official juvenile court file only when an investigation or
11 case involving the juvenile in question is being pursued by the
12 juvenile justice or care agency or when the juvenile justice or care
13 agency is responsible for supervising the juvenile.

14 (5) The official juvenile court file of any alleged or proven
15 juvenile offender which is initially open to public inspection pursuant
16 to subsection (2)(a) of this section is confidential if a finding of
17 not guilty is entered, the charge is dismissed, or the charge is
18 amended to an offense that is not a serious violent offense or neither
19 subsection (2)(a) or (b) of this section applies. The official
20 juvenile court file of any alleged or proven juvenile offender shall
21 become open to public inspection if the charge is amended upward to a
22 serious violent offense, as defined in RCW 9.94A.030 from a lesser
23 offense that previously required it to be confidential. The official
24 juvenile court file of any alleged or proven juvenile offender,
25 containing multiple charges, one of which is a serious violent offense,
26 shall be open to public inspection in its entirety.

27 (6) Upon application of any interested party, after a hearing with
28 notice to all parties, the juvenile court may order that the
29 confidential official juvenile court file of any alleged or proven
30 juvenile offender shall be opened to the public in part or in its
31 entirety upon making written findings that:

32 (a) The proponent of opening the court file to public inspection
33 has made a showing that there are not identified compelling
34 circumstances which establish a need for continued confidentiality of
35 the juvenile court record;

36 (b) Anyone present when the motion is made had an opportunity to
37 address the motion to open the juvenile court file to public
38 inspection;

1 (c) The court has analyzed whether continued confidentiality would
2 be the least restrictive means available and effective in protecting
3 the interests of the juvenile which may be threatened by opening the
4 official juvenile court file to public inspection;

5 (d) The court has weighed the competing privacy interests of the
6 juvenile and the public's right to open court records, as they apply to
7 the specific court record; and

8 (e) The order of the court is no broader in its application or
9 duration than necessary to service its purpose.

10 (7) When weighing the competing privacy interests of the juvenile
11 and the public's right to open court records, the court shall consider,
12 but is not limited to considering, the following factors:

13 (a) The impact of the juvenile offense on any victim(s), any
14 victim(s)'s family, and to the community;

15 (b) Whether the current alleged or proven juvenile offense(s)
16 involved multiple victims or multiple incidents per victim;

17 (c) Whether the current alleged or proven juvenile offense involved
18 attempted or actual monetary loss greater than typical for the offense;

19 (d) Whether the current alleged or proven juvenile offense is a
20 violent offense, as defined in RCW 9.94A.030;

21 (e) Whether the current alleged or proven juvenile offense involved
22 the use of a deadly weapon;

23 (f) Any prior criminal history of juvenile offenses;

24 (g) The age of the alleged or proven juvenile offender.

25 ~~((+3))~~ (8) All records ~~((other than))~~ retained or produced, which
26 are not part of the official juvenile court file, are confidential and
27 may be released only as provided in this section, RCW 13.50.010,
28 13.40.215, and 4.24.550.

29 ~~((+4))~~ (9) Except as otherwise provided in this section and RCW
30 13.50.010, records retained or produced by any juvenile justice or care
31 agency may be released to other participants in the juvenile justice or
32 care system only when an investigation or case involving the juvenile
33 in question is being pursued by the other participant or when that
34 other participant is assigned the responsibility for supervising the
35 juvenile.

36 ~~((+5))~~ (10) Except as provided in RCW 4.24.550, information not in
37 an official juvenile court file concerning a juvenile or a juvenile's

1 family may be released to the public only when that information could
2 not reasonably be expected to identify the juvenile or the juvenile's
3 family.

4 ((+6+)) (11) Notwithstanding any other provision of this chapter,
5 the release, to the juvenile or his or her attorney, of law enforcement
6 and prosecuting attorneys' records pertaining to investigation,
7 diversion, and prosecution of juvenile offenses shall be governed by
8 the rules of discovery and other rules of law applicable in adult
9 criminal investigations and prosecutions.

10 ((+7+)) (12) Upon the decision to arrest or the arrest, law
11 enforcement and prosecuting attorneys may cooperate with schools in
12 releasing information to a school pertaining to the investigation,
13 diversion, and prosecution of a juvenile attending the school. Upon
14 the decision to arrest or the arrest, incident reports may be released
15 unless releasing the records would jeopardize the investigation or
16 prosecution or endanger witnesses. If release of incident reports
17 would jeopardize the investigation or prosecution or endanger
18 witnesses, law enforcement and prosecuting attorneys may release
19 information to the maximum extent possible to assist schools in
20 protecting other students, staff, and school property.

21 ((+8+)) (13) The juvenile court and the prosecutor may set up and
22 maintain a central recordkeeping system which may receive information
23 on all alleged juvenile offenders against whom a complaint has been
24 filed pursuant to RCW 13.40.070 whether or not their cases are
25 currently pending before the court. The central recordkeeping system
26 may be computerized. If a complaint has been referred to a diversion
27 unit, the diversion unit shall promptly report to the juvenile court or
28 the prosecuting attorney when the juvenile has agreed to diversion. An
29 offense shall not be reported as criminal history in any central
30 recordkeeping system without notification by the diversion unit of the
31 date on which the offender agreed to diversion.

32 ((+9+)) (14) Upon request of the victim of a crime or the victim's
33 immediate family, the identity of an alleged or proven juvenile
34 offender alleged or found to have committed a crime against the victim
35 and the identity of the alleged or proven juvenile offender's parent,
36 guardian, or custodian and the circumstance of the alleged or proven
37 crime shall be released to the victim of the crime or the victim's
38 immediate family.

1 (~~(+10+)~~) (15) Subject to the rules of discovery applicable in adult
2 criminal prosecutions, the juvenile offense records of an adult
3 criminal defendant or witness in an adult criminal proceeding shall be
4 released upon request to prosecution and defense counsel after a charge
5 has actually been filed. The juvenile offense records of any adult
6 convicted of a crime and placed under the supervision of the adult
7 corrections system shall be released upon request to the adult
8 corrections system.

9 (~~(+11+)~~) (16) In any case in which an information has been filed
10 pursuant to RCW 13.40.100 or a complaint has been filed with the
11 prosecutor and referred for diversion pursuant to RCW 13.40.070, the
12 person the subject of the information or complaint may file a motion
13 with the court to have the court vacate its order and findings, if any,
14 and, subject to subsection (~~(+23+)~~) (28) of this section, order the
15 sealing of the official juvenile court file, the social file, and
16 records of the court and of any other agency in the case.

17 (~~(+12+)~~) (17)(a) The court shall not grant any motion to seal
18 records for class A offenses made pursuant to subsection (~~(+11+)~~) (16)
19 of this section that is filed on or after July 1, 1997, unless:

20 (i) Since the last date of release from confinement, including
21 full-time residential treatment, if any, or entry of disposition, the
22 person has spent five consecutive years in the community without
23 committing any offense or crime that subsequently results in an
24 adjudication or conviction;

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

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

29 (iv) The person is no longer required to register as a sex offender
30 under RCW 9A.44.130 or has been relieved of the duty to register under
31 RCW 9A.44.143 if the person was convicted of a sex offense;

32 (v) The person has not been convicted of rape in the first degree,
33 rape in the second degree, or indecent liberties that was actually
34 committed with forcible compulsion; and

35 (vi) Full restitution has been paid.

36 (b) The court shall not grant any motion to seal records for class
37 B, C, gross misdemeanor and misdemeanor offenses and diversions made
38 under subsection (~~(+11+)~~) (16) of this section unless:

1 (i) Since the date of last release from confinement, including
2 full-time residential treatment, if any, entry of disposition, or
3 completion of the diversion agreement, the person has spent two
4 consecutive years in the community without being convicted of any
5 offense or crime;

6 (ii) No proceeding is pending against the moving party seeking the
7 conviction of a juvenile offense or a criminal offense;

8 (iii) No proceeding is pending seeking the formation of a diversion
9 agreement with that person;

10 (iv) The person is no longer required to register as a sex offender
11 under RCW 9A.44.130 or has been relieved of the duty to register under
12 RCW 9A.44.143 if the person was convicted of a sex offense; and

13 (v) Full restitution has been paid.

14 (~~(+13)~~) (18) The person making a motion pursuant to subsection
15 (~~(+11)~~) (16) of this section shall give reasonable notice of the
16 motion to the prosecution and to any person or agency whose files are
17 sought to be sealed.

18 (~~(+14)~~) (19)(a) If the court grants the motion to seal made
19 pursuant to subsection (~~(+11)~~) (16) of this section, it shall, subject
20 to subsection (~~(+23)~~) (28) of this section, order sealed the official
21 juvenile court file, the social file, and other records relating to the
22 case as are named in the order. Thereafter, the proceedings in the
23 case shall be treated as if they never occurred, and the subject of the
24 records may reply accordingly to any inquiry about the events, records
25 of which are sealed. Any agency shall reply to any inquiry concerning
26 confidential or sealed records that records are confidential, and no
27 information can be given about the existence or nonexistence of records
28 concerning an individual.

29 (b) In the event the subject of the juvenile records receives a
30 full and unconditional pardon, the proceedings in the matter upon which
31 the pardon has been granted shall be treated as if they never occurred,
32 and the subject of the records may reply accordingly to any inquiry
33 about the events upon which the pardon was received. Any agency shall
34 reply to any inquiry concerning the records pertaining to the events
35 for which the subject received a pardon that records are confidential,
36 and no information can be given about the existence or nonexistence of
37 records concerning an individual.

1 (~~(15)~~) (20) Inspection of the files and records included in the
2 order to seal may thereafter be permitted only by order of the court
3 upon motion made by the person who is the subject of the information or
4 complaint, except as otherwise provided in RCW 13.50.010(8) and
5 subsection (~~(23)~~) (28) of this section.

6 (~~(16)~~) (21) Any adjudication of a juvenile offense or a crime
7 subsequent to sealing has the effect of nullifying the sealing order.
8 Any charging of an adult felony subsequent to the sealing has the
9 effect of nullifying the sealing order for the purposes of chapter
10 9.94A RCW. The administrative office of the courts shall ensure that
11 the superior court judicial information system provides prosecutors
12 access to information on the existence of sealed juvenile records.

13 (~~(17)~~) (22)(a)(i) Subject to subsection (~~(23)~~) (28) of this
14 section, all records maintained by any court or law enforcement agency,
15 including the juvenile court, local law enforcement, the Washington
16 state patrol, and the prosecutor's office, shall be automatically
17 destroyed within ninety days of becoming eligible for destruction.
18 Juvenile records are eligible for destruction when:

19 (A) The person who is the subject of the information or complaint
20 is at least eighteen years of age;

21 (B) His or her criminal history consists entirely of one diversion
22 agreement or counsel and release entered on or after June 12, 2008;

23 (C) Two years have elapsed since completion of the agreement or
24 counsel and release;

25 (D) No proceeding is pending against the person seeking the
26 conviction of a criminal offense; and

27 (E) There is no restitution owing in the case.

28 (ii) No less than quarterly, the administrative office of the
29 courts shall provide a report to the juvenile courts of those
30 individuals whose records may be eligible for destruction. The
31 juvenile court shall verify eligibility and notify the Washington state
32 patrol and the appropriate local law enforcement agency and
33 prosecutor's office of the records to be destroyed. The requirement to
34 destroy records under this subsection is not dependent on a court
35 hearing or the issuance of a court order to destroy records.

36 (iii) The state and local governments and their officers and
37 employees are not liable for civil damages for the failure to destroy
38 records pursuant to this section.

1 (b) All records maintained by any court or law enforcement agency,
2 including the juvenile court, local law enforcement, the Washington
3 state patrol, and the prosecutor's office, shall be automatically
4 destroyed within thirty days of being notified by the governor's office
5 that the subject of those records received a full and unconditional
6 pardon by the governor.

7 (c) A person eighteen years of age or older whose criminal history
8 consists entirely of one diversion agreement or counsel and release
9 entered prior to June 12, 2008, may request that the court order the
10 records in his or her case destroyed. The request shall be granted,
11 subject to subsection ~~((+23+))~~ (28) of this section, if the court finds
12 that two years have elapsed since completion of the agreement or
13 counsel and release.

14 (d) A person twenty-three years of age or older whose criminal
15 history consists of only referrals for diversion may request that the
16 court order the records in those cases destroyed. The request shall be
17 granted, subject to subsection ~~((+23+))~~ (28) of this section, if the
18 court finds that all diversion agreements have been successfully
19 completed and no proceeding is pending against the person seeking the
20 conviction of a criminal offense.

21 ~~((+18+))~~ (23) If the court grants the motion to destroy records
22 made pursuant to subsection ~~((+17+))~~ (22)(c) or (d) of this section, it
23 shall, subject to subsection ~~((+23+))~~ (28) of this section, order the
24 official juvenile court file, the social file, and any other records
25 named in the order to be destroyed.

26 ~~((+19+))~~ (24) The person making the motion pursuant to subsection
27 ~~((+17+))~~ (22)(c) or (d) of this section shall give reasonable notice of
28 the motion to the prosecuting attorney and to any agency whose records
29 are sought to be destroyed.

30 ~~((+20+))~~ (25) Any juvenile to whom the provisions of this section
31 may apply shall be given written notice of his or her rights under this
32 section at the time of his or her disposition hearing or during the
33 diversion process.

34 ~~((+21+))~~ (26) Nothing in this section may be construed to prevent
35 a crime victim or a member of the victim's family from divulging the
36 identity of the alleged or proven juvenile offender or his or her
37 family when necessary in a civil proceeding.

1 ~~((+22+))~~ (27) Any juvenile justice or care agency may, subject to
2 the limitations in subsection ~~((+23+))~~ (28) of this section and (a) and
3 (b) of this subsection, develop procedures for the routine destruction
4 of records relating to juvenile offenses and diversions.

5 (a) Records may be routinely destroyed only when the person the
6 subject of the information or complaint has attained twenty-three years
7 of age or older or pursuant to subsection ~~((+17+))~~ (22)(a) of this
8 section.

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

11 ~~((+23+))~~ (28) Except for subsection ~~((+17+))~~ (22)(b) of this
12 section, no identifying information held by the Washington state patrol
13 in accordance with chapter 43.43 RCW is subject to destruction or
14 sealing under this section. For the purposes of this subsection,
15 identifying information includes photographs, fingerprints, palmprints,
16 soleprints, toeprints, and any other data that identifies a person by
17 physical characteristics, name, birthdate or address, but does not
18 include information regarding criminal activity, arrest, charging,
19 diversion, conviction or other information about a person's treatment
20 by the criminal justice system or about the person's behavior.

21 ~~((+24+))~~ (29) Information identifying child victims under age
22 eighteen who are victims of sexual assaults by juvenile offenders is
23 confidential and not subject to release to the press or public without
24 the permission of the child victim or the child's legal guardian.
25 Identifying information includes the child victim's name, addresses,
26 location, photographs, and in cases in which the child victim is a
27 relative of the alleged perpetrator, identification of the relationship
28 between the child and the alleged perpetrator. Information identifying
29 a child victim of sexual assault may be released to law enforcement,
30 prosecutors, judges, defense attorneys, or private or governmental
31 agencies that provide services to the child victim of sexual assault.

32 (30) No confidential official juvenile court records maintained by
33 any court, law enforcement agency, or state agency, including the
34 juvenile court, local law enforcement, the Washington state patrol, and
35 the county prosecutor's offices, may be published or distributed.
36 Nothing in this section shall affect or prevent the use of a juvenile
37 offender's prior adjudications in later juvenile offender or adult
38 criminal proceedings.

1 **Sec. 2.** RCW 10.97.050 and 2005 c 421 s 9 are each amended to read
2 as follows:

3 (1) Adult conviction records may be disseminated without
4 restriction.

5 (2) No confidential official juvenile court records may be
6 published or distributed.

7 (3) Any criminal history record information which pertains to an
8 incident that occurred within the last twelve months for which a person
9 is currently being processed by the criminal justice system, including
10 the entire period of correctional supervision extending through final
11 discharge from parole, when applicable, may be disseminated without
12 restriction with the exception of a record being disseminated in
13 response to a request for a conviction record under RCW 43.43.832. A
14 request for a conviction record under RCW 43.43.832 shall not contain
15 information for a person who, within the last twelve months, is
16 currently being processed by the criminal justice system unless it
17 pertains to information relating to a crime against a person as defined
18 in RCW 9.94A.411.

19 (~~(+3)~~) (4) Criminal history record information which includes
20 nonconviction data may be disseminated by a criminal justice agency to
21 another criminal justice agency for any purpose associated with the
22 administration of criminal justice, or in connection with the
23 employment of the subject of the record by a criminal justice or
24 juvenile justice agency. A criminal justice agency may respond to any
25 inquiry from another criminal justice agency without any obligation to
26 ascertain the purpose for which the information is to be used by the
27 agency making the inquiry.

28 (~~(+4)~~) (5) Criminal history record information which includes
29 nonconviction data may be disseminated by a criminal justice agency to
30 implement a statute, ordinance, executive order, or a court rule,
31 decision, or order which expressly refers to records of arrest,
32 charges, or allegations of criminal conduct or other nonconviction data
33 and authorizes or directs that it be available or accessible for a
34 specific purpose.

35 (~~(+5)~~) (6) Criminal history record information which includes
36 nonconviction data may be disseminated to individuals and agencies
37 pursuant to a contract with a criminal justice agency to provide
38 services related to the administration of criminal justice. Such

1 contract must specifically authorize access to criminal history record
2 information, but need not specifically state that access to
3 nonconviction data is included. The agreement must limit the use of
4 the criminal history record information to stated purposes and insure
5 the confidentiality and security of the information consistent with
6 state law and any applicable federal statutes and regulations.

7 ~~((+6))~~ (7) Criminal history record information which includes
8 nonconviction data may be disseminated to individuals and agencies for
9 the express purpose of research, evaluative, or statistical activities
10 pursuant to an agreement with a criminal justice agency. Such
11 agreement must authorize the access to nonconviction data, limit the
12 use of that information which identifies specific individuals to
13 research, evaluative, or statistical purposes, and contain provisions
14 giving notice to the person or organization to which the records are
15 disseminated that the use of information obtained therefrom and further
16 dissemination of such information are subject to the provisions of this
17 chapter and applicable federal statutes and regulations, which shall be
18 cited with express reference to the penalties provided for a violation
19 thereof.

20 ~~((+7))~~ (8) Every criminal justice agency that maintains and
21 disseminates criminal history record information must maintain
22 information pertaining to every dissemination of criminal history
23 record information except a dissemination to the effect that the agency
24 has no record concerning an individual. Information pertaining to
25 disseminations shall include:

- 26 (a) An indication of to whom (agency or person) criminal history
27 record information was disseminated;
28 (b) The date on which the information was disseminated;
29 (c) The individual to whom the information relates; and
30 (d) A brief description of the information disseminated.

31 The information pertaining to dissemination required to be
32 maintained shall be retained for a period of not less than one year.

33 ~~((+8))~~ (9) In addition to the other provisions in this section
34 allowing dissemination of criminal history record information, RCW
35 4.24.550 governs dissemination of information concerning offenders who
36 commit sex offenses as defined by RCW 9.94A.030. Criminal justice
37 agencies, their employees, and officials shall be immune from civil

1 liability for dissemination on criminal history record information
2 concerning sex offenders as provided in RCW 4.24.550.

3 **Sec. 3.** RCW 19.182.040 and 2011 c 333 s 2 are each amended to read
4 as follows:

5 (1) Except as authorized under subsection (2) of this section, no
6 consumer reporting agency may make a consumer report containing any of
7 the following items of information:

8 (a) Bankruptcies that, from date of adjudication of the most recent
9 bankruptcy, antedate the report by more than ten years;

10 (b) Suits and judgments that, from date of entry, antedate the
11 report by more than seven years or until the governing statute of
12 limitations has expired, whichever is the longer period;

13 (c) Paid tax liens that, from date of payment, antedate the report
14 by more than seven years;

15 (d) Accounts placed for collection or charged to profit and loss
16 that antedate the report by more than seven years;

17 (e) Records of arrest, indictment, or conviction of an adult for a
18 crime that, from date of disposition, release, or parole, antedate the
19 report by more than seven years; and

20 ~~(f) ((Juvenile records, as defined in RCW 13.50.010(1)(c), when the
21 subject of the records is twenty one years of age or older at the time
22 of the report; and~~

23 ~~(g))~~ Any other adverse item of information that antedates the
24 report by more than seven years.

25 (2) Subsection (1)(a) through ~~((e) and (g))~~ (f) of this section
26 is not applicable in the case of a consumer report to be used in
27 connection with:

28 (a) A credit transaction involving, or that may reasonably be
29 expected to involve, a principal amount of fifty thousand dollars or
30 more;

31 (b) The underwriting of life insurance involving, or that may
32 reasonably be expected to involve, a face amount of fifty thousand
33 dollars or more; or

34 (c) The employment of an individual at an annual salary that
35 equals, or that may reasonably be expected to equal, twenty thousand
36 dollars or more.

1 NEW SECTION. **Sec. 4.** The provisions of section 1 of this act on
2 April 1, 2013, shall apply prospectively and shall also apply
3 retroactively to all existing official juvenile court files of any
4 alleged or proven juvenile offender.

5 (2) Any existing official juvenile court file containing a serious
6 violent offense, as defined in RCW 9.94A.030, charged prior to April 1,
7 2013, shall, upon April 1, 2013, be public.

8 NEW SECTION. **Sec. 5.** Sections 1 and 2 of this act take effect
9 April 1, 2013.

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