

# HOUSE BILL REPORT

## HB 1191

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**As Reported by House Committee On:**  
Education

**Title:** An act relating to school notifications.

**Brief Description:** Concerning school notifications.

**Sponsors:** Representatives Goodman and Frame.

**Brief History:**

**Committee Activity:**

Education: 2/4/19, 2/7/19 [DPS].

**Brief Summary of Substitute Bill**

- Modifies requirements governing notifications from criminal justice entities to schools and school districts for students who have committed certain crimes, including violent or sex offenses, by establishing uniformity in notice requirements and in the required duties of school personnel after a notification is received.
- Discontinues notifications to schools and districts for offenses related to the unlawful inhalation of toxic fumes, violations of liquor and controlled substance laws, and violations of specified criminal laws.

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### HOUSE COMMITTEE ON EDUCATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Santos, Chair; Dolan, Vice Chair; Paul, Vice Chair; Bergquist, Caldier, Callan, Harris, Kilduff, Ortiz-Self, Rude, Stonier, Thai, Valdez and Ybarra.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Steele, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Corry and Kraft.

**Staff:** Ethan Moreno (786-7386).

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

## **Background:**

### Notifications to Schools and School Districts of Student Criminal Offences.

Washington statutes include a variety of school and district notification requirements related to students who have been found to have committed certain crimes, including violent or sex offenses, terms that are specifically defined in law, violations of controlled substance laws, and violations of liquor laws. The notification requirements, which are summarized below, establish duties and some confidentiality and immunity provisions, for state agencies, local law enforcement agencies, and school officials.

*School District Boards of Directors/Superintendent of Public Instruction.* Each school district board of directors is required to adopt policies that address:

- procedures for providing notice of threats of violence or harm to the student or school employee who is the subject of the threat;
- procedures for disclosing information that is provided to the school administrators about a student's conduct, including the student's prior disciplinary records, official juvenile court records, and history of violence, to classroom teachers, school staff, and school security who, in the judgment of the principal, should be notified; and
- procedures for determining whether or not any threats or conduct established in the policy may be grounds for suspension or expulsion of the student.

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

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

*County Sheriffs and School Principals.* When a county sheriff receives notice from a person who is required to register as a sex offender or kidnapping offender, that they will be attending a school or institution of higher education, or will be employed with an institution of higher education, the sheriff must promptly notify the school district and the school principal or institution's department of public safety.

A school principal or department receiving notice from a sheriff must disclose the received information as follows:

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

*Court Notifications and Actions of School Principals.* Whenever a minor enrolled in any common school is convicted in adult criminal court, or adjudicated or entered into a diversion agreement with the juvenile court, the court must notify the parent or legal guardian that it will notify the principal of the student's school of the disposition of the case, and then provide the notification to the principal. These notification requirements apply to the following offenses:

- a violent offense as defined in an applicable statute;
- a sex offense as defined in an applicable statute;
- unlawful inhalation of toxic fumes;
- a violation of controlled substances requirements;
- a violation of liquor possession and consumption prohibitions for minors; and
- various crimes specified in numerous statutes.

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

*Secretary of the Department of Social and Health Services.* With limited exceptions, the Secretary of the Department of Social and Health Services (Secretary of the DSHS) must, at the earliest possible date, and in no event later than 30 days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility, provide notification of the discharge, parole, authorized leave or release, or transfer of a juvenile found to have committed a violent offense, a sex offense, or stalking. The notice must be written and must be sent to specified entities and parties, including:

- the chief of police of the city, if any, in which the juvenile will reside;
- the sheriff of the county in which the juvenile will reside;
- the approved private schools and the school district board of directors of the district in which the juvenile intends to reside, or the approved private school or public school district in which the juvenile last attended school. (This requirement does not apply if the juvenile is 21 years old or will be in the community for less than seven consecutive days on approved leave and will not be attending school during that time); and
- the approved private and public schools under the same conditions identified above if a juvenile adjudicated of any offense is transferred to a community residential facility, discharged, paroled, released, or granted a leave. The community residential facility must provide written notice of the offender's criminal history to any school or employer that the offender attends while residing at the community residential facility.

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

Secretary must send a similar notice to any approved private school the juvenile will attend, if known, or if unknown, to the approved private schools within the district the juvenile resides or intends to reside.

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

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

The enrolling school is required to request the student's permanent record, including records relating to disciplinary action, violent behavior and other specified violations of law, attendance, immunization records, academic performance and unpaid fines or fees. Upon receipt of the request, the student's former school generally must transmit the information within two school days and the records must be sent as soon as possible. Limitations on providing transcripts are specified in statute for students with unpaid tuition, fees, or fines.

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

*Department of Corrections—Notice to School Districts.* At the earliest possible date, and in no event later than 30 days before an offender is released from confinement, the Department of Corrections (DOC) must provide notice to the school district board of directors of the district in which the offender last attended school if the offender:

- is 21 years of age or younger at the time of release;
- has been convicted of a violent offense, a sex offense, or stalking; and
- last attended school in this state.

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

#### Performance Audits by State Auditor.

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

The second audit, *Evaluating School Responses to Notifications of Student Criminal Offenses*, was released on November 5, 2018, and examined what happens to notifications after principals and district officials receive them. The second audit also examined ways that

principals and school district officials might better share criminal history information with teachers and students' subsequent schools.

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### **Summary of Substitute Bill:**

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

- the school district superintendent or designee must provide the received information to the principal of the school that the student was or will be enrolled in;
- if the information is about a sex offense, the principal must comply with specified notification requirements that vary according to the risk level of the student; and
- upon receipt of information about a violent offense or a school disciplinary action, the principal may share the information with a staff member if, in the principal's judgment, the information is necessary for the staff member to supervise the student, the staff member to provide or refer the student to therapeutic or behavioral health services, or security purposes.

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

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

*School District Boards of Directors and Washington State School Directors' Association.* Provisions governing school district obligations for notifications of criminal offenses by students are modified. By September 1, 2019, each school district board of directors must adopt a policy that addresses:

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

The Washington State School Directors' Association (WSSDA), rather than the Office of the Superintendent of Public Instruction, must adopt and revise as necessary a related model policy. This model policy must be disseminated by the WSSDA and made available to the public on its website. School districts, in drafting their own policies, must review the model policy.

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

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

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

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

If a person is adjudicated in juvenile court or convicted in adult criminal court of a violent offense or a sex offense, the court must provide written notification of the adjudication or adult criminal court conviction to the administrator, a defined term, of the school where the person:

- was enrolled prior to adjudication or conviction; or
- has expressed an intention to enroll following adjudication or conviction.

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

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

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

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

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

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

Provisions directing the Secretary to send notice to the applicable public schools, school district boards of directors, and private schools regarding juveniles who have committed sex or violent offenses, and in certain circumstances, stalking offenses, are replaced with new notification requirements for the Secretary. With limited exceptions, the Secretary must, at

the earliest practicable date, and in no event later than 30 days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility, send written notice of the discharge, parole, authorized leave or release, or transfer of an individual who is found to have committed a violent offense or a sex offense to the administrator of the school where the juvenile either:

- was enrolled prior to incarceration or detention; or
- has expressed an intention to enroll following his or her release.

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

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

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

- was enrolled prior to incarceration or detention; or
- has expressed an intention to enroll following his or her release.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill requires a model policy that is to be adopted by the WSSDA relating to threats of violence or harm to students and employees and compliance with proposed school notification requirements, to be disseminated by the WSSDA and posted on its website rather than on the website of the OSPI.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

#### **Staff Summary of Public Testimony:**

(In support) This bill stems from an investigation and reports by the SAO. In 1995 the Legislature enacted school notification laws that require schools to be notified of criminal offenses by students. The audit by the SAO found that schools are not complying with notification duties, in part because of burdensome requirements and the wide scope of the offenses that trigger a notice. A work group representing numerous entities convened to work on notification issues and determined that the number of offenses that trigger a notice requirement needed to be narrowed to only the most serious offenses: sex offenses and violent offenses. Under the bill, the notice will be provided to the superintendent of the

district who will forward that information to principals for him or her to share as appropriate. Some stakeholders have provided suggestions for amendments.

The OSPI worked closely with the SAO as they conducted the school notification performance audits. The bill is responsive to the findings and recommendations of the audits and clarifies, simplifies, and aligns notification requirements. This bill will help ensure that notification processes have the intended impact and will help to promote success for students who are, or have been, in the criminal justice system.

Students in crisis and students with a history of violence are sometimes enrolled in school without educators' knowledge. Principals must be informed when these students enroll and the mental health team should also know about the student. Any educator that has a direct responsibility for the student should be informed and provided with the appropriate information.

The bill takes a complex process and adds simplicity and clarity, but a small technical change should be made to the legislation.

(Opposed) None.

(Other) School principals have concerns about notice requirements that are narrowed in the bill, especially the removal of court notice requirements relating to violations by students of controlled substance and liquor laws. Principals want to know about all criminal offenses of students, and they need that information to properly perform their duties, including properly sharing the information.

**Persons Testifying:** (In support) Representative Goodman, prime sponsor; Lucinda Young, Washington Education Association; Martin Mueller, Office of the Superintendent of Public Instruction; and Jessica Vavrus, Washington State School Directors' Association.

(Other) Roz Thompson, Association of Washington School Principals.

**Persons Signed In To Testify But Not Testifying:** None.