

HOUSE BILL REPORT

HB 1191

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], 1/14/20, 2/4/20 [DP2S].

Brief Summary of Second 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 and violations of firearms and dangerous weapons laws, by establishing uniformity in notice requirements and in the duties of school personnel after a notification is received.
- Discontinues notifications to schools and school districts for offenses related to the unlawful inhalation of toxic fumes and violations of specified criminal laws.
- Makes information received by school district superintendents, designees of superintendents, and principals in accordance with notification requirements for certain criminal offenses by students exempt from disclosure under the Public Records Act.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 10 members: Representatives Santos, Chair; Dolan, Vice Chair; Paul, Vice Chair; Bergquist, Callan, Harris, Ortiz-Self, Stonier, Thai and Valdez.

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.

Minority Report: Do not pass. Signed by 7 members: Representatives Steele, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Caldier, Corry, Rude and Ybarra.

Staff: Ethan Moreno (786-7386).

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 or employed by a school or 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 public safety 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 provide notice to the parent or legal guardian that it will notify the principal of the student's school of the disposition of the case. The 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 enumerated 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 Children, Youth, and Families. With limited exceptions, the Secretary of the Department of Children, Youth, and Families (Secretary) 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 must 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 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.

Public Records Act.

The Public Records Act (PRA) requires state and local agencies to make their written records available to the public for inspection and copying upon request, unless the information fits into one of the numerous specific exemptions in the PRA or otherwise provided in law. The stated policy of the PRA favors disclosure and requires narrow application of the listed exemptions.

Summary of Second Substitute Bill:

Notifications to Schools and School Districts of Student Criminal Offences.

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, a violation of firearms and dangerous weapons laws, or a violation of controlled substance laws, 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;
- upon receipt of information about a violent offense, a violation of firearms and dangerous weapons laws, unlawful possession or delivery, or both, of a controlled substance, or a school disciplinary action, the principal may, subject to certain requirements, 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; and
- upon receipt of information about an adjudication in juvenile court for an unlawful possession of a controlled substance, the principal must notify the student and the parent or legal guardian at least five days before sharing the information with a school district staff member. If the student or the student's parent or guardian objects to the proposed sharing of the information, the student, parent, or guardian may appeal the decision to share the information to the superintendent of the district who must make a written and final determination on the matter.

The administrator of a private school must comply with the notification provisions that apply to superintendents, designees of superintendents, and principals. Similarly, the administrator

of a charter public school must comply with the notification provisions that apply to superintendents, designees of superintendents, and principals.

School District Boards of Directors/Superintendent of Public Instruction and Washington State School Directors' Association. Provisions governing school district obligations for notifications of criminal offenses by students are modified. By September 1, 2020, 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 (OSPI), must adopt and revise as necessary a related model policy. The development of the model policy must include consultation with organizations that provide free legal services for youth. The 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, and each school district must adopt the model policy unless it has a compelling reason to develop and adopt a policy that addresses the same content requirements as 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 "designated recipient," 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;
- the administrator of a private school; or
- the director of a department of public safety at an institution of higher education.

If the notification is from a sheriff and in accordance with sex offender notice requirements, the sheriff is no longer required to include the offender's Social Security number in the notice.

If the designated recipient 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 or sex offense, a violation of firearms and dangerous weapons laws, or a violation of controlled substance laws, the court must provide written notification of the adjudication or adult criminal court conviction to the designated recipient, 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, a provision specifying that the required notification can only be made after informing the person's parent or guardian of the notification requirements is removed.

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

- unlawful inhalation of toxic fumes;
- a violation of liquor possession and consumption prohibitions for minors; and
- various crimes specified in enumerated 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 Children, Youth, and Families. 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 designated recipient 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.

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 removed and school personnel are instead obligated to comply with the general notification duties of school officials described above.

Department of Corrections—Notice to School Districts. 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 designated recipient 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.

Public Records Act.

Information received by superintendents, designees of superintendents, and principals in accordance with specified notification requirements for certain criminal offenses by students is not subject to disclosure under the PRA.

Second Substitute Bill Compared to Original Bill:

The second substitute bill makes the following changes to the original bill:

1. includes adjudications and convictions for (a) unlawful possession, delivery, or both, under controlled substance laws, and (b) firearms and dangerous weapons violations, as actions that trigger notification requirements to superintendents, designees of superintendents, and principals, and aligns the discretion that principals have in sharing the received information with staff with provisions in the underlying bill;
2. requires principals who intend to share information with school district staff about an adjudication in a juvenile court for unlawful possession of a controlled substance to notify the student and the parent or legal guardian before doing so, and establishes appeal provisions for students, parents, and guardians who object to the proposed information sharing;
3. removes a provision requiring county sheriffs, when notifying kindergarten through grade 12 schools and institutions of higher education in accordance with registered sex offender requirements, to include Social Security numbers in the notification materials;
4. removes a provision requiring courts, when notifying a school official of a student's conviction in adult criminal court or of an adjudication or diversion agreement with a juvenile court for specific offenses, to notify the parent or legal guardian before notifying the school official;
5. requires the WSSDA, when creating a model policy related to notifying schools of certain criminal student actions, to consult with organizations that provide free legal services to youth;
6. requires the model policy to be disseminated by the WSSDA and posted on its website instead of the website of the OSPI;
7. requires each school district to adopt the model policy of the WSSDA unless it has a compelling reason to develop and adopt a policy that addresses the same content requirements as the model policy;
8. expressly provides that notification information received by designated school officials regarding certain criminal offenses by students is not subject to disclosure under the PRA; and
9. makes nonsubstantive technical changes, including correcting an erroneous statutory reference and changing "administrator" references to "designated recipient."

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second 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) The State Auditor's Office approached the sponsor regarding notification requirements to schools for returning students who had run afoul of the law. The State Auditor found that very few school districts were complying with notification laws and that reforms were necessary. An informal task force of stakeholders was convened to revise and reframe the law so that it prepares schools to reintegrate the students into school environments. The bill did not advance last year because of issues related to controlled substance violations involving drug dealing and possession. A compromise on those issues has been reached and additional notification and appeal provisions have been added.

The bill appears technical and legal in nature, but it is about returning students who have made really bad decisions back to school so that they can continue their education, graduate, and move on with their lives. The bill clearly states timelines for notifications, who should be notified and when, and due process rights. The bill strengthened and clarified the internal notification process with regard to principals and staff. School staff understand their professional responsibilities and how to protect confidentiality.

A request to remove student Social Security numbers from law enforcement notifications to schools and school districts was honored in a proposed substitute version of the bill.

Principals are concerned for the health and safety of all kids. This bill is a good example of working with community agencies and law enforcement officials to share vital information and promote safety.

This bill is responsive to the findings of the State Auditor. The bill simplifies and aligns the notification process and will help ensure that the notification has the intended positive impact on school safety and supporting students' educational success.

(Opposed) None.

(Other) Minors can be issued extreme risk protection orders and there is a gap with regard to notifying schools about these orders. An attempt was made to address this issue, but a solution with the right language was not found. The bill is supported, but the unresolved issue of notifying schools when an extreme risk protection order has been issued for a minor may be the subject of future conversations with lawmakers.

Persons Testifying: (In support) Representative Goodman, prime sponsor; Lucinda Young, Washington Education Association; James McMahan, Washington Association of Sheriffs

and Police Chiefs; Roz Thompson, Association of Washington School Principals; and Martin Mueller, Office of the Superintendent of Public Instruction.

(Other) Marie Sullivan, Washington State Parent teacher Association.

Persons Signed In To Testify But Not Testifying: None.