

SENATE BILL REPORT

2SHB 1191

As Passed Senate - Amended, March 4, 2020

Title: An act relating to school notifications.

Brief Description: Concerning school notifications.

Sponsors: House Committee on Education (originally sponsored by Representatives Goodman and Frame).

Brief History: Passed House: 2/17/20, 57-41.

Committee Activity: Early Learning & K-12 Education: 2/26/20, 2/28/20 [DPA, w/oRec].

Floor Activity:

Passed Senate - Amended: 3/04/20, 29-17.

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.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: Do pass as amended.

Signed by Senators Wellman, Chair; Wilson, C., Vice Chair; Holy, Hunt, McCoy, Mullet, Pedersen and Salomon.

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: That it be referred without recommendation.

Signed by Senators Hawkins, Ranking Member; Padden and Wagoner.

Staff: Alex Fairfortune (786-7416)

Background: Washington statutes include a variety of school and district notification requirements related to students who have been found to have committed certain crimes. The notification requirements, summarized below, establish duties for state agencies, local law enforcement agencies, and school officials.

School District Boards and the 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 school administrators about a student's conduct and disciplinary records, official juvenile court records, and history of violence, to classroom teachers, 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 (Superintendent) is required to adopt a model policy that includes the issues listed above, which school districts must review when drafting their policies.

County Sheriffs. 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 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 supervises the student or should be aware of the student's record for security purposes; or
- if the student is classified as a risk level I, the principal or department must provide the information only to personnel who should be aware of the student's record for security purposes.

Court Notifications. 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. 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, including crimes related to assault, kidnapping, harassment, arson, reckless burning, and malicious mischief.

After receiving the information from the court, the principal must provide the information to the student's teachers and other personnel who supervise the student or should be aware of the student's record for security purposes.

Department of Children, Youth, and Families. With limited exceptions, the Secretary of the Department of Children, Youth, and Families (DCYF) must provide written notice within 30 days when a juvenile found to have committed a violent offense, sex offense, or stalking offense has received discharge, parole, authorized leave or release, or transfer to a community residential facility. The notice must be provided to the following parties:

- 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 which the juvenile last attended school, with some exceptions;
- the approved private and public schools which the juvenile intends to attend or which the juvenile last attended, with some exceptions.

Student Transfers. When enrolling a student who has attended school in another school district, the enrolling school must request the student's permanent record, and may request the parent or student to indicate in writing whether the student has any past, current, or pending disciplinary action, history of violent behavior, or other specified violations of law. When a school receives information from the student's prior school or family that the 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 staff or students, the school must provide the information to the student's teachers and security personnel.

Department of Corrections. No later than 30 days before an offender is released from confinement, the Department of Corrections must provide notice to the 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.

Performance Audits by the 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.

Summary of Second Substitute Bill: General Notification of School Officials. If a school district superintendent, the superintendent's designee, or a school principal receives notice from a county sheriff, a court, the Department of Corrections, or other specified designees, regarding a student who has committed a violent or sex offense, a violation of firearms and dangerous weapons laws, a violation of controlled substances laws, or a school disciplinary action, the recipient must comply with the following:

- the superintendent or designee must provide the 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 of a controlled substance, or a school disciplinary action, the principal may share the information with a staff member. The information must, in the principal's judgement, be necessary for the staff member to supervise the student, the staff member to provide or refer the student to certain services, or for 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 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, they may appeal the decision to share the information to the superintendent of the district, who must make a final determination on the matter.

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

School District Board and Superintendent of Public Instruction. 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 a 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 publish a related model policy. The development of the model policy must include consultation with organizations that provide free legal services for youth. 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. 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 of the school where the person was enrolled or has expressed an intention to enroll. No notification is required if the person is between 18-21 years of age, and the person's prior or intended enrollment information cannot be obtained or the person asserts no intention of enrolling in an educational program.

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 courts to notify school principals 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, including crimes related to assault, kidnapping, harassment, arson, reckless burning, and malicious mischief.

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, no 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;
- the sheriff of the county in which the juvenile will reside; and
- the designated recipient of the school where the juvenile was enrolled or has expressed an intention to enroll.

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.

Student Transfers. 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. Requirements governing notifications from the DOC to school district boards of directors regarding the release of 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 or has expressed an intention to enroll.

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 Public Records Act.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Second Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Current notification and disclosure requirements were enacted during an earlier era when there was a different way of thinking about juvenile offenders. It was reported that school districts were not following this law, so a broad task force was convened to look at reforming who should be notified and on what offenses. This bill does not waste time on lower level offenses and helps prevent stigmatizing students. This reflects several years worth of work to take outdated laws and turn them into efficient notification processes that are streamlined.

CON: Alerting teachers of criminal offenses can cause discrimination against students. This bill does not touch on deferred dispositions or suspended sentences. We need more data collection requirements by OSPI to know how many notifications are being shared, what types of notifications are included, and what the educational outcomes of those youth are.

OTHER: A technical amendment is needed to account for circumstances when the courts do not have the necessary information regarding school enrollment to provide the required notification.

Persons Testifying: PRO: Representative Roger Goodman, Prime Sponsor; Roz Thompson, Association of Washington School Principals.

CON: Brandy Sincyr, Columbia Legal Services.

OTHER: Dory Nicpon, Board for Judicial Administration.

Persons Signed In To Testify But Not Testifying: PRO: Lucinda Young, Washington Education Association; Suzie Hanson, Washington Federation of Independent Schools.