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SENATE BILL 6403

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State of Washington

63rd Legislature

2014 Regular Session

By Senators Sheldon and Roach

Read first time 01/23/14. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to juvenile offender court records; and amending  
2 RCW 13.50.050 and 10.97.050.

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

4 **Sec. 1.** RCW 13.50.050 and 2012 c 177 s 2 are each amended to read  
5 as follows:

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

8 (2) The official juvenile court file of any alleged or proven  
9 juvenile offender shall be open to public inspection, unless sealed  
10 pursuant to subsection (~~(12)~~) (13) of this section.

11 (3) Official juvenile court files must be available for bulk  
12 distribution through the judicial information system records of the  
13 administrative office of the courts.

14 (4) All records other than the official juvenile court file are  
15 confidential and may be released only as provided in this section, RCW  
16 13.50.010, 13.40.215, and 4.24.550.

17 (~~(4)~~) (5) Except as otherwise provided in this section and RCW  
18 13.50.010, records retained or produced by any juvenile justice or care  
19 agency may be released to other participants in the juvenile justice or

1 care system only when an investigation or case involving the juvenile  
2 in question is being pursued by the other participant or when that  
3 other participant is assigned the responsibility for supervising the  
4 juvenile.

5 ((+5+)) (6) Except as provided in RCW 4.24.550, information not in  
6 an official juvenile court file concerning a juvenile or a juvenile's  
7 family may be released to the public only when that information could  
8 not reasonably be expected to identify the juvenile or the juvenile's  
9 family.

10 ((+6+)) (7) Notwithstanding any other provision of this chapter,  
11 the release, to the juvenile or his or her attorney, of law enforcement  
12 and prosecuting attorneys' records pertaining to investigation,  
13 diversion, and prosecution of juvenile offenses shall be governed by  
14 the rules of discovery and other rules of law applicable in adult  
15 criminal investigations and prosecutions.

16 ((+7+)) (8) Upon the decision to arrest or the arrest, law  
17 enforcement and prosecuting attorneys may cooperate with schools in  
18 releasing information to a school pertaining to the investigation,  
19 diversion, and prosecution of a juvenile attending the school. Upon  
20 the decision to arrest or the arrest, incident reports may be released  
21 unless releasing the records would jeopardize the investigation or  
22 prosecution or endanger witnesses. If release of incident reports  
23 would jeopardize the investigation or prosecution or endanger  
24 witnesses, law enforcement and prosecuting attorneys may release  
25 information to the maximum extent possible to assist schools in  
26 protecting other students, staff, and school property.

27 ((+8+)) (9) The juvenile court and the prosecutor may set up and  
28 maintain a central recordkeeping system which may receive information  
29 on all alleged juvenile offenders against whom a complaint has been  
30 filed pursuant to RCW 13.40.070 whether or not their cases are  
31 currently pending before the court. The central recordkeeping system  
32 may be computerized. If a complaint has been referred to a diversion  
33 unit, the diversion unit shall promptly report to the juvenile court or  
34 the prosecuting attorney when the juvenile has agreed to diversion. An  
35 offense shall not be reported as criminal history in any central  
36 recordkeeping system without notification by the diversion unit of the  
37 date on which the offender agreed to diversion.

1       (~~(9)~~) (10) Upon request of the victim of a crime or the victim's  
2 immediate family, the identity of an alleged or proven juvenile  
3 offender alleged or found to have committed a crime against the victim  
4 and the identity of the alleged or proven juvenile offender's parent,  
5 guardian, or custodian and the circumstance of the alleged or proven  
6 crime shall be released to the victim of the crime or the victim's  
7 immediate family.

8       (~~(10)~~) (11) Subject to the rules of discovery applicable in adult  
9 criminal prosecutions, the juvenile offense records of an adult  
10 criminal defendant or witness in an adult criminal proceeding shall be  
11 released upon request to prosecution and defense counsel after a charge  
12 has actually been filed. The juvenile offense records of any adult  
13 convicted of a crime and placed under the supervision of the adult  
14 corrections system shall be released upon request to the adult  
15 corrections system.

16       (~~(11)~~) (12) In any case in which an information has been filed  
17 pursuant to RCW 13.40.100 or a complaint has been filed with the  
18 prosecutor and referred for diversion pursuant to RCW 13.40.070, the  
19 person the subject of the information or complaint may file a motion  
20 with the court to have the court vacate its order and findings, if any,  
21 and, subject to subsection (~~(23)~~) (24) of this section, order the  
22 sealing of the official juvenile court file, the social file, and  
23 records of the court and of any other agency in the case.

24       (~~(12)~~) (13)(a) The court shall not grant any motion to seal  
25 records for class A offenses made pursuant to subsection (~~(11)~~) (12)  
26 of this section that is filed on or after July 1, 1997, unless:

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

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

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

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

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

4 (vi) Full restitution has been paid.

5 (b) The court shall not grant any motion to seal records for class  
6 B, C, gross misdemeanor and misdemeanor offenses and diversions made  
7 under subsection ~~((+11+))~~ (12) of this section unless:

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

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

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

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

20 (v) Full restitution has been paid.

21 (c) Notwithstanding the requirements in (a) or (b) of this  
22 subsection, the court shall grant any motion to seal records of any  
23 deferred disposition vacated under RCW 13.40.127(9) prior to June 7,  
24 2012, if restitution has been paid and the person is eighteen years of  
25 age or older at the time of the motion.

26 ~~((+13+))~~ (14) The person making a motion pursuant to subsection  
27 ~~((+11+))~~ (12) of this section shall give reasonable notice of the  
28 motion to the prosecution and to any person or agency whose files are  
29 sought to be sealed.

30 ~~((+14+))~~ (15)(a) If the court grants the motion to seal made  
31 pursuant to subsection ~~((+11+))~~ (12) of this section, it shall, subject  
32 to subsection ~~((+23+))~~ (24) of this section, order sealed the official  
33 juvenile court file, the social file, and other records relating to the  
34 case as are named in the order. Thereafter, the proceedings in the  
35 case shall be treated as if they never occurred, and the subject of the  
36 records may reply accordingly to any inquiry about the events, records  
37 of which are sealed. Any agency shall reply to any inquiry concerning

1 confidential or sealed records that records are confidential, and no  
2 information can be given about the existence or nonexistence of records  
3 concerning an individual.

4 (b) In the event the subject of the juvenile records receives a  
5 full and unconditional pardon, the proceedings in the matter upon which  
6 the pardon has been granted shall be treated as if they never occurred,  
7 and the subject of the records may reply accordingly to any inquiry  
8 about the events upon which the pardon was received. Any agency shall  
9 reply to any inquiry concerning the records pertaining to the events  
10 for which the subject received a pardon that records are confidential,  
11 and no information can be given about the existence or nonexistence of  
12 records concerning an individual.

13 ~~((+15+))~~ (16) Inspection of the files and records included in the  
14 order to seal may thereafter be permitted only by order of the court  
15 upon motion made by the person who is the subject of the information or  
16 complaint, except as otherwise provided in RCW 13.50.010(8) and  
17 subsection ~~((+23+))~~ (24) of this section.

18 ~~((+16+))~~ (17) Any adjudication of a juvenile offense or a crime  
19 subsequent to sealing has the effect of nullifying the sealing order.  
20 Any charging of an adult felony subsequent to the sealing has the  
21 effect of nullifying the sealing order for the purposes of chapter  
22 9.94A RCW. The administrative office of the courts shall ensure that  
23 the superior court judicial information system provides prosecutors  
24 access to information on the existence of sealed juvenile records.

25 ~~((+17+))~~ (18)(a)(i) Subject to subsection ~~((+23+))~~ (24) of this  
26 section, all records maintained by any court or law enforcement agency,  
27 including the juvenile court, local law enforcement, the Washington  
28 state patrol, and the prosecutor's office, shall be automatically  
29 destroyed within ninety days of becoming eligible for destruction.  
30 Juvenile records are eligible for destruction when:

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

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

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

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

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

2 (ii) No less than quarterly, the administrative office of the  
3 courts shall provide a report to the juvenile courts of those  
4 individuals whose records may be eligible for destruction. The  
5 juvenile court shall verify eligibility and notify the Washington state  
6 patrol and the appropriate local law enforcement agency and  
7 prosecutor's office of the records to be destroyed. The requirement to  
8 destroy records under this subsection is not dependent on a court  
9 hearing or the issuance of a court order to destroy records.

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

13 (b) All records maintained by any court or law enforcement agency,  
14 including the juvenile court, local law enforcement, the Washington  
15 state patrol, and the prosecutor's office, shall be automatically  
16 destroyed within thirty days of being notified by the governor's office  
17 that the subject of those records received a full and unconditional  
18 pardon by the governor.

19 (c) A person eighteen years of age or older whose criminal history  
20 consists entirely of one diversion agreement or counsel and release  
21 entered prior to June 12, 2008, may request that the court order the  
22 records in his or her case destroyed. The request shall be granted,  
23 subject to subsection ~~((+23+))~~ (24) of this section, if the court finds  
24 that two years have elapsed since completion of the agreement or  
25 counsel and release.

26 (d) A person twenty-three years of age or older whose criminal  
27 history consists of only referrals for diversion may request that the  
28 court order the records in those cases destroyed. The request shall be  
29 granted, subject to subsection ~~((+23+))~~ (24) of this section, if the  
30 court finds that all diversion agreements have been successfully  
31 completed and no proceeding is pending against the person seeking the  
32 conviction of a criminal offense.

33 ~~((+18+))~~ (19) If the court grants the motion to destroy records  
34 made pursuant to subsection ~~((+17+))~~ (18)(c) or (d) of this section, it  
35 shall, subject to subsection ~~((+23+))~~ (24) of this section, order the  
36 official juvenile court file, the social file, and any other records  
37 named in the order to be destroyed.

1        ~~((+19+))~~ (20) The person making the motion pursuant to subsection  
2 ~~((+17+))~~ (18)(c) or (d) of this section shall give reasonable notice of  
3 the motion to the prosecuting attorney and to any agency whose records  
4 are sought to be destroyed.

5        ~~((+20+))~~ (21) Any juvenile to whom the provisions of this section  
6 may apply shall be given written notice of his or her rights under this  
7 section at the time of his or her disposition hearing or during the  
8 diversion process.

9        ~~((+21+))~~ (22) Nothing in this section may be construed to prevent  
10 a crime victim or a member of the victim's family from divulging the  
11 identity of the alleged or proven juvenile offender or his or her  
12 family when necessary in a civil proceeding.

13        ~~((+22+))~~ (23) Any juvenile justice or care agency may, subject to  
14 the limitations in subsection ~~((+23+))~~ (24) of this section and (a) and  
15 (b) of this subsection, develop procedures for the routine destruction  
16 of records relating to juvenile offenses and diversions.

17        (a) Records may be routinely destroyed only when the person the  
18 subject of the information or complaint has attained twenty-three years  
19 of age or older or pursuant to subsection ~~((+17+))~~ (18)(a) of this  
20 section.

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

23        ~~((+23+))~~ (24) Except for subsection ~~((+17+))~~ (18)(b) of this  
24 section, no identifying information held by the Washington state patrol  
25 in accordance with chapter 43.43 RCW is subject to destruction or  
26 sealing under this section. For the purposes of this subsection,  
27 identifying information includes photographs, fingerprints, palmprints,  
28 soleprints, toeprints and any other data that identifies a person by  
29 physical characteristics, name, birthdate or address, but does not  
30 include information regarding criminal activity, arrest, charging,  
31 diversion, conviction or other information about a person's treatment  
32 by the criminal justice system or about the person's behavior.

33        ~~((+24+))~~ (25) Information identifying child victims under age  
34 eighteen who are victims of sexual assaults by juvenile offenders is  
35 confidential and not subject to release to the press or public without  
36 the permission of the child victim or the child's legal guardian.  
37 Identifying information includes the child victim's name, addresses,  
38 location, photographs, and in cases in which the child victim is a

1 relative of the alleged perpetrator, identification of the relationship  
2 between the child and the alleged perpetrator. Information identifying  
3 a child victim of sexual assault may be released to law enforcement,  
4 prosecutors, judges, defense attorneys, or private or governmental  
5 agencies that provide services to the child victim of sexual assault.

6 **Sec. 2.** RCW 10.97.050 and 2012 c 125 s 2 are each amended to read  
7 as follows:

8 (1) Conviction records may be disseminated without restriction.

9 (2) The administrative office of the courts must display any  
10 information from an official juvenile court file on any public web site  
11 that is a statewide index of court cases.

12 (3) Any criminal history record information which pertains to an  
13 incident that occurred within the last twelve months for which a person  
14 is currently being processed by the criminal justice system, including  
15 the entire period of correctional supervision extending through final  
16 discharge from parole, when applicable, may be disseminated without  
17 restriction.

18 ((+3)) (4) Criminal history record information which includes  
19 nonconviction data may be disseminated by a criminal justice agency to  
20 another criminal justice agency for any purpose associated with the  
21 administration of criminal justice, or in connection with the  
22 employment of the subject of the record by a criminal justice or  
23 juvenile justice agency. A criminal justice agency may respond to any  
24 inquiry from another criminal justice agency without any obligation to  
25 ascertain the purpose for which the information is to be used by the  
26 agency making the inquiry.

27 ((+4)) (5) Criminal history record information which includes  
28 nonconviction data may be disseminated by a criminal justice agency to  
29 implement a statute, ordinance, executive order, or a court rule,  
30 decision, or order which expressly refers to records of arrest,  
31 charges, or allegations of criminal conduct or other nonconviction data  
32 and authorizes or directs that it be available or accessible for a  
33 specific purpose.

34 ((+5)) (6) Criminal history record information which includes  
35 nonconviction data may be disseminated to individuals and agencies  
36 pursuant to a contract with a criminal justice agency to provide  
37 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.

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