
SUBSTITUTE SENATE BILL 6245

State of Washington

63rd Legislature

2014 Regular Session

By Senate Law & Justice (originally sponsored by Senators Dansel and Kline)

READ FIRST TIME 02/07/14.

1 AN ACT Relating to the role of parties in cases related to certain
2 notices and records; and amending RCW 9.41.047, 13.50.100, 28A.405.330,
3 46.29.270, 46.29.310, 53.48.030, and 13.34.070.

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

5 **Sec. 1.** RCW 9.41.047 and 2011 c 193 s 2 are each amended to read
6 as follows:

7 (1)(a) At the time a person is convicted or found not guilty by
8 reason of insanity of an offense making the person ineligible to
9 possess a firearm, or at the time a person is committed by court order
10 under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77
11 RCW for mental health treatment, the convicting or committing court
12 shall notify the person, orally and in writing, that the person must
13 immediately surrender any concealed pistol license and that the person
14 may not possess a firearm unless his or her right to do so is restored
15 by a court of record. For purposes of this section a convicting court
16 includes a court in which a person has been found not guilty by reason
17 of insanity.

18 (b) The convicting or committing court shall forward within three
19 judicial days after conviction or entry of the commitment order a copy

1 of the person's driver's license or identicard, or comparable
2 information, along with the date of conviction or commitment, to the
3 department of licensing. When a person is committed by court order
4 under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77
5 RCW, for mental health treatment, the committing court also shall
6 forward, within three judicial days after entry of the commitment
7 order, a copy of the person's driver's license, or comparable
8 information, along with the date of commitment, to the national instant
9 criminal background check system index, denied persons file, created by
10 the federal Brady handgun violence prevention act (P.L. 103-159). The
11 petitioning party shall provide the court with the information
12 required. If more than one commitment order is entered under one cause
13 number, only one notification to the department of licensing and the
14 national instant criminal background check system is required.

15 (2) Upon receipt of the information provided for by subsection (1)
16 of this section, the department of licensing shall determine if the
17 convicted or committed person has a concealed pistol license. If the
18 person does have a concealed pistol license, the department of
19 licensing shall immediately notify the license-issuing authority which,
20 upon receipt of such notification, shall immediately revoke the
21 license.

22 (3)(a) A person who is prohibited from possessing a firearm, by
23 reason of having been involuntarily committed for mental health
24 treatment under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter
25 10.77 RCW, or equivalent statutes of another jurisdiction may, upon
26 discharge, petition the superior court to have his or her right to
27 possess a firearm restored.

28 (b) The petition must be brought in the superior court that ordered
29 the involuntary commitment or the superior court of the county in which
30 the petitioner resides.

31 (c) Except as provided in (d) of this subsection, the court shall
32 restore the petitioner's right to possess a firearm if the petitioner
33 proves by a preponderance of the evidence that:

34 (i) The petitioner is no longer required to participate in court-
35 ordered inpatient or outpatient treatment;

36 (ii) The petitioner has successfully managed the condition related
37 to the commitment;

1 (iii) The petitioner no longer presents a substantial danger to
2 himself or herself, or the public; and

3 (iv) The symptoms related to the commitment are not reasonably
4 likely to recur.

5 (d) If a preponderance of the evidence in the record supports a
6 finding that the person petitioning the court has engaged in violence
7 and that it is more likely than not that the person will engage in
8 violence after his or her right to possess a firearm is restored, the
9 person shall bear the burden of proving by clear, cogent, and
10 convincing evidence that he or she does not present a substantial
11 danger to the safety of others.

12 (e) When a person's right to possess a firearm has been restored
13 under this subsection, the court shall forward, within three judicial
14 days after entry of the restoration order, notification that the
15 person's right to possess a firearm has been restored to the department
16 of licensing, the department of social and health services, and the
17 national instant criminal background check system index, denied persons
18 file.

19 (4) No person who has been found not guilty by reason of insanity
20 may petition a court for restoration of the right to possess a firearm
21 unless the person meets the requirements for the restoration of the
22 right to possess a firearm under RCW 9.41.040(4).

23 **Sec. 2.** RCW 13.50.100 and 2013 c 23 s 7 are each amended to read
24 as follows:

25 (1) This section governs records not covered by RCW 13.50.050.

26 (2) Records covered by this section shall be confidential and shall
27 be released only pursuant to this section and RCW 13.50.010.

28 (3) Records retained or produced by any juvenile justice or care
29 agency may be released to other participants in the juvenile justice or
30 care system only when an investigation or case involving the juvenile
31 in question is being pursued by the other participant or when that
32 other participant is assigned the responsibility of supervising the
33 juvenile. Records covered under this section and maintained by the
34 juvenile courts which relate to the official actions of the agency may
35 be entered in the statewide judicial information system. ~~((However,~~
36 ~~truancy records associated with a juvenile who has no other case~~
37 ~~history, and records of a juvenile's parents who have no other case~~

1 ~~history, shall be removed from the judicial information system when the~~
2 ~~juvenile is no longer subject to the compulsory attendance laws in~~
3 ~~chapter 28A.225 RCW.))~~ A county clerk is not liable for unauthorized
4 release of this data by persons or agencies not in his or her employ or
5 otherwise subject to his or her control, nor is the county clerk liable
6 for inaccurate or incomplete information collected from litigants or
7 other persons required to provide identifying data pursuant to this
8 section.

9 (4) Subject to (a) of this subsection, the department of social and
10 health services may release information retained in the course of
11 conducting child protective services investigations to a family or
12 juvenile court hearing a petition for custody under chapter 26.10 RCW.

13 (a) Information that may be released shall be limited to
14 information regarding investigations in which: (i) The juvenile was an
15 alleged victim of abandonment or abuse or neglect; or (ii) the
16 petitioner for custody of the juvenile, or any individual aged sixteen
17 or older residing in the petitioner's household, is the subject of a
18 founded or currently pending child protective services investigation
19 made by the department subsequent to October 1, 1998.

20 (b) Additional information may only be released with the written
21 consent of the subject of the investigation and the juvenile alleged to
22 be the victim of abandonment or abuse and neglect, or the parent,
23 custodian, guardian, or personal representative of the juvenile, or by
24 court order obtained with notice to all interested parties.

25 (5) Any disclosure of records or information by the department of
26 social and health services pursuant to this section shall not be deemed
27 a waiver of any confidentiality or privilege attached to the records or
28 information by operation of any state or federal statute or regulation,
29 and any recipient of such records or information shall maintain it in
30 such a manner as to comply with such state and federal statutes and
31 regulations and to protect against unauthorized disclosure.

32 (6) A contracting agency or service provider of the department of
33 social and health services that provides counseling, psychological,
34 psychiatric, or medical services may release to the office of the
35 family and children's ombuds information or records relating to
36 services provided to a juvenile who is dependent under chapter 13.34
37 RCW without the consent of the parent or guardian of the juvenile, or

1 of the juvenile if the juvenile is under the age of thirteen years,
2 unless such release is otherwise specifically prohibited by law.

3 (7) A juvenile, his or her parents, the juvenile's attorney, and
4 the juvenile's parent's attorney, shall, upon request, be given access
5 to all records and information collected or retained by a juvenile
6 justice or care agency which pertain to the juvenile except:

7 (a) If it is determined by the agency that release of this
8 information is likely to cause severe psychological or physical harm to
9 the juvenile or his or her parents the agency may withhold the
10 information subject to other order of the court: PROVIDED, That if the
11 court determines that limited release of the information is
12 appropriate, the court may specify terms and conditions for the release
13 of the information; or

14 (b) If the information or record has been obtained by a juvenile
15 justice or care agency in connection with the provision of counseling,
16 psychological, psychiatric, or medical services to the juvenile, when
17 the services have been sought voluntarily by the juvenile, and the
18 juvenile has a legal right to receive those services without the
19 consent of any person or agency, then the information or record may not
20 be disclosed to the juvenile's parents without the informed consent of
21 the juvenile unless otherwise authorized by law; or

22 (c) That the department of social and health services may delete
23 the name and identifying information regarding persons or organizations
24 who have reported alleged child abuse or neglect.

25 (8) A juvenile or his or her parent denied access to any records
26 following an agency determination under subsection (7) of this section
27 may file a motion in juvenile court requesting access to the records.
28 The court shall grant the motion unless it finds access may not be
29 permitted according to the standards found in subsection (7)(a) and (b)
30 of this section.

31 (9) The person making a motion under subsection (8) of this section
32 shall give reasonable notice of the motion to all parties to the
33 original action and to any agency whose records will be affected by the
34 motion.

35 (10) Subject to the rules of discovery in civil cases, any party to
36 a proceeding seeking a declaration of dependency or a termination of
37 the parent-child relationship and any party's counsel and the guardian
38 ad litem of any party, shall have access to the records of any natural

1 or adoptive child of the parent, subject to the limitations in
2 subsection (7) of this section. A party denied access to records may
3 request judicial review of the denial. If the party prevails, he or
4 she shall be awarded attorneys' fees, costs, and an amount not less
5 than five dollars and not more than one hundred dollars for each day
6 the records were wrongfully denied.

7 (11) No unfounded allegation of child abuse or neglect as defined
8 in RCW 26.44.020(1) may be disclosed to a child-placing agency, private
9 adoption agency, or any other licensed provider.

10 **Sec. 3.** RCW 28A.405.330 and 1990 c 33 s 398 are each amended to
11 read as follows:

12 The (~~clerk of the superior court~~) filing party, within ten days
13 of (~~receipt of~~) filing the notice of appeal shall notify in writing
14 the chair of the school board of the taking of the appeal, and within
15 twenty days thereafter the school board shall at its expense file the
16 complete transcript of the evidence and the papers and exhibits
17 relating to the decision complained of, all properly certified to be
18 correct.

19 **Sec. 4.** RCW 46.29.270 and 1999 c 296 s 2 are each amended to read
20 as follows:

21 The following words and phrases when used in this chapter shall,
22 for the purpose of this chapter, have the meanings respectively
23 ascribed to them in this section.

24 (1) The term "judgment" shall mean: Any judgment which shall have
25 become final by expiration without appeal of the time within which an
26 appeal might have been perfected, or by final affirmation on appeal,
27 rendered by a court of competent jurisdiction of any state or of the
28 United States, upon a cause of action arising out of the ownership,
29 maintenance or use of any vehicle of a type subject to registration
30 under the laws of this state, for damages, including damages for care
31 and loss of services, because of bodily injury to or death of any
32 person, or for damages because of injury to or destruction of property,
33 including the loss of use thereof, or upon a cause of action on an
34 agreement of settlement for such damages. The first page of a judgment
35 must include a judgment summary that states damages are awarded under

1 this section and the (~~clerk of the court~~) judgment creditor must give
2 notice as outlined in RCW 46.29.310.

3 (2) The term "state" shall mean: Any state, territory, or
4 possession of the United States, the District of Columbia, or any
5 province of the Dominion of Canada.

6 **Sec. 5.** RCW 46.29.310 and 2010 c 8 s 9039 are each amended to read
7 as follows:

8 Whenever any person fails within thirty days to satisfy any
9 judgment, then it shall be the duty of the (~~clerk of the court, or of
10 the judge of a court which has no clerk, in which any such judgment is
11 rendered within this state~~) judgment creditor to forward immediately
12 to the department the following:

13 (1) A certified copy or abstract of such judgment;

14 (2) A certificate of facts relative to such judgment;

15 (3) Where the judgment is by default, a certified copy or abstract
16 of that portion of the record which indicates the manner in which
17 service of summons was effectuated and all the measures taken to
18 provide the defendant with timely and actual notice of the suit against
19 him or her.

20 **Sec. 6.** RCW 53.48.030 and 1941 c 87 s 3 are each amended to read
21 as follows:

22 Upon the filing of such petition for an order of dissolution, the
23 superior court shall enter an order setting the same for hearing at a
24 date not less than thirty days from the date of filing, and the (~~clerk
25 of the court of said county~~) petitioner shall give notice of such
26 hearing by publication in a newspaper of general circulation in the
27 county in which the district is located once a week for three
28 successive weeks, and by posting in three public places in the county
29 in which the district is located at least twenty-one days before said
30 hearing. At least one notice shall be posted in the district. The
31 notices shall set forth the filing of the petition, its purpose and the
32 date and place of the hearing thereon.

33 **Sec. 7.** RCW 13.34.070 and 2011 c 309 s 25 are each amended to read
34 as follows:

35 (1) Upon the filing of the petition, the (~~clerk of the court~~)

1 petitioner shall issue a summons, one directed to the child, if the
2 child is twelve or more years of age, and another to the parents,
3 guardian, or custodian, and such other persons as appear to the court
4 to be proper or necessary parties to the proceedings, requiring them to
5 appear personally before the court at the time fixed to hear the
6 petition. If the child is developmentally disabled and not living at
7 home, the notice shall be given to the child's custodian as well as to
8 the child's parent. The developmentally disabled child shall not be
9 required to appear unless requested by the court. When the custodian
10 is summoned, the parent or guardian or both shall also be served with
11 a summons. The fact-finding hearing on the petition shall be held no
12 later than seventy-five days after the filing of the petition, unless
13 exceptional reasons for a continuance are found. The party requesting
14 the continuance shall have the burden of proving by a preponderance of
15 the evidence that exceptional circumstances exist. To ensure that the
16 hearing on the petition occurs within the seventy-five day time limit,
17 the court shall schedule and hear the matter on an expedited basis.

18 (2) A copy of the petition shall be attached to each summons.

19 (3) The summons shall advise the parties of the right to counsel.
20 The summons shall also inform the child's parent, guardian, or legal
21 custodian of his or her right to appointed counsel, if indigent, and of
22 the procedure to use to secure appointed counsel.

23 (4) The summons shall advise the parents that they may be held
24 responsible for the support of the child if the child is placed in out-
25 of-home care.

26 (5) The judge may endorse upon the summons an order directing any
27 parent, guardian, or custodian having the custody or control of the
28 child to bring the child to the hearing.

29 (6) If it appears from affidavit or sworn statement presented to
30 the judge that there is probable cause for the issuance of a warrant of
31 arrest or that the child needs to be taken into custody pursuant to RCW
32 13.34.050, the judge may endorse upon the summons an order that an
33 officer serving the summons shall at once take the child into custody
34 and take him or her to the place of shelter designated by the court.

35 (7) If the person summoned as provided in this section is subject
36 to an order of the court pursuant to subsection (5) or (6) of this
37 section, and if the person fails to abide by the order, he or she may

1 be proceeded against as for contempt of court. The order endorsed upon
2 the summons shall conspicuously display the following legend:

3 NOTICE:

4 VIOLATION OF THIS ORDER
5 IS SUBJECT TO PROCEEDING
6 FOR CONTEMPT OF COURT
7 PURSUANT TO RCW 13.34.070.

8 (8) If a party to be served with a summons can be found within the
9 state, the summons shall be served upon the party personally as soon as
10 possible following the filing of the petition, but in no case later
11 than fifteen court days before the fact-finding hearing, or such time
12 as set by the court. If the party is within the state and cannot be
13 personally served, but the party's address is known or can with
14 reasonable diligence be ascertained, the summons may be served upon the
15 party by mailing a copy by certified mail as soon as possible following
16 the filing of the petition, but in no case later than fifteen court
17 days before the hearing, or such time as set by the court. If a party
18 other than the child is without the state but can be found or the
19 address is known, or can with reasonable diligence be ascertained,
20 service of the summons may be made either by delivering a copy to the
21 party personally or by mailing a copy thereof to the party by certified
22 mail at least ten court days before the fact-finding hearing, or such
23 time as set by the court.

24 (9) Service of summons may be made under the direction of the court
25 by any person eighteen years of age or older who is not a party to the
26 proceedings or by any law enforcement officer, probation counselor, or
27 department employee.

28 (10) Whenever the court or the petitioning party in a proceeding
29 under this chapter knows or has reason to know that an Indian child as
30 defined in RCW 13.38.040 is involved, the petitioning party shall
31 promptly provide notice to the child's parent or Indian custodian and
32 to the agent designated by the child's Indian tribe to receive such
33 notices. Notice shall comply with RCW 13.38.070.

--- END ---