
SENATE BILL 5658

State of Washington 64th Legislature 2015 Regular Session

By Senators Dandel and Kohl-Welles

Read first time 01/28/15. Referred to Committee on Law & Justice.

1 AN ACT Relating to the role of parties in cases related to
2 certain notices and records; amending RCW 9.41.047, 13.50.100,
3 28A.405.330, 46.29.270, 46.29.310, 53.48.030, and 13.34.070; and
4 reenacting and amending RCW 13.50.010.

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

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

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

19 (b) The convicting or committing court shall forward within three
20 judicial days after conviction or entry of the commitment order a
21 copy of the person's driver's license or identicard, or comparable

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

15 (2) Upon receipt of the information provided for by subsection
16 (1) of this section, the department of licensing shall determine if
17 the convicted or committed person has a concealed pistol license. If
18 the person does have a concealed pistol license, the department of
19 licensing shall immediately notify the license-issuing authority
20 which, upon receipt of such notification, shall immediately revoke
21 the 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,
25 chapter 10.77 RCW, or equivalent statutes of another jurisdiction
26 may, upon discharge, petition the superior court to have his or her
27 right to possess a firearm restored.

28 (b) The petition must be brought in the superior court that
29 ordered the involuntary commitment or the superior court of the
30 county in which 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
37 related to the commitment;

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

1 (iv) The symptoms related to the commitment are not reasonably
2 likely to recur.

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

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

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

21 **Sec. 2.** RCW 13.50.010 and 2014 c 175 s 2 and 2014 c 117 s 5 are
22 each reenacted and amended to read as follows:

23 (1) For purposes of this chapter:

24 (a) "Juvenile justice or care agency" means any of the following:
25 Police, diversion units, court, prosecuting attorney, defense
26 attorney, detention center, attorney general, the legislative
27 children's oversight committee, the office of the family and
28 children's ombuds, the department of social and health services and
29 its contracting agencies, schools; persons or public or private
30 agencies having children committed to their custody; and any
31 placement oversight committee created under RCW 72.05.415;

32 (b) "Official juvenile court file" means the legal file of the
33 juvenile court including, but not limited to, containing the petition
34 or information, motions, memorandums, briefs, findings of the court,
35 documents not specifically identified in (d) of this subsection, and
36 court orders;

37 (c) "Records" means the official juvenile court file, the social
38 file, and records of any other juvenile justice or care agency in the
39 case;

1 (d) "Social file" means the juvenile court file containing the
2 records and reports of the probation counselor.

3 (2) Each petition or information filed with the court may include
4 only one juvenile and each petition or information shall be filed
5 under a separate docket number. The social file shall be filed
6 separately from the official juvenile court file.

7 (3) It is the duty of any juvenile justice or care agency to
8 maintain accurate records. To this end:

9 (a) The agency may never knowingly record inaccurate information.
10 Any information in records maintained by the department of social and
11 health services relating to a petition filed pursuant to chapter
12 13.34 RCW that is found by the court to be false or inaccurate shall
13 be corrected or expunged from such records by the agency;

14 (b) An agency shall take reasonable steps to assure the security
15 of its records and prevent tampering with them; and

16 (c) An agency shall make reasonable efforts to insure the
17 completeness of its records, including action taken by other agencies
18 with respect to matters in its files.

19 (4) Each juvenile justice or care agency shall implement
20 procedures consistent with the provisions of this chapter to
21 facilitate inquiries concerning records.

22 (5) Any person who has reasonable cause to believe information
23 concerning that person is included in the records of a juvenile
24 justice or care agency and who has been denied access to those
25 records by the agency may make a motion to the court for an order
26 authorizing that person to inspect the juvenile justice or care
27 agency record concerning that person. The court shall grant the
28 motion to examine records unless it finds that in the interests of
29 justice or in the best interests of the juvenile the records or parts
30 of them should remain confidential.

31 (6) A juvenile, or his or her parents, or any person who has
32 reasonable cause to believe information concerning that person is
33 included in the records of a juvenile justice or care agency may make
34 a motion to the court challenging the accuracy of any information
35 concerning the moving party in the record or challenging the
36 continued possession of the record by the agency. If the court grants
37 the motion, it shall order the record or information to be corrected
38 or destroyed.

39 (7) The person making a motion under subsection (5) or (6) of
40 this section shall give reasonable notice of the motion to all

1 parties to the original action and to any agency whose records will
2 be affected by the motion.

3 (8) The court may permit inspection of records by, or release of
4 information to, any clinic, hospital, or agency which has the subject
5 person under care or treatment. The court may also permit inspection
6 by or release to individuals or agencies, including juvenile justice
7 advisory committees of county law and justice councils, engaged in
8 legitimate research for educational, scientific, or public purposes.
9 Each person granted permission to inspect juvenile justice or care
10 agency records for research purposes shall present a notarized
11 statement to the court stating that the names of juveniles and
12 parents will remain confidential.

13 (9) The court shall release to the caseload forecast council the
14 records needed for its research and data-gathering functions. Access
15 to caseload forecast data may be permitted by the council for
16 research purposes only if the anonymity of all persons mentioned in
17 the records or information will be preserved.

18 (10) Juvenile detention facilities shall release records to the
19 caseload forecast council upon request. The commission shall not
20 disclose the names of any juveniles or parents mentioned in the
21 records without the named individual's written permission.

22 (11) Requirements in this chapter relating to the court's
23 authority to compel disclosure shall not apply to the legislative
24 children's oversight committee or the office of the family and
25 children's ombuds.

26 (12) For the purpose of research only, the administrative office
27 of the courts shall maintain an electronic research copy of all
28 records in the judicial information system related to juveniles.
29 Access to the research copy is restricted to the Washington state
30 center for court research. The Washington state center for court
31 research shall maintain the confidentiality of all confidential
32 records and shall preserve the anonymity of all persons identified in
33 the research copy. The research copy may not be subject to any
34 records retention schedule and must include records destroyed or
35 removed from the judicial information system pursuant to RCW
36 13.50.270 and 13.50.100(3).

37 (13) The court shall release to the Washington state office of
38 public defense records needed to implement the agency's oversight,
39 technical assistance, and other functions as required by RCW
40 2.70.020. Access to the records used as a basis for oversight,

1 technical assistance, or other agency functions is restricted to the
2 Washington state office of public defense. The Washington state
3 office of public defense shall maintain the confidentiality of all
4 confidential information included in the records.

5 **Sec. 3.** RCW 13.50.100 and 2014 c 175 s 8 are each amended to
6 read as follows:

7 (1) This section governs records not covered by RCW 13.50.050,
8 13.50.260, and 13.50.270.

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

11 (3) Records retained or produced by any juvenile justice or care
12 agency may be released to other participants in the juvenile justice
13 or care system only when an investigation or case involving the
14 juvenile in question is being pursued by the other participant or
15 when that other participant is assigned the responsibility of
16 supervising the juvenile. Records covered under this section and
17 maintained by the juvenile courts which relate to the official
18 actions of the agency may be entered in the statewide judicial
19 information system. (~~However, truancy records associated with a~~
20 ~~juvenile who has no other case history, and records of a juvenile's~~
21 ~~parents who have no other case history, shall be removed from the~~
22 ~~judicial information system when the juvenile is no longer subject to~~
23 ~~the compulsory attendance laws in chapter 28A.225 RCW.)) A county
24 clerk is not liable for unauthorized release of this data by persons
25 or agencies not in his or her employ or otherwise subject to his or
26 her control, nor is the county clerk liable for inaccurate or
27 incomplete information collected from litigants or other persons
28 required to provide identifying data pursuant to this section.~~

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

34 (a) Information that may be released shall be limited to
35 information regarding investigations in which: (i) The juvenile was
36 an alleged victim of abandonment or abuse or neglect; or (ii) the
37 petitioner for custody of the juvenile, or any individual aged
38 sixteen or older residing in the petitioner's household, is the

1 subject of a founded or currently pending child protective services
2 investigation made by the department subsequent to October 1, 1998.

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

8 (5) Any disclosure of records or information by the department of
9 social and health services pursuant to this section shall not be
10 deemed a waiver of any confidentiality or privilege attached to the
11 records or information by operation of any state or federal statute
12 or regulation, and any recipient of such records or information shall
13 maintain it in such a manner as to comply with such state and federal
14 statutes and regulations and to protect against unauthorized
15 disclosure.

16 (6) A contracting agency or service provider of the department of
17 social and health services that provides counseling, psychological,
18 psychiatric, or medical services may release to the office of the
19 family and children's ombuds information or records relating to
20 services provided to a juvenile who is dependent under chapter 13.34
21 RCW without the consent of the parent or guardian of the juvenile, or
22 of the juvenile if the juvenile is under the age of thirteen years,
23 unless such release is otherwise specifically prohibited by law.

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

28 (a) If it is determined by the agency that release of this
29 information is likely to cause severe psychological or physical harm
30 to the juvenile or his or her parents the agency may withhold the
31 information subject to other order of the court: PROVIDED, That if
32 the court determines that limited release of the information is
33 appropriate, the court may specify terms and conditions for the
34 release of the information; or

35 (b) If the information or record has been obtained by a juvenile
36 justice or care agency in connection with the provision of
37 counseling, psychological, psychiatric, or medical services to the
38 juvenile, when the services have been sought voluntarily by the
39 juvenile, and the juvenile has a legal right to receive those
40 services without the consent of any person or agency, then the

1 information or record may not be disclosed to the juvenile's parents
2 without the informed consent of the juvenile unless otherwise
3 authorized by law; or

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

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

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

17 (10) Subject to the rules of discovery in civil cases, any party
18 to a proceeding seeking a declaration of dependency or a termination
19 of the parent-child relationship and any party's counsel and the
20 guardian ad litem of any party, shall have access to the records of
21 any natural or adoptive child of the parent, subject to the
22 limitations in subsection (7) of this section. A party denied access
23 to records may request judicial review of the denial. If the party
24 prevails, he or she shall be awarded attorneys' fees, costs, and an
25 amount not less than five dollars and not more than one hundred
26 dollars for each day the records were wrongfully denied.

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

30 **Sec. 4.** RCW 28A.405.330 and 1990 c 33 s 398 are each amended to
31 read as follows:

32 The (~~clerk of the superior court~~) filing party, within ten days
33 of (~~receipt of~~) filing the notice of appeal shall notify in writing
34 the chair of the school board of the taking of the appeal, and within
35 twenty days thereafter the school board shall at its expense file the
36 complete transcript of the evidence and the papers and exhibits
37 relating to the decision complained of, all properly certified to be
38 correct.

1 **Sec. 5.** RCW 46.29.270 and 1999 c 296 s 2 are each amended to
2 read as follows:

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

6 (1) The term "judgment" shall mean: Any judgment which shall have
7 become final by expiration without appeal of the time within which an
8 appeal might have been perfected, or by final affirmation on appeal,
9 rendered by a court of competent jurisdiction of any state or of the
10 United States, upon a cause of action arising out of the ownership,
11 maintenance or use of any vehicle of a type subject to registration
12 under the laws of this state, for damages, including damages for care
13 and loss of services, because of bodily injury to or death of any
14 person, or for damages because of injury to or destruction of
15 property, including the loss of use thereof, or upon a cause of
16 action on an agreement of settlement for such damages. The first page
17 of a judgment must include a judgment summary that states damages are
18 awarded under this section and the ~~((clerk of the court))~~ judgment
19 creditor must give notice as outlined in RCW 46.29.310.

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

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

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

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

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

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

37 **Sec. 7.** RCW 53.48.030 and 1941 c 87 s 3 are each amended to read
38 as follows:

1 Upon the filing of such petition for an order of dissolution, the
2 superior court shall enter an order setting the same for hearing at a
3 date not less than thirty days from the date of filing, and the
4 (~~clerk of the court of said county~~) petitioner shall give notice of
5 such hearing by publication in a newspaper of general circulation in
6 the county in which the district is located once a week for three
7 successive weeks, and by posting in three public places in the county
8 in which the district is located at least twenty-one days before said
9 hearing. At least one notice shall be posted in the district. The
10 notices shall set forth the filing of the petition, its purpose and
11 the date and place of the hearing thereon.

12 **Sec. 8.** RCW 13.34.070 and 2011 c 309 s 25 are each amended to
13 read as follows:

14 (1) Upon the filing of the petition, the (~~clerk of the court~~)
15 petitioner shall issue a summons, one directed to the child, if the
16 child is twelve or more years of age, and another to the parents,
17 guardian, or custodian, and such other persons as appear to the court
18 to be proper or necessary parties to the proceedings, requiring them
19 to appear personally before the court at the time fixed to hear the
20 petition. If the child is developmentally disabled and not living at
21 home, the notice shall be given to the child's custodian as well as
22 to the child's parent. The developmentally disabled child shall not
23 be required to appear unless requested by the court. When the
24 custodian is summoned, the parent or guardian or both shall also be
25 served with a summons. The fact-finding hearing on the petition shall
26 be held no later than seventy-five days after the filing of the
27 petition, unless exceptional reasons for a continuance are found. The
28 party requesting the continuance shall have the burden of proving by
29 a preponderance of the evidence that exceptional circumstances exist.
30 To ensure that the hearing on the petition occurs within the seventy-
31 five day time limit, the court shall schedule and hear the matter on
32 an expedited basis.

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

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

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

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

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

14 (7) If the person summoned as provided in this section is subject
15 to an order of the court pursuant to subsection (5) or (6) of this
16 section, and if the person fails to abide by the order, he or she may
17 be proceeded against as for contempt of court. The order endorsed
18 upon the summons shall conspicuously display the following legend:

19
20 NOTICE:

21 VIOLATION OF THIS ORDER
22 IS SUBJECT TO PROCEEDING
23 FOR CONTEMPT OF COURT
24 PURSUANT TO RCW 13.34.070.
25

26 (8) If a party to be served with a summons can be found within
27 the state, the summons shall be served upon the party personally as
28 soon as possible following the filing of the petition, but in no case
29 later than fifteen court days before the fact-finding hearing, or
30 such time as set by the court. If the party is within the state and
31 cannot be personally served, but the party's address is known or can
32 with reasonable diligence be ascertained, the summons may be served
33 upon the party by mailing a copy by certified mail as soon as
34 possible following the filing of the petition, but in no case later
35 than fifteen court days before the hearing, or such time as set by
36 the court. If a party other than the child is without the state but
37 can be found or the address is known, or can with reasonable
38 diligence be ascertained, service of the summons may be made either
39 by delivering a copy to the party personally or by mailing a copy

1 thereof to the party by certified mail at least ten court days before
2 the fact-finding hearing, or such time as set by the court.

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

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

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