

sons in custody before their first appearance in court. Such video and/or sound recordings shall conform strictly to the following:

(a) the arrested person shall be informed that such recording is being made and the statement so informing him shall be included in the recording,

(b) the recording shall commence with an indication of the time of the beginning thereof and terminate with an indication of the time thereof,

(c) at the commencement of the recording the arrested person shall be fully informed of his constitutional rights, and such statements informing him shall be included in the recording,

(d) the recordings shall only be used for valid police or court activities.

NEW SECTION. Sec. 2. Video and/or sound recordings obtained by police personnel under the authority of this act shall be made available for hearing and/or viewing by defense counsel at the request of defense counsel whenever a criminal charge has been filed against the subject of the video and/or sound recordings.

NEW SECTION. Sec. 3. SEVERABILITY. If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this chapter so adjudged to be invalid or unconstitutional.

Passed the Senate February 9, 1970
Passed the House February 6, 1970
Approved by the Governor February 20, 1970
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CHAPTER 49
[Substitute Senate Bill No. 99]
CRIMES AND CRIMINAL PROCEDURE

AN ACT Relating to crimes and criminal procedures; amending section 138, chapter 249, Laws of 1909 and RCW 9.48.010; amending

section 16, page 78, Laws of 1854 as last amended by section 143, chapter 249, Laws of 1909 and RCW 9.48.060; amending section 74, page 114, Laws of 1854 as last amended by section 43, chapter 28, Laws of 1891 and RCW 10.31.030; amending section 2, chapter 132, Laws of 1945 and RCW 13.04.130; amending section 46.56.040, chapter 12, Laws of 1961 as amended by section 63, chapter 155, Laws of 1965 ex. sess., and RCW 46.61.520; amending section 72.50.040, chapter 28, Laws of 1959 and RCW 72.50.040; adding new sections; and prescribing penalties.

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

Section 1. Section 138, chapter 249, Laws of 1909 and RCW 9.48.010 are each amended to read as follows:

Homicide is the killing of a human being by the act, procurement or omission of another, death occurring within three years and a day, and is either (1) murder, (2) manslaughter, (3) excusable homicide or (4) justifiable homicide.

Sec. 2. Section 16, page 78, Laws of 1854 as last amended by section 143, chapter 249, Laws of 1909 and RCW 9.48.060 are each amended to read as follows:

~~((In))~~ Any (case) homicide other than (those-specified-in RCW-9-48-0307-9-48-0407-and-9-48-050)), murder in the first degree, or murder in the second degree, and not being excusable or justifiable, is manslaughter.

Manslaughter is punishable by imprisonment in the state penitentiary for not more than twenty years, or by imprisonment in the county jail for not more than one year, or by a fine of not more than one thousand dollars, or by both fine and imprisonment.

Sec. 3. Section 74, page 114, Laws of 1854 as last amended by section 43, chapter 28, Laws of 1891 and RCW 10.31-.030 are each amended to read as follows:

The officer making an arrest must inform the defendant that he acts under authority of a warrant, and must also show the warrant ~~((if required))~~: PROVIDED, That if the officer does not have the warrant

in his possession at the time of arrest he shall declare that the warrant does presently exist and will be shown to the defendant as soon as possible on arrival at the place of intended confinement: PROVIDED, FURTHER, That any officer making an arrest under this section shall, if the person arrested wishes to deposit bail, take such person directly and without delay before a judge or before an officer authorized to take the recognizance and justify and approve the bail, including the deposit of a sum of money equal to bail. Bail shall be the amount fixed by the warrant. Such judge or authorized officer shall hold bail for the legal authority within this state which issued such warrant if other than such arresting authority.

Sec. 4. Section 2, chapter 132, Laws of 1945 and RCW 13.04-.130 are each amended to read as follows:

~~((Neither the fingerprints nor a photograph shall be taken of))~~

Any child under the age of eighteen years taken into custody ~~((for any purpose without the consent of juvenile court))~~ upon probable cause that he has committed an act which would be a felony if he were an adult, shall be fingerprinted and photographed by the law enforcement agency taking the child into custody. These fingerprints and photographs shall be kept by the agency making such fingerprints and photographs in a separate file maintained by the agency for that specific purpose only and shall not be a public record unless otherwise authorized by the juvenile court. If the child is not cited or referred to the juvenile court; or if the child is found to be not delinquent; or if the child is adjudicated a delinquent for an offense less than a felony under the criminal laws of this state, if the child were an adult, then the court in its discretion may order all originals and copies of the fingerprints and photographs promptly destroyed. If the child is adjudicated a delinquent for an offense which would be a felony under the criminal laws of this state if the child were an adult, or in the absence of an order from the juvenile court ordering the fingerprints and photographs destroyed as herein

above provided, then the law enforcement agency taking the fingerprints and photographs shall retain the originals thereof. The law enforcement agency taking fingerprints and photographs under this section shall immediately thereafter forward adequate duplicate copies as required under this section to the juvenile court along with the written offense report relating to the matter for which the child was taken into custody. Except as otherwise provided by this section the juvenile court after adjudication of the case shall forward duplicate copies of the fingerprints and photographs, together with the child's name, address, date of birth, age and sex to the following agencies:

(1) The state bureau of criminal identification.

(2) The sheriff's department of the county in which the law enforcement agency is located in order to maintain a central juvenile identification file in each county.

(3) The law enforcement agencies of municipalities, within their respective county, having a population in excess of fifty thousand persons.

All fingerprints and photographs taken under this section, including all duplicate copies thereof, furnished under this section, shall be marked "Juvenile Confidential" and kept in a separate file, by each law enforcement agency having possession thereof, and shall not be considered public records: PROVIDED, FURTHER, That each agency shall be subject to the same restrictions concerning the use of these fingerprints and photographs as enumerated herein for the state bureau of criminal identification. The state bureau of criminal identification shall use these fingerprints and photographs only for the purpose of making an identification. If an identification is made, the state bureau of criminal identification shall advise the forwarding law enforcement agency of this fact and the name and last known address of the child whose photographs have been identified or whose fingerprints match the latent prints forwarded to the bureau. The technician of the state bureau of criminal identification who makes

the identification shall be available for the purpose of giving testimony as to such identification. Fingerprints and photographs received, under this section, by the state bureau of criminal identification shall be kept until the child reaches his twenty-first birthday. At the end of this period they shall be destroyed. These fingerprints and photographs shall not be public records and no copies shall be made available to any person or agency at any time, except as otherwise provided pursuant to this section or for good cause shown upon order of the juvenile court.

Nothing contained in this section shall apply to photographs of children at juvenile correctional facilities.

Sec. 5. Section 46.56.040, chapter 12, Laws of 1961 as amended by section 63, chapter 155, Laws of 1965 ex. sess., and RCW 46.61.520 are each amended to read as follows:

(1) When the death of any person shall ensue within (~~one year~~) three years as a proximate result of injury received by the driving of any vehicle by any person while under the influence of or affected by intoxicating liquor or narcotic drugs as defined in chapter 69.33 RCW or dangerous drugs as defined in chapter 69.40 RCW or by the operation of any vehicle in a reckless manner or with disregard for the safety of others, the person so operating such vehicle shall be guilty of negligent homicide by means of a motor vehicle.

(2) Any person convicted of negligent homicide by means of a motor vehicle shall be punished by imprisonment in the state penitentiary for not more than (~~twenty~~) ten years, or by imprisonment in the county jail for not more than one year, or by fine of not more than one thousand dollars, or by both fine and imprisonment.

Sec. 6. Section 72.50.040, chapter 28, Laws of 1959 and RCW 72.50.040 are each amended to read as follows:

All persons arrested for any of the crimes described in RCW 72.50.060, except (~~juveniles~~) children under the age of eighteen years, who shall be treated under RCW 13.04.130, shall submit to the taking of their fingerprints, photographs, physical description and

other identifying data.

NEW SECTION. Sec. 7. In all cases where an information has been filed against a defendant or an indictment returned, the prosecuting attorney may, not less than eight days before the case is set to be tried, serve upon such defendant or his counsel and file a demand which shall require that if such defendant intends to offer, for any purpose whatever, testimony of any person which may tend to establish the defendant's presence elsewhere than at the scene of the crime at the time of its commission, the defendant must within four days thereafter serve upon such prosecuting attorney and file a bill of particulars which shall set forth in detail the place or places where the defendant claims to have been, together with the names, post office addresses, residences, and places of employment of the witnesses upon whom the defendant intends to rely to establish his presence elsewhere than at the scene of the crime at the time of its commission. Unless the defendant shall pursuant to such demand, serve and file such bill of particulars, the court, in the event that such testimony is sought to be interposed by the defendant upon the trial for any purpose whatever, or in the event that a witness not mentioned in such bill of particulars is called by the defendant to give such testimony, may exclude such testimony, or the testimony of such witness. In the event that the court shall allow such testimony, or the testimony of such witness, it must, upon motion of the prosecuting attorney, grant an adjournment not to exceed one week.

NEW SECTION. Sec. 8. Whoever, having witnessed the actual commission of a felony involving violence or threat of violence or having witnessed preparations for the commission of a felony involving violence or threat of violence, does not as soon as reasonably possible make known his knowledge of such to the prosecuting attorney, police, or other public officials of the state of Washington having jurisdiction over the matter, shall be guilty of a gross misdemeanor: PROVIDED, That nothing in this act shall be so construed to affect existing privileged relationships as provided by law.

NEW SECTION. Sec. 9. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Passed the Senate February 9, 1970

Passed the House February 9, 1970

Approved by the Governor February 23, 1970, with the exception of section 4, which is vetoed.

Filed in Office of Secretary of State February 24, 1970

NOTE: Governor's explanation of partial veto is as follows:

"...This bill contains several provisions pertaining to criminal law and procedures. Section 4 makes a substantial change in the procedure for determining whether a person under the age of 18 years who has been taken into custody may be fingerprinted and photographed. Under existing law, this may be done with the consent of the Juvenile Court. Under section 4 this will be done by the law enforcement agency taking the person into custody where there is probable cause that he has committed an act which would be a felony if he were an adult.

The remainder of the new language in section 4 then describes the procedure for determining whether such fingerprints and photographs shall be retained or destroyed, and if retained, their distribution and use.

Section 4 provides that fingerprints and photographs shall be distributed to the State Bureau of Criminal Identification as well as to certain local law enforcement agencies. The section then describes the standards for use by the State Bureau. While the State Bureau of Criminal Identification is legally still in existence, it has not been funded for several biennia by the legislature and it is essentially defunct. For this reason, Senate Bill No. 52 which creates the Department of Social and Health Services, repeals the sections in the code whereby the State Bureau of Criminal Identification is created. As a result, subsequent to July 1, 1970, there will be no State Bureau to which these records will be able to be forwarded.

While the objectives of the procedural changes contemplated in section 4 may well be valid ones, they do raise issues which deserve careful consideration by the various groups concerned with the problems of juvenile misconduct and rehabilitation. It is my hope that should this subject be considered at the next legislative session all interested parties will participate so that a solution can be obtained which will meet the needs of the safety of the public and yet retain the protections which have been developed for the rehabilitation of juveniles.

For the reasons stated, I have decided to veto section 4. The remainder of Substitute Senate Bill 99 is approved."

CHAPTER 50
[Engrossed Senate Bill No. 105]
DEPARTMENT OF INSTITUTIONS--
PROGRAMS AND FACILITIES, AGREEMENTS--
SCHOOLS FOR BLIND AND DEAF, SESSIONS

AN ACT Relating to the treatment and rehabilitation of persons admitted or committed to institutions under the supervision of the department of institutions; relating to the facilities, equipment and personnel of the institutions under the supervision of the department of institutions; amending section 1, chapter 46, Laws of 1967 and RCW 72.01.450; adding new sections to chapter 72.01 RCW; repealing section 72.40.030, chapter 28, Laws of 1959 and RCW 72.40.030; and declaring an emergency.

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

NEW SECTION. Section 1. The director of the department of institutions is authorized to enter into agreements with any non-profit corporation or association for the purpose of providing and coordinating voluntary and community based services for the treatment or rehabilitation of persons admitted or committed to any institution under the supervision of the department of institutions.

Sec. 2. Section 1, chapter 46, Laws of 1967 and RCW 72.01.450 are each amended to read as follows:

The director of institutions of the state of Washington is authorized to enter into agreements with any school district or any ((state)) institution of higher learning for the use of the((physical)) facilities, equipment and personnel of any state institution of the department, for the purpose of conducting courses of education, instruction or training in the professions and skills utilized by one or more of the institutions, at such times and under such circumstances and with such terms and conditions as may be deemed appropriate.

NEW SECTION. Sec. 3. The director is authorized to enter into an agreement with any agency of the state, a county, city or