

HOUSE BILL REPORT

E2SSB 6561

As Passed House - Amended:

March 2, 2010

Title: An act relating to restricting access to juvenile offender records.

Brief Description: Restricting access to juvenile offender records.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, McCaslin, Regala and Stevens).

Brief History:

Committee Activity:

Human Services: 2/18/10, 2/23/10 [DPA].

Floor Activity:

Passed House: 3/2/10, 59-38.

Brief Summary of Engrossed Second Substitute Bill (As Amended by House)

- Allows a juvenile to petition the court to seal his or her records if the juvenile has been adjudicated for a class A felony that is not a sex offense; the juvenile must have spent five years in the community without committing any offenses and meet other statutory criteria.
- Decreases to two years the time that a juvenile must spend in the community without committing any offenses before petitioning the court for an order sealing an adjudication that is a class B felony that is not a sex offense.
- Provides that the term adjudication has the same meaning as conviction but only for purposes of the Sentencing Reform Act.

HOUSE COMMITTEE ON HUMAN SERVICES

Majority Report: Do pass as amended. Signed by 5 members: Representatives Dickerson, Chair; Orwall, Vice Chair; Darneille, Green and O'Brien.

Minority Report: Do not pass. Signed by 3 members: Representatives Dammeier, Ranking Minority Member; Herrera and Walsh.

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.

Staff: Linda Merelle (786-7092).

Background:

Motions to Seal Records.

A juvenile must make a motion to the court to have his or her juvenile record sealed. Courts do not have the authority to seal a record of an adjudication for a class A offense or a sex offense. The court does have discretion to order sealed the following records:

- class B offenses where the person has spent five consecutive years in the community since the last date of release from confinement, full-time residential treatment, or entry of disposition, without being convicted of any offense or crime;
- class C offenses where the person has spent two consecutive years in the community since the last date of release from confinement, full-time residential treatment, or entry of disposition, without being convicted of any offense or crime;
- gross misdemeanors and misdemeanors where the person has spent two consecutive years in the community since the last date of release from confinement, full-time residential treatment, or entry of disposition, without being convicted of any offense or crime; and
- diversions where the person has spent two consecutive years in the community since the completion of the diversion agreement without being convicted of any offense or crime.

In addition, the court cannot order juvenile records sealed if there is: a proceeding pending against the moving party seeking his or her conviction for a juvenile or criminal offense; a proceeding pending seeking the formation of a diversion agreement with that person; and full restitution has not been paid.

If the court grants the motion to seal, the order to seal covers the juvenile court file, the social file, and other records relating to the case as are named in the order. The order to seal means the proceedings in the case can be treated as though they never occurred and the subject of the records may reply accordingly to any inquiry about the events contained in the record.

Summary of Amended Bill:

The term adjudication as used in the juvenile section of the statute has the same meaning as conviction but only for purposes of sentencing under the Sentencing Reform Act.

The court has the authority to seal records for class A offenses, other than sex offenses if, since the last date of release from confinement, full-time residential treatment or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in an adjudication or conviction; is not party to a pending proceeding seeking his or her conviction for a juvenile or criminal offense; is not a party to a proceeding seeking the formation of a diversion agreement; has not been convicted of a sex offense; and has paid full restitution.

A person who has reached his or her 18th birthday must petition the court to seal his or her records for class B, C, gross misdemeanor, misdemeanor and diversions, other than sex offenses. Before the court grants a petition to seal records, the person must show that:

- he or she has resided in the community for two consecutive years since the date he or she was released from confinement, entry of disposition or completion of a diversion agreement without being convicted of any crime or offense;
- no proceeding is pending against him or her seeking conviction for a juvenile or adult crime;
- no proceeding is pending against him or her for the formation of a diversion agreement;
- has not been convicted of a sex offense, and
- full restitution has been paid.

<i>Type of Offense</i>	<i>Current Law: Length of Time Since Confinement or Entry of Disposition and Having Committed No Offenses Before Records can be Sealed</i>	<i>E2SSB 6561: Length of Time Since Confinement or Entry of Disposition and Having Committed No Offenses Before Records can be Sealed</i>
Sex Offenses	Records may never be sealed.	Records may never be sealed.
Class A Felony	Records may never be sealed.	5 Years
Class B Felony	5 Years	2 Years
Class C Felony	2 Years	2 Years
Gross Misdemeanor	2 Years	2 Years
Misdemeanor	2 Years	2 Years

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) We have seen many stories of redemption. Individuals have become valued members of the community, but they cannot seal their records. This bill gets us part of the way there. We do have to get to automatic sealing, and we would like to see a provision that allows individuals to seal their records in less than five years when there are exceptional circumstances. When young people have a criminal record, it is tragic to put a glass ceiling over their head by not allowing them to seal their records. The current law and process for sealing records is difficult to navigate. This bill is a good idea and goes toward automatic sealing. It is better to have a specific cost than the future cost to juveniles who are unable to have their records sealed. We would like to move toward automatic sealing. It is difficult to force a private broker to clean up their records.

(Neutral) Because juvenile records are public record, the clerks cannot guarantee that the information will not end up in the hands of a database company.

(Opposed to section 3(25)) The problem is that this prohibits juvenile offense records from being provided to database companies. This bill conflicts with the long-standing policy of access to public records. This bill, by focusing on database companies, prevents one part of the public from accessing those records. Restricting access to one type of citizen will increase the number of requests that the court clerks will get.

Persons Testifying: (In support) Casey Trupin, Columbia Legal Services; Daniel and Starcia Ague; Nicholas Levrige; Katie Meyer, Street Youth Legal Advocates of Washington; and Shankar Narayan, American Civil Liberties Union.

(Neutral) Debbie Wilke, Washington Association of County Clerks.

(Opposed to section 3(25)) Tom McBride, LexisNexis; and Cliff Webster, Consumer Data Industry Association.

Persons Signed In To Testify But Not Testifying: None.