
Early Learning & Human Services Committee

HB 1793

Brief Description: Restricting access to juvenile records.

Sponsors: Representatives Darneille, Roberts and Kagi.

Brief Summary of Bill

- Requires juvenile courts to automatically seal the juvenile records of individuals who meet the statutory criteria for having their records sealed.
- Prohibits a consumer reporting agency from disseminating to a third party information contained in any juvenile record that it has obtained but allows the dissemination of de-identified records for the purposes of social science research, trend data, and generalized aggregation.
- Provides that a violation of the prohibition against the dissemination of personal information contained in a juvenile record is a violation of the Washington Consumer Protection Act.

Hearing Date: 2/11/11

Staff: Linda Merelle (786-7092).

Background:

Motions to Seal Records.

The "official juvenile court file" is the legal file of the juvenile court containing petitions, information, motions, memorandums, briefs, findings of the court, and court orders. The social file is the juvenile court file which contains the records and reports of a probation counselor. Juvenile records are a combination of the official juvenile court file, the social file, and the records of any other juvenile justice or care agency regarding a particular case.

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.

In order to request that his or her juvenile records be sealed, a person must file a motion with the superior court. Courts do not have the authority to issue an order sealing the record of an adjudication for a sex offense. The court does have discretion to order sealed the following records:

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

Consumer Protection Act.

The Washington Consumer Protection Act declares that unfair and deceptive practices in trade or commerce that harm the public interest are illegal. The Act gives the Office of the Attorney General the authority to bring lawsuits against businesses, and to ask the court for injunctions and restitution for consumers. It also allows individuals to bring consumer protection lawsuits.

Summary of Bill:

Consumer Reporting Agencies.

Persons or entities that regularly engage in assembling, aggregating, or evaluation of personally identifiable information regarding consumers for the purpose of furnishing consumer reports to third parties, may not disseminate the information contained in any juvenile record obtained, including the existence or nonexistence of such record. Such a person or entity may disseminate de-identified records for purposes of social science research, trend data, and generalized aggregation.

Washington Consumer Protection Act.

A violation of the prohibition against dissemination of personal information contained in a juvenile record is a violation of the Washington Consumer Protection Act.

Automatic Sealing of Juvenile Records.

Juveniles who meet the criteria to have their records sealed shall have their records sealed automatically within 120 days of becoming eligible. No less than quarterly, the Administrator of the Office of the Courts shall provide a report of those individuals whose records may be eligible for sealing to the juvenile courts. The juvenile court shall verify the eligibility and notify the Washington State Patrol and appropriate local law enforcement agency and the prosecutor's office of the records to be sealed. No court hearing or issuance of a court order is required to seal the records.

Neither the state and local governments nor their officers and employees are liable for civil damages for the failure to seal records under the provisions of this bill. When a person has become eligible to have his or her records sealed, he or she may request that the court issue an order sealing the official juvenile court file, the social file, and the records of the court, and of any other agency in the case. The request must be granted.

Any subsequent adjudication or conviction of a juvenile or adult offense nullifies the sealing of juvenile records.

Appropriation: None.

Fiscal Note: Requested on February 2, 2011.

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