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**Early Learning & Human Services  
Committee**

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**HB 2542**

**Brief Description:** Making juvenile records confidential.

**Sponsors:** Representatives Darneille, Jinkins, Fitzgibbon, Appleton, Kagi and Roberts.

**Brief Summary of Bill**

- Provides that juvenile offender records are confidential, unless the juvenile has been charged with a serious violent offense or the court, after a hearing, has ordered that the records be open to public inspection.
- Provides that confidential juvenile records may not be published or distributed.
- Provides that the provisions of the act apply prospectively and retroactively.

**Hearing Date:** 1/24/12

**Staff:** Linda Merelle (786-7092).

**Background:**

Juvenile Offender Records.

Since 1977 juvenile offender records have been public unless sealed in accordance with statutory requirements. Non-offender juvenile records, such as records in a dependency matter or adoption, are not open to public inspection.

The requirements for sealing juvenile records have changed since the records became public. The most stringent requirements were imposed in 1997 when class A felonies and sex offenses could not be sealed, and a person seeking to seal a juvenile class B felony was required to remain in the community without any further offenses for 10 years, along with the payment of any restitution ordered. A person seeking to seal a juvenile class C felony was required to wait five years, in addition to any restitution.

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*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 2011 and 2010 the Legislature amended the sealing statutes to allow the records for class A felonies and sex offenses to be sealed. Before any juvenile offender record may be sealed, the person who is the subject of the record must not have any pending diversions or criminal charges. He or she must have been relieved of the duty to register as a sex offender and must have paid in full any restitution ordered by the court. Depending upon the offense, the person seeking to seal his or records must have spent a minimum period of time in the community after being released from confinement without any new offenses, as follows:

<b><i>Offense Type</i></b>	<b><i>Years in Community without a New Offense</i></b>
<b>Class A Felony</b>	Five years.
<b>Sex Offense</b> May only be sealed if a court has relieved the juvenile of the duty to register as a sex offender. (Juvenile convictions for Rape in the first degree, Rape in the second degree, or Indecent Liberties with Forcible Compulsion may not be sealed.)	For class A juvenile sex offenses, committed when the juvenile was 15 years or older, the individual must be in the community five years without conviction of additional sex or kidnapping offenses before he or she may petition to be relieved of the duty to register. For all other offenses, the person must be in the community two years without conviction of additional sex or kidnapping offenses before petitioning the court to be relieved of the duty to register.
<b>Class B Felony</b>	Two years.
<b>Class C Felony</b>	Two years.
<b>Gross Misdemeanors</b>	Two years.
<b>Misdemeanors</b>	Two years.
<b>Diversions</b>	Two years.

Serious Violent Offenses.

A "serious violent offense" is a subcategory of violent offenses, and includes the following offenses, as well as an attempt, solicitation, or conspiracy to commit such offense:

- Murder in the first degree;
- Homicide by Abuse;
- Murder in the second degree;
- Manslaughter in the first degree;
- Assault in the first degree;
- Kidnapping in the first degree;
- Rape in the first degree; or
- Assault of a Child in the first degree.

**Summary of Bill:**

***Juvenile Records Classified as Confidential.***

Juvenile offender records are confidential unless the juvenile has been charged with a serious violent offense or the court, after a hearing, has ordered that a confidential record be opened for public inspection. Access to confidential juvenile offender records is limited to the court, the prosecuting attorney, the parties and their attorneys, and juvenile justice or care agencies. The juvenile justice or care agencies, such as law enforcement, diversion units or the Department of Social and Health Services and its contractors, may have access only when an investigation or case is being pursued by such agency or the agency is responsible for supervising the juvenile who is the subject of the records.

If a juvenile has been charged with a serious violent offense but enters a plea or is found guilty of a lesser offense, is found not guilty, or has the case dismissed, the offender record becomes confidential. If a charge is amended to a serious violent offense from a lesser original offense, the juvenile record becomes public. A juvenile court file containing multiple offenses, and includes a serious violent offense, must be open for public inspection in its entirety.

### ***Hearing to Open Records to Public.***

Upon the application of an interested party, the court may order confidential juvenile records to be opened to the public in part or their entirety if, after a hearing with notice to all parties, the court makes written findings that:

- the person or entity seeking to open the file has made a showing that compelling circumstances for continued confidentiality have not been identified;
- persons present when the motion to open the juvenile records was made has had an opportunity to address the motion;
- the court has analyzed whether continued confidentiality would be the least restrictive means available and effective in protecting the interests of the juvenile which may be threatened by opening the official juvenile court file;
- the court has weighed the competing privacy interests of the juvenile and the public's right to open court records; and
- the order of the court is not broader in application or duration than necessary.

When weighing the competing privacy interest of the juvenile and the public's right to open court records, the court must consider, but is not limited to, the following factors:

- the impact of the juvenile offense on victims, victims' families, or the community;
- whether the offense involved multiple victims or multiple incidents per victim;
- whether the offense involved an attempted or actual monetary loss greater than typical for the offense;
- whether the offense is a violent offense;
- whether the offense involved the use of a deadly weapon;
- any prior criminal history; and
- the age of the juvenile offender.

### ***Access to Confidential Juvenile Offender Records.***

Confidential juvenile offense records that are maintained by the court, law enforcement, state agencies, or the prosecutor's office may not be published or distributed.

Except for juvenile court files that have already been sealed, any existing juvenile offender record containing a serious violent offense charged prior to April 1, 2013, is public upon the effective date of the act.

**Appropriation:** None.

**Fiscal Note:** Requested on January 17, 2012.

**Effective Date:** This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 1 relating to making juvenile offender records confidential, which takes effect on April 1, 2013, and shall apply prospectively and retroactively to juvenile offender files.