

FINAL BILL REPORT

2SHB 1651

C 175 L 14
Synopsis as Enacted

Brief Description: Concerning access to juvenile records.

Sponsors: House Committee on Appropriations Subcommittee on General Government & Information Technology (originally sponsored by Representatives Kagi, Walsh, Freeman, Roberts, Farrell, Zeiger, Goodman, Pollet, Sawyer, Appleton, Bergquist, S. Hunt, Moscoso, Jinkins, Ryu and Morrell).

House Committee on Early Learning & Human Services
House Committee on Appropriations Subcommittee on General Government & Information Technology
Senate Committee on Human Services & Corrections

Background:

Juvenile Offender Records.

Since 1977 juvenile offender records have been public unless sealed in accordance with statutory requirements. Nonoffender 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. For example, in 1997 class A felonies and sex offenses were prohibited from being 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. 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 on the offense, the person seeking to seal his or her records must have spent a minimum period of time in the community after being released from confinement without any new offenses, as follows:

- five years for class A felonies;

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- two years for class B felonies, class C felonies, misdemeanors, and diversions;
- sex offenses may only be sealed if a court relieved the individual of the duty to register as an offender and:
 - for Class A sex offenses committed when a juvenile was 15 years or older, the individual is in the community for five years without conviction of an additional sex or kidnapping offense before petitioning to be relieved of the duty to register; or
 - for all other offenses, the person is in the community for two years without conviction of an additional sex or kidnapping offense before petitioning to be relieved of the duty to register; and
- juvenile convictions for Rape in the first or second degree, and Indecent Liberties with Forcible Compulsion may not be sealed.

Most Serious Offenses.

"Most serious offenses" include the following felonies or a felony attempt to commit the following felonies:

- any class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;
- Assault in the second degree;
- Assault of a Child in the second degree;
- Child Molestation in the second degree;
- Controlled Substance Homicide;
- Extortion in the first degree;
- Incest when committed against a child under age 14;
- Indecent Liberties;
- Kidnapping in the second degree;
- Leading Organized Crime;
- Manslaughter in the first degree;
- Promoting Prostitution in the first degree;
- Rape in the third degree;
- Robbery in the second degree;
- Sexual Exploitation;
- Vehicular Assault, when caused by the operation or driving of a vehicle by a person while under the influence of liquor or any drug or by the operation of a vehicle in a reckless manner;
- Vehicular Homicide, when proximately caused by the driving of a vehicle by a person while under the influence of liquor or any drug, or by operation of any vehicle in a reckless manner;
- any class B felony offense with a finding of sexual motivation;
- any other felony with a deadly weapon finding;
- any felony offense in effect before December 2, 1983, that is comparable to a most serious offense or any federal or out-of-state conviction for an offense under the laws of this state would be a felony classified as a most serious offense in Washington;
- certain prior convictions for Indecent Liberties; or
- any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence was 10 years or more.

Drug Offense.

A "drug offense" includes:

- any felony controlled substance violation except possession of a controlled substance or forged prescription for a controlled substance;
- any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or
- any out-of-state conviction for an offense that would constitute a felony controlled substance violation in this state except possession of a controlled substance or forged prescription for a controlled substance.

Consumer Reporting Agencies.

In 2011 legislation was enacted which prohibited consumer reporting agencies from including in their reports the juvenile record of a person, age 21 or older, at the time that the report is made.

Summary:

Courts must hold regular hearings to seal juvenile court records, which will be sealed administratively unless the court receives an objection or the court receives a compelling reason not to seal, in which case, there will be a contested sealing hearing. A respondent must be provided at least 18 days' notice of any contested sealing hearing, but the respondent is not required to appear at either an administrative or contested sealing hearing.

A court must schedule an administrative sealing hearing during disposition of a juvenile offender matter to occur after a respondent turns 18 and completes probation, confinement, or parole.

A court may not seal a juvenile court record during a regularly scheduled sealing hearing if one of the offenses is:

- a most serious offense;
- a sex offense; or
- a drug offense.

A respondent must complete the terms of his or her disposition, including affirmative conditions and financial obligations in order to have a court seal his or her juvenile court record during a regularly scheduled sealing hearing.

If a contested sealing hearing is held, the court shall enter a written order sealing the juvenile court record unless the court determines that sealing is not appropriate.

The court must enter an order immediately sealing the juvenile court record after an acquittal or dismissal of charges.

Any adjudication of a juvenile offense or crime subsequent to sealing nullifies a sealing order. The court may, however, order the juvenile record resealed upon disposition of the subsequent matter if the case meets the sealing criteria.

If an individual's juvenile court record has been sealed, the record of an employee is not admissible in an action for liability against the employer based on conduct of the former juvenile offender to show that the employer knew or should have known about the juvenile record of the employee. However, the record may be admissible if a background check conducted by the employer contained information from the sealed record.

The Caseload Forecast Council may permit access to caseload forecast data for research purposes, but only if the anonymity of all persons mentioned in the records or information will be preserved.

Votes on Final Passage:

House	97	0	
House	96	0	
Senate	48	0	(Senate amended)
House	97	1	(House concurred)

Effective: June 12, 2014