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**SUBSTITUTE SENATE BILL 6117**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Darneille and Kuderer)

AN ACT Relating to revising conditions under which juvenile court records may be sealed; and amending RCW 13.50.260.

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

**Sec.**  RCW 13.50.260 and 2015 c 265 s 3 are each amended to read as follows:

(1)(a) The court shall hold regular sealing hearings. During these regular sealing hearings, the court shall administratively seal an individual's juvenile record pursuant to the requirements of this subsection ((~~unless the court receives an objection to sealing or the court notes a compelling reason not to seal, in which case, the court shall set a contested hearing to be conducted on the record to address sealing~~)). Although the juvenile record shall be sealed, the social file may be available to any juvenile justice or care agency when an investigation or case involving the juvenile subject of the records is being prosecuted by the juvenile justice or care agency or when the juvenile justice or care agency is assigned the responsibility of supervising the juvenile. ((~~The contested hearing shall be set no sooner than eighteen days after notice of the hearing and the opportunity to object has been sent to the juvenile, the victim, and juvenile's attorney.~~)) The juvenile respondent's presence is not required at a sealing hearing pursuant to this subsection.

(b) At the disposition hearing of a juvenile offender, the court shall schedule an administrative sealing hearing to take place during the first regularly scheduled sealing hearing after the latest of the following events that apply:

(i) The respondent's eighteenth birthday;

(ii) Anticipated completion of a respondent's probation, if ordered;

(iii) Anticipated release from confinement at the juvenile rehabilitation administration, or the completion of parole, if the respondent is transferred to the juvenile rehabilitation administration.

(c) ((~~A court shall enter a written order sealing an individual's juvenile court record pursuant to this subsection if:~~

~~(i)~~)) The court shall not schedule an administrative sealing hearing at the disposition hearing and no administrative sealing hearing shall take place if one of the offenses for which the court has entered a disposition is ((~~not~~)) at the time of commission of the offense:

((~~(A)~~)) (i) A most serious offense, as defined in RCW 9.94A.030;

((~~(B)~~)) (ii) A sex offense under chapter 9A.44 RCW; or

((~~(C)~~)) (iii) A drug offense, as defined in RCW 9.94A.030((~~; and~~)).

((~~(ii)~~)) (d) At the time of the scheduled administrative sealing hearing, the court shall enter a written order sealing an individual's juvenile court record pursuant to this subsection if the court finds the respondent ((~~has completed the terms and conditions of disposition, including affirmative conditions and~~)) is no longer on supervision in the case to be sealed and has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW. ((~~(d) Following a contested sealing hearing on the record after an objection is made pursuant to (a) of this subsection, the court shall enter a written order sealing the juvenile court record unless the court determines that sealing is not appropriate.~~)) In determining whether or not the respondent is on supervision or owes restitution, the court shall take judicial notice of the court records, including the records of the county clerk's office, and, if necessary, sworn testimony from a representative of the juvenile department. If sealing is denied solely on the basis of unpaid restitution owing to individual victims excluding insurance providers authorized under Title 48 RCW, the court shall specify in a written order of denial the amount of restitution which remains unpaid to each individual victim.

(e) At the time of the initial administrative sealing hearing scheduled at disposition, if the court finds that the respondent remains on supervision but has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider, then the court shall continue the administrative sealing hearing to a date within thirty days following the anticipated end date of the respondent's current supervision. At the next administrative sealing hearing, the court shall again determine the respondent's eligibility to seal as set forth in (d) of this subsection, and, if necessary, continue the hearing again as provided in this subsection. Other than the administrative sealing hearing scheduled at disposition, and those continued under the terms of this subsection and proceedings under (f) of this subsection, no further hearings on administrative sealing shall be scheduled, held, or continued.

(f) If, at the administrative sealing hearing, the court denies sealing solely on the basis of unpaid restitution, the clerk of the court shall notify the respondent of the denial of sealing at the respondent's last known address and specify the amount of restitution which according to the court's finding remains unpaid to each individual victim. At any time following such hearing, the court shall thereafter seal the respondent's juvenile court record if the respondent contacts the court, provides proof of payment, requests the case to be sealed, and the court finds that restitution is paid, excluding restitution owed to any insurance provider authorized under Title 48 RCW.

(2) Except for dismissal of a deferred disposition under RCW 13.40.127, the court shall enter a written order immediately sealing the official juvenile court record upon the acquittal after a fact finding or upon the dismissal of charges with prejudice, subject to the state's right, if any, to appeal the dismissal.

(3) If a juvenile court record has not already been sealed pursuant to this section, in any case in which information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person who is the subject of the information or complaint may file a motion with the court to have the court ((~~vacate its order and findings, if any, and, subject to RCW 13.50.050(13),~~)) order the sealing of the official juvenile court record, the social file, and records of the court and of any other agency in the case, with the exception of identifying information under RCW 13.50.050(13).

(4)(a) The court shall grant any motion to seal records for class A offenses made pursuant to subsection (3) of this section if:

(i) Since the last date of release from confinement, including full-time residential treatment, if any, 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;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense;

(v) The person has not been convicted of rape in the first degree, rape in the second degree, or indecent liberties ((~~that was actually committed~~)) with forcible compulsion; and

(vi) The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW.

(b) The court shall grant any motion to seal records for class B, class C, gross misdemeanor, and misdemeanor offenses and diversions made under subsection (3) of this section if:

(i) Since the date of last release from confinement, including full-time residential treatment, if any, entry of disposition, or completion of the diversion agreement, the person has spent two consecutive years in the community without being convicted of any offense or crime;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense; and

(v) The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW.

(c) Notwithstanding the requirements in (a) or (b) of this subsection, the court shall grant any motion to seal records of any deferred disposition vacated under RCW 13.40.127(9) prior to June 7, 2012, if restitution has been paid and the person is eighteen years of age or older at the time of the motion.

(5) The person making a motion pursuant to subsection (3) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose records are sought to be sealed.

(6)(a) If the court enters a written order sealing the juvenile court record pursuant to this section, it shall, subject to RCW 13.50.050(13), order sealed the official juvenile court record, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(b) In the event the subject of the juvenile records receives a full and unconditional pardon, the proceedings in the matter upon which the pardon has been granted shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events upon which the pardon was received. Any agency shall reply to any inquiry concerning the records pertaining to the events for which the subject received a pardon that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(c) Effective July 1, 2019, the department of licensing may release information related to records the court has ordered sealed only to the extent necessary to comply with federal law and regulation.

(7) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and 13.50.050(13).

(8)(a) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying a sealing order; however, the court may order the juvenile court record resealed upon disposition of the subsequent matter if the case meets the sealing criteria under this section and the court record has not previously been resealed.

(b) Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order.

(c) The administrative office of the courts shall ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.

(d) The Washington state patrol shall ensure that the Washington state identification system provides criminal justice agencies access to sealed juvenile records information.

(9) If the juvenile court record has been sealed pursuant to this section, the record of an employee is not admissible in an action for liability against the employer based on the former juvenile offender's conduct to show that the employer knew or should have known of the juvenile record of the employee. The record may be admissible, however, if a background check conducted or authorized by the employer contained the information in the sealed record.

(10) County clerks may interact or correspond with the respondent, his or her parents, and any holders of potential assets or wages of the respondent for the purposes of collecting an outstanding legal financial obligation after juvenile court records have been sealed pursuant to this section.

(11) Persons and agencies that obtain sealed juvenile records information pursuant to this section may communicate about this information with the respondent, but may not disseminate or be compelled to release the information to any person or agency not specifically granted access to sealed juvenile records in this section.

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