

---

HOUSE BILL 2034

---

State of Washington

67th Legislature

2022 Regular Session

By Representatives Frame, Harris-Talley, Berry, Fitzgibbon, Simmons, Ramel, Chase, and Macri

Read first time 01/18/22. Referred to Committee on Children, Youth & Families.

1 AN ACT Relating to juvenile records; amending RCW 13.50.260 and  
2 13.50.270; adding a new section to chapter 13.50 RCW; and creating a  
3 new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) Since the creation of Washington state's juvenile courts,  
7 individuals adjudicated of juvenile offenses have received differing  
8 degrees of legal protections related to their juvenile records.

9 (2) As legal protections for juvenile records expanded and  
10 contracted under different Washington legislatures, juvenile records  
11 and information related to those records have been disseminated in  
12 ways that hinder individuals adjudicated of juvenile offenses from  
13 effective reintegration and harm those individuals whose protected  
14 information has been shared without recourse or accountability.

15 (3) To remedy barriers created by the release of juvenile records  
16 and information related to those records, the legislature intends to  
17 emphasize that former individuals adjudicated of juvenile offenses  
18 can seek relief for harm caused by violations of this chapter and  
19 grant individuals the right to monetary damages for violations of  
20 this chapter.

1 (4) To provide Washington youth with the finality necessary to  
2 effectively protect their records, the legislature further intends to  
3 create a process that allows rehabilitated former individuals  
4 adjudicated of juvenile offenses the right to destroy juvenile  
5 records and information related to those records.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.50  
7 RCW to read as follows:

8 (1)(a) Any person who, directly or by means of an agent,  
9 disseminates sealed or destroyed records in violation of RCW  
10 13.50.260 or 13.50.270 shall be subject to legal action for damages,  
11 to be brought by the subject of those records, claiming that a  
12 violation of RCW 13.50.260 or 13.50.270 has occurred.

13 (b) An individual alleging that the individual's records were  
14 disseminated in violation of RCW 13.50.260 or 13.50.270 may bring a  
15 civil action in any court of competent jurisdiction.

16 (c) In a civil action under this section in which the plaintiff  
17 prevails, the court may award:

18 (i) A per day penalty of \$100 a day for each day since the record  
19 is shared in violation of this section without corrective action  
20 taken by the person illegally sharing the record or actual damages,  
21 whichever is greater; and

22 (ii) Any other relief, including but not limited to an  
23 injunction, that the court deems appropriate.

24 (d) Actual damages under this section includes mental pain and  
25 suffering endured by the subject of the records that were  
26 disseminated in violation of this chapter.

27 (e) In addition to any relief awarded under (c) of this  
28 subsection, the court shall award reasonable attorneys' fees and  
29 costs to any prevailing plaintiff.

30 (2) Nothing in this section shall be construed to limit other  
31 remedies available for violations of the provisions of this chapter.

32 (3) For purposes of this section, "person" means an individual,  
33 corporation, business trust, estate, trust, partnership, association,  
34 joint venture, any other legal or commercial entity, government,  
35 governmental subdivision, agency, municipality, and other legal  
36 persons capable of being sued in courts of law.

37 **Sec. 3.** RCW 13.50.260 and 2020 c 184 s 1 are each amended to  
38 read as follows:

1 (1)(a) The court shall hold regular sealing hearings. During  
2 these regular sealing hearings, the court shall administratively seal  
3 an individual's juvenile record pursuant to the requirements of this  
4 subsection. Although the juvenile record shall be sealed, the social  
5 file may be available to any juvenile justice or care agency when an  
6 investigation or case involving the juvenile subject of the records  
7 is being prosecuted by the juvenile justice or care agency or when  
8 the juvenile justice or care agency is assigned the responsibility of  
9 supervising the juvenile. The juvenile respondent's presence is not  
10 required at any administrative sealing hearing.

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

15 (i) The respondent's ((~~eighteenth~~)) 18th birthday;

16 (ii) Anticipated end date of a respondent's probation, if  
17 ordered;

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

22 (c) The court shall not schedule an administrative sealing  
23 hearing at the disposition and no administrative sealing hearing  
24 shall occur if one of the offenses for which the court has entered a  
25 disposition is at the time of commission of the offense:

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

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

28 (iii) A drug offense, as defined in RCW 9.94A.030.

29 (d) At the time of the scheduled administrative sealing hearing,  
30 the court shall enter a written order sealing the respondent's  
31 juvenile court record pursuant to this subsection if the court finds  
32 by a preponderance of the evidence that the respondent is no longer  
33 on supervision for the case being considered for sealing and has paid  
34 the full amount of restitution owing to the individual victim named  
35 in the restitution order, excluding restitution owed to any public or  
36 private entity providing insurance coverage or health care coverage.  
37 In determining whether the respondent is on supervision or owes  
38 restitution, the court shall take judicial notice of court records,  
39 including records of the county clerk, and, if necessary, sworn  
40 testimony from a representative of the juvenile department.

1 (e) At the time of the administrative sealing hearing, if the  
2 court finds the respondent remains on supervision for the case being  
3 considered for sealing, then the court shall continue the  
4 administrative sealing hearing to a date within (~~(thirty)~~) 30 days  
5 following the anticipated end date of the respondent's supervision.  
6 At the next administrative sealing hearing, the court shall again  
7 determine the respondent's eligibility for sealing (~~(his or her)~~) the  
8 respondent's juvenile court record pursuant to (d) of this  
9 subsection, and, if necessary, continue the hearing again as provided  
10 in this subsection.

11 (f)(i) During the administrative sealing hearing, if the court  
12 finds the respondent is no longer on supervision for the case being  
13 considered for sealing, but the respondent has not paid the full  
14 amount of restitution owing to the individual victim named in the  
15 restitution order, excluding any public or private entity providing  
16 insurance coverage or health care coverage, the court shall deny  
17 sealing the juvenile court record in a written order that: (A)  
18 Specifies the amount of restitution that remains unpaid to the  
19 original victim, excluding any public or private entity providing  
20 insurance coverage or health care coverage; and (B) provides  
21 direction to the respondent on how to pursue the sealing of records  
22 associated with this cause of action.

23 (ii) Within five business days of the entry of the written order  
24 denying the request to seal a juvenile court record, the juvenile  
25 court department staff shall notify the respondent of the denial by  
26 providing a copy of the order of denial to the respondent in person  
27 or in writing mailed to the respondent's last known address in the  
28 department of licensing database or the respondent's address provided  
29 to the court, whichever is more recent.

30 (iii) At any time following entry of the written order denying  
31 the request to seal a juvenile court record, the respondent may  
32 contact the juvenile court department, provide proof of payment of  
33 the remaining unpaid restitution to the original victim, excluding  
34 any public or private entity providing insurance coverage or health  
35 care coverage, and request an administrative sealing hearing. Upon  
36 verification of the satisfaction of the restitution payment, the  
37 juvenile court department staff shall circulate for signature an  
38 order sealing the file, and file the signed order with the clerk's  
39 office, who shall seal the record.

1 (iv) The administrative office of the courts must ensure that  
2 sealed juvenile records remain private in case of an appeal and are  
3 either not posted or redacted from any clerks papers that are posted  
4 online with the appellate record, as well as taking any other prudent  
5 steps necessary to avoid exposing sealed juvenile records to the  
6 public.

7 (2) Except for dismissal of a deferred disposition under RCW  
8 13.40.127, the court shall enter a written order immediately sealing  
9 the official juvenile court record upon the acquittal after a fact  
10 finding or upon the dismissal of charges with prejudice, subject to  
11 the state's right, if any, to appeal the dismissal.

12 (3) If a juvenile court record has not already been sealed  
13 pursuant to this section, in any case in which information has been  
14 filed pursuant to RCW 13.40.100 or a complaint has been filed with  
15 the prosecutor and referred for diversion pursuant to RCW 13.40.070,  
16 the person who is the subject of the information or complaint may  
17 file a motion with the court to have the court vacate its order and  
18 findings, if any; resolve the status of any debts owing; and, subject  
19 to RCW 13.50.050(13), order the sealing of the official juvenile  
20 court record, the social file, and records of the court and of any  
21 other agency in the case, with the exception of identifying  
22 information under RCW 13.50.050(13).

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

25 (i) Since the last date of release from confinement, including  
26 full-time residential treatment, if any, or entry of disposition, the  
27 person has spent five consecutive years in the community without  
28 committing any offense or crime that subsequently results in an  
29 adjudication or conviction;

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

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

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

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

1 (vi) The person has paid the full amount of restitution owing to  
2 the individual victim named in the restitution order, excluding  
3 restitution owed to any public or private entity providing insurance  
4 coverage or health care coverage.

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

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

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

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

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

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

25 (c) Notwithstanding the requirements in (a) or (b) of this  
26 subsection, the court shall grant any motion to seal records of any  
27 deferred disposition vacated under RCW 13.40.127(9) prior to June 7,  
28 2012, if restitution has been paid and the person is (~~eighteen~~) 18  
29 years of age or older at the time of the motion.

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

33 (6) (a) If the court enters a written order sealing the juvenile  
34 court record pursuant to this section, it shall, subject to RCW  
35 13.50.050(13), order sealed the official juvenile court record, the  
36 social file, and other records relating to the case as are named in  
37 the order. Thereafter, the proceedings in the case shall be treated  
38 as if they never occurred(~~(, and the)~~). The subject of the sealed  
39 records may reply accordingly to any inquiry about ((the events,  
40 records of which are sealed)) the subject's commission of a juvenile

1 offense, including an inquiry about whether the subject has a  
2 disqualifying arrest or adjudication, that the subject does not have  
3 a juvenile arrest or adjudication. Any agency shall reply to any  
4 inquiry concerning confidential or sealed records that any such  
5 records are confidential, and no information can be given about the  
6 existence or nonexistence of such records (~~concerning an~~  
7 ~~individual~~)).

8 (b) In the event the subject of the juvenile records receives a  
9 full and unconditional pardon, the proceedings in the matter upon  
10 which the pardon has been granted shall be treated as if they never  
11 occurred, and the subject of the records may reply accordingly to any  
12 inquiry about (~~the events upon which the pardon was received~~) the  
13 subject's commission of a juvenile offense, including an inquiry  
14 about whether the subject has a disqualifying adjudication, that the  
15 subject does not have such an adjudication. Any agency shall reply to  
16 any inquiry concerning the records pertaining to the events for which  
17 the subject received a pardon that any such records are confidential,  
18 and no information can be given about the existence or nonexistence  
19 of such records (~~concerning an individual~~)).

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

24 (7) Inspection of the files and records included in the order to  
25 seal may thereafter be permitted only by order of the court upon  
26 motion made by the person who is the subject of the information or  
27 complaint, except as otherwise provided in RCW 13.50.010(8) and  
28 13.50.050(13).

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

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

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

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

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

12 (10) County clerks may interact or correspond with the  
13 respondent, (~~his or her~~) the respondent's parents, restitution  
14 recipients, and any holders of potential assets or wages of the  
15 respondent for the purposes of collecting an outstanding legal  
16 financial obligation after juvenile court records have been sealed  
17 pursuant to this section.

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

24 (12) All criminal justice agencies must not disclose confidential  
25 information or sealed records accessed through the Washington state  
26 identification system or other means, and no information can be given  
27 to third parties other than Washington state criminal justice  
28 agencies about the existence or nonexistence of confidential or  
29 sealed records concerning an individual.

30 **Sec. 4.** RCW 13.50.270 and 2018 c 82 s 5 are each amended to read  
31 as follows:

32 (1)(a) Subject to RCW 13.50.050(13), all records maintained by  
33 any court or law enforcement agency, including the juvenile court,  
34 local law enforcement, the Washington state patrol, (~~and~~) the  
35 prosecutor's office, and any other state agencies notified regarding  
36 automatic record destruction eligibility, shall be automatically  
37 destroyed within (~~ninety~~) 90 days of becoming eligible for  
38 destruction. Juvenile records are eligible for automatic destruction  
39 when:



1 (i) (A) The person who is the subject of the information or  
2 complaint is at least ~~((eighteen))~~ 18 years of age;

3 ~~((-ii-))~~ (B) The records in question consist of successfully  
4 completed diversion agreements and counsel and release agreements, or  
5 both, which were completed on or after June 7, 2018; and

6 ~~((-iii-))~~ (C) There is no restitution owing in the case; or

7 (ii) (A) The person who is the subject of the information or  
8 complaint is at least 23 years of age;

9 (B) The records in question relate to a sealed juvenile record  
10 that remains sealed at the time of the automatic destruction;

11 (C) The offense related to the record in question is not a  
12 serious violent offense as defined under RCW 9.94A.030 or an offense  
13 requiring registration under RCW 9A.44.140;

14 (D) There is no pending proceeding seeking the conviction of the  
15 subject of the sealed juvenile records;

16 (E) There is no restitution owing the case related to the record  
17 in question; and

18 (F) The offense related to the record in question would no longer  
19 be considered a point or a fraction of a point in determining the  
20 individual's offender score under RCW 9.94A.525.

21 (b) Notwithstanding this subsection (1), records of successfully  
22 completed diversion agreements and counsel and release agreements  
23 remain subject to destruction under the terms set forth in  
24 subsections (2) through (4) of this section, as well as sealing under  
25 RCW 13.50.260.

26 (c) No less than quarterly, the administrative office of the  
27 courts shall provide a report to the juvenile courts of those  
28 individuals whose records may be eligible for destruction. The  
29 ~~((juvenile))~~ court shall verify eligibility and notify the Washington  
30 state patrol ~~((and))~~, the appropriate local law enforcement agency  
31 ~~((and))~~, the prosecutor's office, and any other entity which it  
32 shared the records with of the records to be destroyed. The  
33 requirement to destroy records under this subsection is not dependent  
34 on a court hearing or the issuance of a court order to destroy  
35 records.

36 ~~((-d- The state and local governments and their officers and~~  
37 ~~employees are not liable for civil damages for the failure to destroy~~  
38 ~~records pursuant to this section.))~~

39 (2) All records maintained by any court or law enforcement  
40 agency, including the juvenile court, local law enforcement, the

1 Washington state patrol, and the prosecutor's office, shall be  
2 automatically destroyed within (~~thirty~~) 30 days of being notified  
3 by the governor's office that the subject of those records received a  
4 full and unconditional pardon by the governor.

5 (3) (a) A person may request that the court order the records in  
6 (~~his or her~~) the person's case destroyed as follows:

7 (i) A person (~~eighteen~~) 18 years of age or older whose criminal  
8 history consists entirely of one diversion agreement or counsel and  
9 release entered prior to June 12, 2008. The request shall be granted  
10 if the court finds that two years have elapsed since completion of  
11 the agreement or counsel and release.

12 (ii) A person (~~twenty-three~~) 23 years of age or older whose  
13 criminal history consists of only referrals for diversion. The  
14 request shall be granted if the court finds that all diversion  
15 agreements have been successfully completed and no proceeding is  
16 pending against the person seeking the conviction of a criminal  
17 offense.

18 (b) The court shall grant a request to destroy a juvenile record  
19 if:

20 (i) The person who is the subject of the information or complaint  
21 is at least 23 years of age;

22 (ii) The records in question relate to a sealed juvenile record  
23 that remains sealed at the time of the request;

24 (iii) The offense related to the record in question is not a  
25 serious violent offense as defined under RCW 9.94A.030 or an offense  
26 requiring registration under RCW 9A.44.140;

27 (iv) There is no pending proceeding seeking the conviction of the  
28 subject of the sealed juvenile records;

29 (v) There is no restitution owing in the case related to the  
30 record in question; and

31 (vi) The offense related to the record in question would no  
32 longer be considered a point or a fraction of a point in determining  
33 the individual's offender score under RCW 9.94A.525.

34 (c) For requests to destroy sealed juvenile records involving a  
35 person 23 years of age or older that does involve a serious violent  
36 offense as defined under RCW 9.94A.030 or an offense requiring  
37 registration under RCW 9A.44.140 that would no longer be considered a  
38 point or a fraction of a point in determining the individual's  
39 offender score under RCW 9.94A.525, the court shall grant a request  
40 to destroy such records if it finds that the subject of the record

1 has rehabilitated such that destruction of the record would not be  
2 detrimental to public safety. A court shall not grant a request to  
3 destroy a record under this subsection if there is a pending  
4 proceeding seeking the conviction of the subject of the record or  
5 there is restitution owing in the case related to the record in  
6 question. In determining whether to grant a request to destroy  
7 records under this section, the court shall consider:

8 (i) The subject of the record's age at the time of the commission  
9 of the offense;

10 (ii) The amount of time elapsed since the commission of the  
11 offense without subsequent offenses;

12 (iii) The factual basis for the offense;

13 (iv) Information related to the subject of the record's  
14 rehabilitation;

15 (v) Criminal culpability of the subject of the record;

16 (vi) Barriers to effective reintegration that warrant  
17 destruction; and

18 (vii) Concerns from the victim of the record at issue.

19 (d) If the court grants the motion to destroy records made  
20 pursuant to this subsection, it shall, subject to RCW 13.50.050(13),  
21 order the official juvenile court record, the social file, and any  
22 other records named in the order to be destroyed. Thereafter, the  
23 subject of the records may reply to any inquiry about the events  
24 related to the destroyed records, including an inquiry about whether  
25 the destroyed record would count as a disqualifying offense on an  
26 application, that the subject does not have juvenile records.

27 ~~((e))~~ (e) The person making the motion pursuant to this  
28 subsection must give reasonable notice of the motion to the  
29 prosecuting attorney and to any agency whose records are sought to be  
30 destroyed.

31 (f) Any agency ordered to destroy its records under this  
32 subsection shall do so within 90 days of receiving the court's order  
33 to destroy.

34 (g) The administrative office of the courts shall send notice to  
35 the individuals that may request record destruction under this  
36 subsection within 90 days of the individual's ability to request  
37 destruction.

38 (4) Any juvenile justice or care agency may, subject to the  
39 limitations in RCW 13.50.050(13) and this section, develop procedures

1 for the routine destruction of records relating to juvenile offenses  
2 and diversions.

3 (a) Records may be routinely destroyed only when the person the  
4 subject of the information or complaint has attained (~~twenty-three~~)  
5 23 years of age or older or pursuant to subsection (1) of this  
6 section.

7 (b) The court may not routinely destroy the official juvenile  
8 court record or recordings or transcripts of any proceedings.

9 (5) For purposes of this section, a record is destroyed when the  
10 document or file is permanently irretrievable, and any connection  
11 between a juvenile arrest or adjudication to the individual  
12 associated with such record is completely removed from any agency  
13 system such that there is no way to link an individual to the  
14 commission of, or an arrest for, a juvenile offense.

15 (6)(a) Every juvenile court shall maintain a public juvenile  
16 destruction docket, which must be available for public inspection.  
17 The public juvenile destruction docket shall list:

18 (i) The date of the adjudication;

19 (ii) The offense;

20 (iii) The date of destruction; and

21 (iv) Whether the record was destroyed under subsection (1) or (3)  
22 of this section.

23 (b) The juvenile court shall keep a confidential juvenile  
24 destruction docket that must include the information included in (a)  
25 of this subsection and the name and date of birth of the subject of  
26 the juvenile records. Information held in the confidential juvenile  
27 destruction docket can only be reviewed and shared with the subject  
28 of the record who needs information related to the destruction of the  
29 record.

--- END ---