

SENATE BILL REPORT

SHB 1793

As of March 16, 2011

Title: An act relating to restricting access to juvenile records.

Brief Description: Restricting access to juvenile records.

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Darneille, Roberts and Kagi).

Brief History: Passed House: 3/05/11, 56-41.

Committee Activity: Human Services & Corrections: 3/17/11.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Jennifer Strus (786-7316)

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 juvenile.

To seal a juvenile record, a person must file a motion with the superior court. While records of sex offenses cannot be sealed, the court does have discretion to seal 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.

Furthermore, the court cannot seal juvenile records 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.

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.

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 (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: A consumer reporting agency that collects personally identifying information pertaining to juvenile records about an individual residing in Washington may not disseminate that information, including the existence or nonexistence of the record, to any third party. A consumer reporting agency may disseminate de-identified information for social science research, trend data, and generalized aggregation purposes. A de-identified record is one in which the name, address, and personally identifiable information has been removed.

A violation of this Act is considered an unfair or deceptive act in trade or commerce and an unfair method of competition and subjects the violator to treble damages under the Act.

The Administrative Office of the Courts (AOC) must convene a workgroup of stakeholders to develop recommendations that would allow juvenile records to cost-effectively be sealed without requiring the person who is the subject of the records to make a motion to the court. The members of the workgroup must include representatives from AOC, the Judicial Information Systems Data Dissemination Committee, the Association of Clerks, the Washington Defender Association, the Washington Association of Prosecuting Attorneys, the Washington State Patrol, and a member of the Washington State Bar Association Juvenile Law Section. The workgroup must report its recommendations to the Legislature by December 1, 2011.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.