

FINAL BILL REPORT

SHB 2794

C 184 L 20
Synopsis as Enacted

Brief Description: Concerning juvenile record sealing.

Sponsors: House Committee on Human Services & Early Learning (originally sponsored by Representatives Frame, Davis, Peterson, Lekanoff, Pollet and Santos).

House Committee on Human Services & Early Learning
Senate Committee on Human Services, Reentry & Rehabilitation

Background:

Sealing Juvenile Records.

Juvenile offender records are public unless sealed. Records of non-offender juvenile cases, such as dependency or adoption records, are not open to public inspection.

An individual may seal a juvenile record by:

- filing a motion to seal the official juvenile court record, the social file, and records of the court and any other agency in the case; or
- having a record sealed during regularly held administrative sealing hearings.

Once a juvenile record is sealed, the proceedings in the case must be treated as if they never occurred. Any subsequent criminal adjudication or adult felony charge unseals the case.

Regular Sealing Hearings.

At the disposition hearing of a juvenile offender, courts must schedule an administrative sealing hearing after that offender turns 18 years old and is anticipated to have completed any probation and confinement. Courts must seal the individual's juvenile court record if none of the offenses for which the court is entering disposition are a most serious offense, a sex offense, or a felony drug offense. Respondents must also have completed the terms and conditions of disposition, including financial obligations, to seal a record during a regular sealing hearing.

Motions to Seal Juvenile Records.

An individual may file a motion requesting that the court seal his or her juvenile record. An individual is eligible to have his or her record sealed after remaining in the community without further conviction for a certain period of time and paying any restitution associated

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with the case. For class A felonies, an individual must remain in the community without conviction for five years. For class B felonies, class C felonies, and all misdemeanors, an individual must remain in the community without conviction for two years.

Individuals convicted of Rape in the first degree, Rape in the second degree, and Indecent Liberties with Forcible Compulsion are not eligible for record sealing. Other sex offenses are eligible for sealing, but an individual must be relieved of the obligation to register as a sex offender.

Summary:

The ability for the court to receive an objection to sealing or note a compelling reason not to seal, and set a contested administrative sealing hearing is removed.

The requirement that a respondent complete the terms and conditions of disposition before a court seals a juvenile court record during an administrative sealing hearing is removed.

Any restitution owing to a public or private entity providing insurance coverage is excluded from the requirement that a respondent has paid the full amount of restitution at the time of an administrative sealing hearing.

The court must take judicial notice of court records, including records of the county court clerk (clerk), and, if necessary, sworn testimony from a representative of the juvenile department.

If the court finds during an administrative sealing hearing that the respondent remains on supervision for the case, the court must continue the hearing to a date within 30 days following the anticipated end date of the respondent's supervision.

During the administrative sealing hearing, if the court finds the respondent is no longer on supervision for the case, but the respondent has not paid the full amount of restitution owing to the individual victim named in the restitution order, excluding any public or private entity providing insurance coverage or health care coverage, the court must deny sealing the juvenile court record in its written order and include the amount of restitution remaining unpaid to the original victim and provide direction to the respondent on how to pursue sealing of records.

The juvenile court department staff must notify the respondent after the court denies sealing by providing a copy of the order.

At any time following entry of the written order of denying the request to seal a juvenile court record, the respondent may contact the juvenile court department, provide proof of payment of the amount of restitution that remains unpaid to the individual victim, and request the record be sealed.

The juvenile court department staff must circulate an order sealing the file and file the signed order with the clerk's office upon verification of satisfaction of the restitution payment.

The Administrative Office of the Courts (AOC) must ensure that sealed juvenile records remain private in case of an appeal.

A respondent may file a motion with the court to have the court resolve the status of any debts owing.

Court clerks may correspond with restitution recipients.

If the clerk fails to seal the respondent's juvenile court record within five business days for any reason, then the clerk must note the matter for a hearing within 60 days of the respondent's request to seal, and provide the respondent written notice of the hearing mailed at least 10 days prior to the hearing. If the clerk fails to note the matter for a court hearing within 60 days for any reason, the respondent may bring a motion to administratively seal the record.

Criminal justice agencies may not disclose confidential information or sealed records accessed through the Washington State Identification System or other means, and no information may be given to third parties other than Washington criminal justice agencies about the existence or nonexistence of confidential or sealed records.

The Washington State Patrol must limit access to sealed juvenile record information to criminal justice agencies in Washington State.

The Department of Children, Youth, and Families (DCYF) and the Office of the Superintendent of Public Instruction (OSPI) must develop policies and procedures that prevent any information from being included on a student transcript indicating that a student received credit while confined in a juvenile detention facility or institution and provide a report by November 1, 2020, to the Legislature and the Governor describing the procedures in place to prevent this from happening.

Votes on Final Passage:

House	64	34	
Senate	36	11	(Senate amended)
House	62	34	(House concurred)

Effective: June 11, 2020
January 1, 2021 (Sections 1, 2, and 4)