

SENATE BILL REPORT

SB 5182

As Reported by Senate Committee On:
Human Services, Reentry & Rehabilitation, February 19, 2019

Title: An act relating to juvenile record sealing.

Brief Description: Concerning juvenile record sealing.

Sponsors: Senators Kuderer, Darneille, Wellman, Hunt, Hasegawa, Saldaña and Wilson, C..

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/23/19, 2/19/19 [DPS, DNP].

Brief Summary of First Substitute Bill

- Eliminates contested sealing hearings for juvenile court records, making sealing automatic if the juvenile has turned eighteen years old, completed supervision, and fully paid restitution owed to individual victims.
- Allows a juvenile to apply to have a court record sealed upon providing proof of payment of restitution and other requirements.
- Allows a juvenile court record that consists of a drug offense to be subject to a regular sealing hearing.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: That Substitute Senate Bill No. 5182 be substituted therefor, and the substitute bill do pass.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; Cleveland, Wilson, C. and Zeiger.

Minority Report: Do not pass.

Signed by Senator O'Ban.

Staff: Kevin Black (786-7747)

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.

Background: Juvenile court records are open to public inspection, unless sealed. A juvenile court must schedule a sealing hearing for all juvenile records that are not classified as most serious offenses, sex offenses, or drug offenses, to take place upon the later of a juvenile's eighteenth birthday, anticipated completion of probation, or anticipated release from confinement. The court must hold a contested sealing hearing if the court receives an objection to sealing, or if the court notes on its own motion a compelling reason not to seal. In order to seal a juvenile record, the court must find that the juvenile has completed the full terms and conditions of the disposition, including affirmative conditions, and paid full restitution to any individual victim.

If not subject to regular sealing, a juvenile court record may be vacated and sealed by motion, provided that if the person was charged with a class A felony, the juvenile, or former juvenile, must meet certain requirements, including spending five consecutive years in the community without being convicted or adjudicated of a crime, not being required to register as a sex offender, and full payment of restitution. Sealing by motion is not available to a person convicted of rape 1, rape 2, or indecent liberties with forcible compulsion.

A sealing order is nullified if the juvenile, or former juvenile, is adjudicated of a juvenile offense or convicted of a crime subsequent to the sealing, or is charged with an adult felony.

Summary of Bill (First Substitute): Contested sealing hearings for juvenile records are eliminated, making sealing hearings automatic, provided that the court finds by a preponderance of the evidence that the juvenile is no longer on supervision and has completed payment of any restitution, excluding restitution owed to insurance providers. If the juvenile is on supervision, the court must continue the sealing hearing until a date within 30 days of the anticipated end of supervision.

If the court finds that restitution has not been paid, the court must deny sealing and notify the juvenile of the denial and the unpaid amount of restitution within five business days at the juvenile's last known address. The juvenile may subsequently contact the court with proof of payment of restitution, in which case the court must seal the juvenile record within five business days. The court must schedule a hearing within 60 days if the court fails to seal the juvenile record for any reason.

A juvenile court record relating to a drug offense is subject to a regular sealing hearing.

A dismissal of a deferred disposition is exempted from the requirement that the court must seal any juvenile record immediately upon any acquittal or dismissal with prejudice.

A successful motion to seal juvenile court records must not vacate the court finding.

EFFECT OF CHANGES MADE BY HUMAN SERVICES, REENTRY & REHABILITATION COMMITTEE (First Substitute):

- Allows juvenile court records that consist of a drug offenses to be subject to regular sealing hearings.

- Restores language requiring the Washington State Patrol to ensure that the Washington State Identification System provides criminal justice agencies with access to sealed juvenile records.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This is an opportunity to give second chances to people so they can build a new future without being haunted by what they did as a youth. The current system to seal records is daunting. Some of us had privileges as youth because the police just brought us home. This bill originated as a technical fix for the sealing statute enacted in 2014. County practices are inconsistent. Some people request inappropriate hearings. Kids should have a chance to seal records which do not relate to serious matters. Under current practice sealed records can still come up and be used inappropriately. It is a good idea to limit providing this information to the Washington State Patrol. Records are not effectively sealed while they remain available in electronic databases.

CON: Criminal justice agencies should retain access to sealed juvenile records. We support rehabilitation and reentry. This information is important for officer safety and public safety. Withheld sealed juvenile records could be used to deny a concealed pistols license. There is no way for federal officers to get access to Washington State Identification System data.

Persons Testifying: PRO: Senator Patty Kuderer, Prime Sponsor; Todd Dowell, Washington Association of Prosecuting Attorneys; Hillary Madsen, Columbia Legal Services; Tom McBride, Washington Association of Juvenile Court Administrators.

CON: James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: No one.