

# SENATE BILL REPORT

## SB 6117

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As of January 23, 2018

**Title:** An act relating to revising conditions under which juvenile court records may be sealed.

**Brief Description:** Revising conditions under which juvenile court records may be sealed.

**Sponsors:** Senators Darneille and Kuderer.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 1/08/18.

**Brief Summary of Bill**

- Eliminates contests to regular sealing hearings for juvenile court records and fact-finding related to whether the respondent has completed the terms and conditions of disposition.
- Exempts dismissals of deferred dispositions from a requirement that juvenile court records be immediately sealed upon acquittal or dismissal with prejudice.
- Expands a prohibition on sealing juvenile records by motion to include persons convicted of any serious violent offense, while allowing court discretion to seal the records after ten years without conviction or adjudication.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Kevin Black (786-7747)

**Background:** Juvenile court records are open to public inspection, unless sealed. Since 2014, a juvenile court must schedule a sealing hearing at a juvenile's disposition hearing, to take place upon the juvenile's 18th birthday, anticipated completion of probation, or anticipated release from confinement, whichever is later. The court must hold a contested sealing hearing if the court receives an objection to sealing, or the court notes a compelling reason not to seal. Juvenile offenses are eligible for sealing if they are not most serious offenses, sex offenses, or drug offenses, excluding possession of a controlled substance or forged prescription. The court must find that the person has completed the full terms and

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conditions of the disposition, including affirmative conditions, and has 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 person 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 payment of full restitution. Sealing by motion is not available to a person convicted of rape 1, rape 2, or indecent liberties with forcible compulsion.

Adjudication of a juvenile offense or crime subsequent to sealing, or the charging of an adult felony, has the effect of nullifying a sealing order.

Serious violent offenses include murder 1, murder 2, homicide by abuse, manslaughter 1, assault 1, kidnapping 1, rape 1, assault of a child 1, and attempts, criminal solicitations, and criminal conspiracies to commit one of these felonies.

**Summary of Bill:** Superior court must hold regular sealing hearings for juvenile court records related to eligible offenses. At the sealing hearing, the court must enter a written sealing order if the court finds that the juvenile is no longer on supervision in the case to be sealed and has paid the full restitution amount owing to the individual victim named in the restitution order. Exceptions allowing for a contested sealing hearing if the court receives an objection to sealing or the court notes a compelling reason not to seal are eliminated. The court must take judicial notice of court records when determining whether the respondent remains on supervision. If the court finds the juvenile remains on supervision but has paid the full amount of restitution to the individual victim, the court must continue the sealing hearing until supervision is completed.

Dismissals of deferred dispositions are exempted from the requirement that juvenile court records must be immediately sealed upon acquittal or upon dismissal of the charges with prejudice.

Juvenile court records of eligible persons may be sealed by motion, but not vacated by the court prior to sealing.

The prohibition on sealing juvenile records upon the motion of a person convicted of rape 1, rape 2, or indecent liberties with forcible compulsion is expanded to include persons convicted of any serious violent offense, but an avenue is created to seal these records if:

- the person has spent 10 consecutive years in the community since the last release from confinement without committing any offense or crime resulting in adjudication or conviction;
- the person does not have to register as a sex offender;
- the person has paid the full amount of restitution owing to an individual victim named in a restitution order;
- the person has no pending proceedings; and
- the court finds that sealing is in the best interest of the community, taking into account the factual circumstances of the case, present life circumstances of the person, any input from the victim, or other factors the court considers relevant.

In this instance only, the prosecutor must make reasonable efforts to notify the victim of the motion to seal 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:** PRO: I have learned that contested sealing hearings are common in some areas of the state. Although they were intended to be administrative hearings, some jurisdictions are having mini-trials on how well the juvenile did on supervision. Juveniles who violate terms of supervision have already had the opportunity to be punished for those violations. When the juvenile turns 18 and is no longer on supervision, there is no reason not to seal unless there is still restitution owed to an individual victim. There is also no reason to set an administrative hearing if the case is not eligible for administrative sealing. We want all offenses to be eligible for sealing, but to give the judge discretion and impose delay for the most serious offenses.

**Persons Testifying:** PRO: Todd Dowell, Washington Association of Prosecuting Attorneys.

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