

SENATE BILL REPORT

SHB 2794

As Passed Senate - Amended, March 4, 2020

Title: An act relating to juvenile record sealing.

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).

Brief History: Passed House: 2/19/20, 64-34.

Committee Activity: Human Services, Reentry & Rehabilitation: 2/25/20 [DPA].

Floor Activity:

Passed Senate - Amended: 3/04/20, 36-11.

Brief Summary of Amended Bill

- Eliminates contested sealing hearings for juvenile court records, making sealing automatic if the juvenile has turned 18 years old, completed confinement and 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.
- Requires the Washington State Patrol to provide sealed juvenile record information to Washington State criminal justice agencies and prohibits them from disclosing the information to third parties who are not Washington State criminal justice agencies.
- Requires the development of procedures to prevent information from being included on a school transcript indicating that credit was earned while a juvenile was confined in a detention facility or institution.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: Do pass as amended.

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

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.

Staff: Kevin Black (786-7747)

Background: Juvenile Record Sealing. 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.

Access to Sealed Juvenile Records by Law Enforcement Agencies. An amendment enacted in 2015 requires the Washington State Patrol (WSP) to ensure that the Washington State Identification System (WASIS) provides criminal justice agencies access to sealed juvenile record information. Criminal justice agencies is defined under the Washington State Criminal Records Privacy Act to mean any court or government agency which performs the administration of criminal justice pursuant to statute or executive order which allocates a substantial part of its annual budget to the administration of criminal justice. WSP provides full access to WASIS, including sealed juvenile record information, to entities that apply for access that it deems to be law enforcement agencies or designates as certified criminal justice agencies, regardless of state, federal, or international jurisdiction. A 2015 list of certified criminal justice agencies granted full access to WASIS information by WSP includes 17 state agencies, including divisions of the Department of Social and Health Services, Department of Health, Department of Fish and Wildlife, and Liquor Control Board, and 22 federal agencies, including the U.S. Department of Defense, U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and Central Intelligence Agency.

Summary of Amended Bill: Contested sealing hearings for juvenile records are eliminated. If the record is eligible for sealing, sealing is automatic upon the juvenile's eighteenth birthday, end of supervision, or term of confinement, whichever comes later, as long as the court finds by a preponderance of the evidence that the juvenile has completed payment of any restitution, excluding restitution owed to insurance providers. If the juvenile remains on supervision at the time of the sealing hearing, 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 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.

WSP must ensure that WASIS provides sealed juvenile record information to criminal justice agencies that are Washington State criminal justice agencies. These agencies must not disclose information contained in sealed juvenile records access through WASIS or other means to third parties who are not Washington state criminal justice agencies.

The Administrative Office of the Courts must take prudent steps to ensure that sealed juvenile records are not disclosed online in the case of an appeal. A court clerk may correspond with restitution recipients with respect to juvenile sealed records.

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 information from being included on a school transcript that indicates that credits were earned while a student is confined in a juvenile detention facility, institution, community facility, or jail. DCYF and OSPI must provide a report to the Governor and the Legislature by November 1, 2020.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill takes effect on January 1, 2021, except for Section 3 which takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Striking Amendment: None.

Persons Testifying: No one.

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