
SUBSTITUTE SENATE BILL 5182

State of Washington

66th Legislature

2019 Regular Session

By Senate Human Services, Reentry & Rehabilitation (originally sponsored by Senators Kuderer, Darneille, Wellman, Hunt, Hasegawa, Saldaña, and Wilson, C.)

READ FIRST TIME 02/21/19.

1 AN ACT Relating to juvenile record sealing; amending RCW
2 13.50.260; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 13.50.260 and 2015 c 265 s 3 are each amended to
5 read as follows:

6 (1)(a) The court shall hold regular sealing hearings. During
7 these regular sealing hearings, the court shall administratively seal
8 an individual's juvenile record pursuant to the requirements of this
9 subsection (~~((unless the court receives an objection to sealing or the
10 court notes a compelling reason not to seal, in which case, the court
11 shall set a contested hearing to be conducted on the record to
12 address sealing))~~). Although the juvenile record shall be sealed, the
13 social file may be available to any juvenile justice or care agency
14 when an investigation or case involving the juvenile subject of the
15 records is being prosecuted by the juvenile justice or care agency or
16 when the juvenile justice or care agency is assigned the
17 responsibility of supervising the juvenile. (~~((The contested hearing
18 shall be set no sooner than eighteen days after notice of the hearing
19 and the opportunity to object has been sent to the juvenile, the
20 victim, and juvenile's attorney.))~~) The juvenile respondent's presence

1 is not required at ((a)) any administrative sealing hearing
2 (~~pursuant to this subsection~~).

3 (b) At the disposition hearing of a juvenile offender, the court
4 shall schedule an administrative sealing hearing to take place during
5 the first regularly scheduled sealing hearing after the latest of the
6 following events that apply:

7 (i) The respondent's eighteenth birthday;

8 (ii) Anticipated (~~completion~~) end date of a respondent's
9 probation, if ordered;

10 (iii) Anticipated release from confinement at the juvenile
11 rehabilitation administration, or the completion of parole, if the
12 respondent is transferred to the juvenile rehabilitation
13 administration.

14 (c) (~~A court shall enter a written order sealing an individual's~~
15 ~~juvenile court record pursuant to this subsection if:~~

16 ~~(i))~~ The court shall not schedule an administrative sealing
17 hearing at the disposition and no administrative sealing hearing
18 shall occur if one of the offenses for which the court has entered a
19 disposition is ((not)) at the time of commission of the offense:

20 (~~(A))~~ (i) A most serious offense, as defined in RCW 9.94A.030;
21 or

22 (~~(B))~~ (ii) A sex offense under chapter 9A.44 RCW((; or

23 ~~(C) A drug offense, as defined in RCW 9.94A.030; and))~~ .

24 (~~(ii))~~ (d) At the time of the scheduled administrative sealing
25 hearing, the court shall enter a written order sealing the
26 respondent's juvenile court record pursuant to this subsection if the
27 court finds by a preponderance of the evidence that the respondent
28 ((has completed the terms and conditions of disposition, including
29 affirmative conditions)) is no longer on supervision for the case
30 being considered for sealing and has paid the full amount of
31 restitution owing to the individual victim named in the restitution
32 order, excluding restitution owed to any ((insurance provider
33 authorized under Title 48 RCW)) public or private entity providing
34 insurance coverage or health care coverage. In determining whether
35 the respondent is on supervision or owes restitution, the court shall
36 take judicial notice of court records, including records of the
37 county clerk, and, if necessary, sworn testimony from a
38 representative of the juvenile department.

39 (~~(d) Following a contested sealing hearing on the record after~~
40 ~~an objection is made pursuant to (a) of this subsection, the court~~

1 ~~shall enter a written order sealing the juvenile court record unless~~
2 ~~the court determines that sealing is not appropriate.))~~ (e) At the
3 time of the administrative sealing hearing scheduled at disposition,
4 if the court finds the respondent remains on supervision for the case
5 being considered for sealing, then the court shall continue the
6 administrative sealing hearing to a date within thirty days following
7 the anticipated end date of the respondent's supervision. At the next
8 administrative sealing hearing, the court shall again determine the
9 respondent's eligibility for sealing his or her juvenile court record
10 pursuant to (d) of this subsection, and, if necessary, continue the
11 hearing again as provided in this subsection.

12 (f) (i) During the administrative sealing hearing, if the court
13 finds the respondent is no longer on supervision for the case being
14 considered for sealing, but the respondent has not paid the full
15 amount of restitution owing to the individual victim named in the
16 restitution order, excluding any public or private entity providing
17 insurance coverage or health care coverage, the court shall deny
18 sealing the juvenile court record in written order that specifies:
19 (A) The amount of restitution that remains unpaid to the original
20 victim, excluding any public or private entity providing insurance
21 coverage or health care coverage; (B) that the respondent may request
22 the juvenile court record be sealed upon payment of the remaining
23 unpaid restitution to the original victim, excluding any public or
24 private entity providing insurance coverage or health care coverage;
25 and (C) that the clerk of the court shall seal the respondent's
26 juvenile court record if the respondent contacts the clerk, provides
27 proof of payment of the remaining unpaid restitution to the original
28 victim, excluding any public or private entity providing insurance
29 coverage or health care coverage, and requests the juvenile record to
30 be sealed.

31 (ii) Within five business days of the entry of the written order
32 denying the request to seal a juvenile court record, the clerk of the
33 court shall notify the respondent of the denial by providing a copy
34 of the order of denial to the respondent in person or in writing
35 mailed to the respondent's last known address in the department of
36 licensing database or the respondent's address provided to the court,
37 whichever is more recent.

38 (iii) At any time following entry of the written order of denying
39 the request to seal a juvenile court record, the respondent may
40 contact the clerk, provide proof of payment of the amount of

1 restitution that remains unpaid to the individual victim, excluding
2 any public or private entity providing insurance coverage or health
3 care coverage, and request the record be sealed.

4 (iv) Within five business days of the respondent's request to
5 seal a juvenile court record pursuant to this subsection (1)(f), the
6 clerk of the court shall seal the respondent's juvenile court record.
7 If the clerk of the court fails to seal the respondent's juvenile
8 court record within five business days for any reason, then the clerk
9 of the court shall note the matter for a court hearing pursuant to
10 (d) of this subsection within sixty days of the respondent's request
11 to seal, and provide the respondent written notice of the hearing
12 mailed at least ten days prior to the hearing. If the clerk of the
13 court fails to note the matter for a court hearing within sixty days
14 for any reason, the respondent may bring a motion under the original
15 cause number to administratively seal the record as set forth in (d)
16 of this subsection.

17 (2) Except for dismissal of a deferred disposition under RCW
18 13.40.127, the court shall enter a written order immediately sealing
19 the official juvenile court record upon the acquittal after a fact
20 finding or upon the dismissal of charges with prejudice, subject to
21 the state's right, if any, to appeal the dismissal.

22 (3) If a juvenile court record has not already been sealed
23 pursuant to this section, in any case in which information has been
24 filed pursuant to RCW 13.40.100 or a complaint has been filed with
25 the prosecutor and referred for diversion pursuant to RCW 13.40.070,
26 the person who is the subject of the information or complaint may
27 file a motion with the court to have the court (~~vacate its order and~~
28 ~~findings, if any, and, subject to RCW 13.50.050(13),~~) order the
29 sealing of the official juvenile court record, the social file, and
30 records of the court and of any other agency in the case, with the
31 exception of identifying information under RCW 13.50.050(13).

32 (4) (a) The court shall grant any motion to seal records for class
33 A offenses made pursuant to subsection (3) of this section if:

34 (i) Since the last date of release from confinement, including
35 full-time residential treatment, if any, or entry of disposition, the
36 person has spent five consecutive years in the community without
37 committing any offense or crime that subsequently results in an
38 adjudication or conviction;

39 (ii) No proceeding is pending against the moving party seeking
40 the conviction of a juvenile offense or a criminal offense;

1 (iii) No proceeding is pending seeking the formation of a
2 diversion agreement with that person;

3 (iv) The person is no longer required to register as a sex
4 offender under RCW 9A.44.130 or has been relieved of the duty to
5 register under RCW 9A.44.143 if the person was convicted of a sex
6 offense;

7 (v) The person has not been convicted of rape in the first
8 degree, rape in the second degree, or indecent liberties (~~that was~~
9 ~~actually committed~~) with forcible compulsion; and

10 (vi) The person has paid the full amount of restitution owing to
11 the individual victim named in the restitution order, excluding
12 restitution owed to any (~~insurance provider authorized under Title~~
13 ~~48 RCW~~) public or private entity providing insurance coverage or
14 health care coverage.

15 (b) The court shall grant any motion to seal records for class B,
16 class C, gross misdemeanor, and misdemeanor offenses and diversions
17 made under subsection (3) of this section if:

18 (i) Since the date of last release from confinement, including
19 full-time residential treatment, if any, entry of disposition, or
20 completion of the diversion agreement, the person has spent two
21 consecutive years in the community without being convicted of any
22 offense or crime;

23 (ii) No proceeding is pending against the moving party seeking
24 the conviction of a juvenile offense or a criminal offense;

25 (iii) No proceeding is pending seeking the formation of a
26 diversion agreement with that person;

27 (iv) The person is no longer required to register as a sex
28 offender under RCW 9A.44.130 or has been relieved of the duty to
29 register under RCW 9A.44.143 if the person was convicted of a sex
30 offense; and

31 (v) The person has paid the full amount of restitution owing to
32 the individual victim named in the restitution order, excluding
33 restitution owed to any insurance provider authorized under Title 48
34 RCW.

35 (c) Notwithstanding the requirements in (a) or (b) of this
36 subsection, the court shall grant any motion to seal records of any
37 deferred disposition vacated under RCW 13.40.127(9) prior to June 7,
38 2012, if restitution has been paid and the person is eighteen years
39 of age or older at the time of the motion.

1 (5) The person making a motion pursuant to subsection (3) of this
2 section shall give reasonable notice of the motion to the prosecution
3 and to any person or agency whose records are sought to be sealed.

4 (6) (a) If the court enters a written order sealing the juvenile
5 court record pursuant to this section, it shall, subject to RCW
6 13.50.050(13), order sealed the official juvenile court record, the
7 social file, and other records relating to the case as are named in
8 the order. Thereafter, the proceedings in the case shall be treated
9 as if they never occurred, and the subject of the records may reply
10 accordingly to any inquiry about the events, records of which are
11 sealed. Any agency shall reply to any inquiry concerning confidential
12 or sealed records that records are confidential, and no information
13 can be given about the existence or nonexistence of records
14 concerning an individual.

15 (b) In the event the subject of the juvenile records receives a
16 full and unconditional pardon, the proceedings in the matter upon
17 which the pardon has been granted shall be treated as if they never
18 occurred, and the subject of the records may reply accordingly to any
19 inquiry about the events upon which the pardon was received. Any
20 agency shall reply to any inquiry concerning the records pertaining
21 to the events for which the subject received a pardon that records
22 are confidential, and no information can be given about the existence
23 or nonexistence of records concerning an individual.

24 (c) Effective July 1, 2019, the department of licensing may
25 release information related to records the court has ordered sealed
26 only to the extent necessary to comply with federal law and
27 regulation.

28 (7) Inspection of the files and records included in the order to
29 seal may thereafter be permitted only by order of the court upon
30 motion made by the person who is the subject of the information or
31 complaint, except as otherwise provided in RCW 13.50.010(8) and
32 13.50.050(13).

33 (8) (a) Any adjudication of a juvenile offense or a crime
34 subsequent to sealing has the effect of nullifying a sealing order;
35 however, the court may order the juvenile court record resealed upon
36 disposition of the subsequent matter if the case meets the sealing
37 criteria under this section and the court record has not previously
38 been resealed.

39 (b) Any charging of an adult felony subsequent to the sealing has
40 the effect of nullifying the sealing order.

1 (c) The administrative office of the courts shall ensure that the
2 superior court judicial information system provides prosecutors
3 access to information on the existence of sealed juvenile records.

4 (d) The Washington state patrol shall ensure that the Washington
5 state identification system provides criminal justice agencies access
6 to sealed juvenile records information.

7 (9) If the juvenile court record has been sealed pursuant to this
8 section, the record of an employee is not admissible in an action for
9 liability against the employer based on the former juvenile
10 offender's conduct to show that the employer knew or should have
11 known of the juvenile record of the employee. The record may be
12 admissible, however, if a background check conducted or authorized by
13 the employer contained the information in the sealed record.

14 (10) County clerks may interact or correspond with the
15 respondent, his or her parents, and any holders of potential assets
16 or wages of the respondent for the purposes of collecting an
17 outstanding legal financial obligation after juvenile court records
18 have been sealed pursuant to this section.

19 (11) Persons and agencies that obtain sealed juvenile records
20 information pursuant to this section may communicate about this
21 information with the respondent, but may not disseminate or be
22 compelled to release the information to any person or agency not
23 specifically granted access to sealed juvenile records in this
24 section.

25 NEW SECTION. **Sec. 2.** This act applies to all juvenile record
26 sealing hearings commenced on or after the effective date of this
27 section, regardless of when the underlying hearing was scheduled or
28 the underlying record was created. To this extent, this act applies
29 retroactively, but in all other respects it applies prospectively.

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