
SUBSTITUTE SENATE BILL 5733

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Honeyford, Costa, Long, Sheahan, Hargrove and Hochstatter)

Read first time 03/01/1999.

1 AN ACT Relating to sealing juvenile records; and amending RCW
2 13.50.050.

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

4 **Sec. 1.** RCW 13.50.050 and 1997 c 338 s 40 are each amended to read
5 as follows:

6 (1) This section governs records relating to the commission of
7 juvenile offenses, including records relating to diversions.

8 (2) The official juvenile court file of any alleged or proven
9 juvenile offender shall be open to public inspection, unless sealed
10 pursuant to subsection (11) or (12) of this section.

11 (3) All records other than the official juvenile court file are
12 confidential and may be released only as provided in this section, RCW
13 13.50.010, 13.40.215, and 4.24.550.

14 (4) Except as otherwise provided in this section and RCW 13.50.010,
15 records retained or produced by any juvenile justice or care agency may
16 be released to other participants in the juvenile justice or care
17 system only when an investigation or case involving the juvenile in
18 question is being pursued by the other participant or when that other

1 participant is assigned the responsibility for supervising the
2 juvenile.

3 (5) Except as provided in RCW 4.24.550, information not in an
4 official juvenile court file concerning a juvenile or a juvenile's
5 family may be released to the public only when that information could
6 not reasonably be expected to identify the juvenile or the juvenile's
7 family.

8 (6) Notwithstanding any other provision of this chapter, the
9 release, to the juvenile or his or her attorney, of law enforcement and
10 prosecuting attorneys' records pertaining to investigation, diversion,
11 and prosecution of juvenile offenses shall be governed by the rules of
12 discovery and other rules of law applicable in adult criminal
13 investigations and prosecutions.

14 (7) The juvenile court and the prosecutor may set up and maintain
15 a central record-keeping system which may receive information on all
16 alleged juvenile offenders against whom a complaint has been filed
17 pursuant to RCW 13.40.070 whether or not their cases are currently
18 pending before the court. The central record-keeping system may be
19 computerized. If a complaint has been referred to a diversion unit,
20 the diversion unit shall promptly report to the juvenile court or the
21 prosecuting attorney when the juvenile has agreed to diversion. An
22 offense shall not be reported as criminal history in any central
23 record-keeping system without notification by the diversion unit of the
24 date on which the offender agreed to diversion.

25 (8) Upon request of the victim of a crime or the victim's immediate
26 family, the identity of an alleged or proven juvenile offender alleged
27 or found to have committed a crime against the victim and the identity
28 of the alleged or proven juvenile offender's parent, guardian, or
29 custodian and the circumstance of the alleged or proven crime shall be
30 released to the victim of the crime or the victim's immediate family.

31 (9) Subject to the rules of discovery applicable in adult criminal
32 prosecutions, the juvenile offense records of an adult criminal
33 defendant or witness in an adult criminal proceeding shall be released
34 upon request to prosecution and defense counsel after a charge has
35 actually been filed. The juvenile offense records of any adult
36 convicted of a crime and placed under the supervision of the adult
37 corrections system shall be released upon request to the adult
38 corrections system.

1 (10) In any case in which an information has been filed pursuant to
2 RCW 13.40.100 or a complaint has been filed with the prosecutor and
3 referred for diversion pursuant to RCW 13.40.070, the person the
4 subject of the information or complaint may file a motion with the
5 court to have the court vacate its order and findings, if any, and,
6 subject to subsection ~~((+22+))~~ (23) of this section, order the sealing
7 of the official juvenile court file, the social file, and records of
8 the court and of any other agency in the case.

9 (11) The court shall grant the motion to seal records made pursuant
10 to subsection (10) of this section if it finds that:

11 (a) For class B offenses other than sex offenses, since the last
12 date of release from confinement, including full-time residential
13 treatment, if any, or entry of disposition, the person has spent ten
14 consecutive years in the community without committing any offense or
15 crime that subsequently results in conviction. For class C offenses
16 other than sex offenses, since the last date of release from
17 confinement, including full-time residential treatment, if any, or
18 entry of disposition, the person has spent five consecutive years in
19 the community without committing any offense or crime that subsequently
20 results in conviction;

21 (b) No proceeding is pending against the moving party seeking the
22 conviction of a juvenile offense or a criminal offense;

23 (c) No proceeding is pending seeking the formation of a diversion
24 agreement with that person;

25 (d) The person has not been convicted of a class A or sex offense;
26 and

27 (e) Full restitution has been paid.

28 (12) If a person seeking the sealing of records for class B
29 offenses, other than sex offenses, files with the court a motion to
30 seal records under subsection (10) of this section after having spent
31 only five years in the community without committing any offense or
32 crime subsequently resulting in conviction, the court has discretion to
33 grant the motion to seal records if the court finds that, in addition
34 to meeting the criteria stated in subsection (11)(b) through (e) of
35 this section:

36 (a) The person has spent five consecutive years in the community
37 without committing any offense or crime that subsequently resulted in
38 conviction;

1 (b) Credible evidence displays that a present career path for the
2 person is impeded by the existing record;

3 (c) The person is at least twenty-one years old; and

4 (d) The person has lived an exemplary life since committing the
5 last offense or crime.

6 (13) The person making a motion pursuant to subsection (10) of this
7 section shall give reasonable notice of the motion to the prosecution
8 and to any person or agency whose files are sought to be sealed.

9 ~~((13))~~ (14) If the court grants the motion to seal made pursuant
10 to subsection (10) of this section, it shall, subject to subsection
11 ~~((22))~~ (23) of this section, order sealed the official juvenile court
12 file, the social file, and other records relating to the case as are
13 named in the order. Thereafter, the proceedings in the case shall be
14 treated as if they never occurred, and the subject of the records may
15 reply accordingly to any inquiry about the events, records of which are
16 sealed. Any agency shall reply to any inquiry concerning confidential
17 or sealed records that records are confidential, and no information can
18 be given about the existence or nonexistence of records concerning an
19 individual.

20 ~~((14))~~ (15) Inspection of the files and records included in the
21 order to seal may thereafter be permitted only by order of the court
22 upon motion made by the person who is the subject of the information or
23 complaint, except as otherwise provided in RCW 13.50.010(8) and
24 subsection ~~((22))~~ (23) of this section.

25 ~~((15))~~ (16) Any adjudication of a juvenile offense or a crime
26 subsequent to sealing has the effect of nullifying the sealing order.
27 Any charging of an adult felony subsequent to the sealing has the
28 effect of nullifying the sealing order for the purposes of chapter
29 9.94A RCW. The Washington state patrol shall develop an automated
30 system to retrieve information after a sealing order has been
31 nullified.

32 ~~((16))~~ (17) A person eighteen years of age or older whose
33 criminal history consists of only one referral for diversion may
34 request that the court order the records in that case destroyed. The
35 request shall be granted, subject to subsection ~~((22))~~ (23) of this
36 section, if the court finds that two years have elapsed since
37 completion of the diversion agreement.

38 ~~((17))~~ (18) If the court grants the motion to destroy records
39 made pursuant to subsection ~~((16))~~ (17) of this section, it shall,

1 subject to subsection (~~((+22+))~~) (23) of this section, order the official
2 juvenile court file, the social file, and any other records named in
3 the order to be destroyed.

4 (~~((+18+))~~) (19) The person making the motion pursuant to subsection
5 (~~((+16+))~~) (17) of this section shall give reasonable notice of the
6 motion to the prosecuting attorney and to any agency whose records are
7 sought to be destroyed.

8 (~~((+19+))~~) (20) Any juvenile to whom the provisions of this section
9 may apply shall be given written notice of his or her rights under this
10 section at the time of his or her disposition hearing or during the
11 diversion process.

12 (~~((+20+))~~) (21) Nothing in this section may be construed to prevent
13 a crime victim or a member of the victim's family from divulging the
14 identity of the alleged or proven juvenile offender or his or her
15 family when necessary in a civil proceeding.

16 (~~((+21+))~~) (22) Any juvenile justice or care agency may, subject to
17 the limitations in subsection (~~((+22+))~~) (23) of this section and (a) and
18 (b) of this subsection, develop procedures for the routine destruction
19 of records relating to juvenile offenses and diversions.

20 (a) Records may be routinely destroyed only when the person the
21 subject of the information or complaint has attained twenty-three years
22 of age or older, or is eighteen years of age or older and his or her
23 criminal history consists entirely of one diversion agreement and two
24 years have passed since completion of the agreement.

25 (b) The court may not routinely destroy the official juvenile court
26 file or recordings or transcripts of any proceedings.

27 (~~((+22+))~~) (23) No identifying information held by the Washington
28 state patrol in accordance with chapter 43.43 RCW is subject to
29 destruction or sealing under this section. For the purposes of this
30 subsection, identifying information includes photographs, fingerprints,
31 palmprints, soleprints, toeprints and any other data that identifies a
32 person by physical characteristics, name, birthdate or address, but
33 does not include information regarding criminal activity, arrest,
34 charging, diversion, conviction or other information about a person's
35 treatment by the criminal justice system or about the person's
36 behavior.

37 (~~((+23+))~~) (24) Information identifying child victims under age
38 eighteen who are victims of sexual assaults by juvenile offenders is
39 confidential and not subject to release to the press or public without

1 the permission of the child victim or the child's legal guardian.
2 Identifying information includes the child victim's name, addresses,
3 location, photographs, and in cases in which the child victim is a
4 relative of the alleged perpetrator, identification of the relationship
5 between the child and the alleged perpetrator. Information identifying
6 a child victim of sexual assault may be released to law enforcement,
7 prosecutors, judges, defense attorneys, or private or governmental
8 agencies that provide services to the child victim of sexual assault.

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