

# HOUSE BILL REPORT

## ESHB 3078

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### As Passed Legislature

**Title:** An act relating to sealing juvenile records.

**Brief Description:** Revising timelines for sealing juvenile records.

**Sponsors:** By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Dickerson, Boldt, Flannigan, Kagi and Pettigrew).

#### **Brief History:**

##### **Committee Activity:**

Juvenile Justice & Family Law: 2/3/04, 2/4/04 [DPS].

##### **Floor Activity:**

Passed House: 2/13/04, 96-0.

Senate Amended.

Passed Senate: 3/3/04, 47-0.

House Concurred.

Passed House: 3/8/04, 95-0.

Passed Legislature.

#### **Brief Summary of Engrossed Substitute Bill**

- Changes the time limits pertaining to when juvenile court criminal records may be sealed.
- Requires the superior court justice information system to provide prosecutors with access to information on the existence of sealed juvenile records.

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### HOUSE COMMITTEE ON JUVENILE JUSTICE & FAMILY LAW

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Dickerson, Chair; Pettigrew, Vice Chair; Delvin, Ranking Minority Member; Carrell, Hinkle, Lovick and Upthegrove.

**Staff:** Sonja Hallum (786-7092).

#### **Background:**

The official juvenile court file of a juvenile offender is open to the public unless the file has been sealed by court order. If a juvenile court grants a motion to seal a record, the court

vacates the original adjudication and orders the record to be sealed. Thereafter, the proceedings in the case are treated as if they never occurred.

Prior to 1997, a juvenile record could be sealed if the court found that two years had elapsed from the time of the adjudication and that no criminal proceeding was pending against the person. In 1997, the juvenile record sealing statute was changed as a part of a comprehensive modification of the juvenile court system.

Currently, a juvenile record may be sealed if the person seeking sealing is over the age of 18, there is no proceeding pending against the person, restitution has been paid, the offense is not a class A or sex offense, and the person has spent a specified number of years in the community without committing an offense.

The length of time a person must spend in the community without committing an offense depends on the seriousness of the offense which the person is seeking to seal.

- Juvenile records relating to class B offenses may be sealed if the offender has spent 10 years in the community without committing an offense.
- Juvenile records relating to class C offenses may be sealed after the offender has spent five years in the community without committing an offense.
- Juvenile records relating to gross misdemeanors may be sealed after the offender has spent three years in the community without committing an offense.
- Juvenile records relating to juvenile misdemeanor convictions and diversions may be sealed if the offender has spent two years in the community without committing an offense.

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### **Summary of Engrossed Substitute Bill:**

The requirement in current law that a juvenile be at least eighteen years old before he or she may request that his or her juvenile record be sealed is removed.

The length of time a person must spend in the community without committing an offense before his or her record may be sealed is decreased:

Juvenile records relating to class B offenses may be sealed if the offender has spent five years in the community without committing an offense. Juvenile records relating to class C, gross misdemeanor, misdemeanor offenses, and diversions, may be sealed after the offender has spent two years in the community without committing an offense.

The Administrative Office of the Courts is required to ensure that the superior court judicial information system provides prosecutors access to information on the existence of a sealed juvenile court record.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (In support on original bill) We have been hearing compelling cases of young people this session. Many young people haven't been able to go to college, join the military, get work, or housing because of a criminal conviction that happened when they were young. This doesn't undo the current law because the judge ultimately has the discretion whether to seal the record. The record is not destroyed and can be reopened if there was another offense. This is an important step in helping young people.

(With concerns on original bill) We are concerned that we may not be able to get the information on the sealed records if there is a new offense. We are concerned that precursor crimes to sex offenses might be sealed. There is a way to do this responsibly so juveniles can have the benefit, but prosecutors can know the history. The courts should be able to accommodate the amendment that allows the history to be retrieved if a new offense is committed.

**Testimony Against:** None.

**Persons Testifying:** (In support) Kadie Hanson; Casey Turpin, Columbia Legal Services; Sherry Appleton, Washington Defender Association and Washington Association of Criminal Defense Lawyers; Kevin Glackin-Coley, Children's Alliance; Jim Theofelis, Advocates for System Kids-Youth; Curtis Knopf, YouthCare; Julie Mount; and Ke'Ida Pratcher.

(With concerns) Tom McBride, Washington Association of Prosecuting Attorneys; and Suzanne Brown-McBride, Washington Coalition of Sexual Assault Programs.

**Persons Signed In To Testify But Not Testifying:** None.