

# HOUSE BILL REPORT

## HB 1238

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**As Passed House:**

February 23, 2009

**Title:** An act relating to access to juvenile case records for the Washington state center for court research and the Washington office of public defense.

**Brief Description:** Allowing the Washington center for court research and the office of public defense to access juvenile case records.

**Sponsors:** Representatives Appleton, Goodman and Rodne; by request of Board For Judicial Administration.

**Brief History:**

**Committee Activity:**

Judiciary: 1/28/09, 1/29/09 [DP].

**Floor Activity**

Passed House: 2/23/09, 76-21.

**Brief Summary of Bill**

- Permits the Administrative Office of the Courts to maintain an electronic research copy of juvenile court records for use by the Washington State Center for Court Research.
- Allows the Washington Office of Public Defense to access court records needed to implement agency oversight and technical assistance.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass. Signed by 10 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Flannigan, Kelley, Kirby, Ormsby, Roberts, Ross and Warnick.

**Minority Report:** Do not pass. Signed by 1 member: Representative Shea, Assistant Ranking Minority Member.

**Staff:** Courtney Barnes (786-7194)

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*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.*

**Background:**

A court may permit the inspection or release of juvenile court records to an individual or agency engaged in legitimate educational, scientific, or public research.

**Juvenile Court Records Retention.**

Subject to statutory requirements regarding retention of identifying information, all juvenile court records maintained by any court or law enforcement agency must be automatically destroyed within 90 days of becoming eligible for destruction.

Juvenile records are eligible for destruction when:

- the person who is the subject of the complaint is at least 18 years of age;
- his or her criminal history consists entirely of one diversion agreement or counsel and release;
- two years have elapsed since completion of the diversion agreement or counsel and release;
- no proceeding seeking the conviction of a criminal offense is pending against the person; and
- there is no restitution owing.

Truancy records associated with a juvenile who has no other case history are removed from the judicial information system when the juvenile is no longer subject to compulsory attendance laws.

**Washington State Office of Public Defense.**

The Washington Office of Public Defense (OPD) is required to implement the constitutional and statutory guarantees of counsel and to ensure effective and efficient delivery of state-funded indigent defenses services. By statute, the OPD provides oversight and technical assistance to ensure the effective and efficient delivery of services in the OPD's program areas.

**Summary of Bill:**

The Administrative Office of the Courts is permitted to maintain an electronic research copy of all juvenile records in the judicial information system. The research copy is not subject to any records retention schedule and must include records destroyed or removed from the judicial information system. Access to the research copy is only available to the Washington State Center for Court Research (WSCCR). The WSCCR is required to maintain the confidentiality of all confidential records and preserve the anonymity of all persons identified in the research copy.

The OPD may access court records needed to implement the OPD's oversight, technical assistance, and other agency functions required by statute. Use of the records is limited to the OPD. The OPD is required to maintain the confidentiality of all confidential information included in the records.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) The bill allows for insightful research related to juveniles and their contact with the court system. The Washington State Center for Court Research (WSCCR) is interested in tracking juvenile truancy activities and court diversions. There is a research and public policy interest in evaluating court-based truancy programs. The current statutes require that certain juvenile records, including truancy records, be destroyed. The bill gives the WSCCR the authority to keep these records for research. This research would allow the WSCCR to monitor recidivism rates and determine whether youth treatment programs are effective. There is nothing in the language of the bill that prohibits those who already have access to juvenile records from continuing to have access. The Office of Public Defense (OPD) needs access to the juvenile records to manage and oversee various programs that provide legal services. The bill allows the OPD to monitor records of juvenile dependency actions, which permits the OPD to monitor attorney caseloads.

The Board for Judicial Administration (BJA) requests that the Legislature pass this bill to give the WSCCR and OPD access to juvenile court records. The BJA is not opposed to any amendment that would allow the Washington State Institute for Public Policy (WSIPP) to access these records because the BJA believes that the WSCCR already has this authority under current law. Due to the private nature of these records, the BJA may not be willing to support an amendment to allow anyone to seek access to juvenile court records if he or she does not have the authority to do so under current law. For this reason, the BJA may not support an amendment allowing the Juvenile Rehabilitation Administration access to juvenile court records.

(With concerns) The WSIPP conducts non-partisan research on behalf of the Legislature. The WSIPP would like an amendment to the bill so that it may have access to all juvenile court records to conduct its research. Without an amendment, the bill would restrict the WSIPP's ability to conduct research on behalf of the Legislature.

(Opposed) None.

**Persons Testifying:** (In support) Representative Appleton, prime sponsor; Carl McCurley, Administrative Office of the Courts; Sofia Byrd McSherry, Office of Public Defense; and Mellani McAleenan, Board of Judicial Administration.

(With concerns) Roxanne Lieb, Washington State Institute for Public Policy.

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