
Human Services Committee

E2SSB 6561

Brief Description: Restricting access to juvenile offender records.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, McCaslin, Regala and Stevens).

Brief Summary of Engrossed Second Substitute Bill

- Replaces the term "sealing" of juvenile records with the term "restricting access to" juvenile records.
- Provides that the term adjudication has the same meaning as conviction but only for purposes of the Sentencing Reform Act.
- Allows a juvenile to petition the court to restrict access to his or her records if the juvenile has been adjudicated for a class A felony.
- Decreases to two years the time that a juvenile must spend in the community without committing any offenses before petitioning the court for an order restricting access to an adjudication that is a class B felony.
- Prohibits the sale or distribution of juvenile offense records to any private database company.

Hearing Date: 2/18/10

Staff: Linda Merelle (786-7092).

Background:

Motions to Seal Records.

A juvenile must make a motion to the court to have his or her juvenile record sealed. Courts do not have the authority to seal a record of an adjudication for a class A offense or a sex offense. The court does have discretion to order sealed the following records:

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- class B offenses where the person has spent five consecutive years since the last date of release from confinement, full-time residential treatment, or entry of disposition in the community without being convicted of any offense or crime;
- class C offenses where the person has spent two consecutive years since the last date of release from confinement, full-time residential treatment, or entry of disposition in the community without being convicted of any offense or crime;
- gross misdemeanors and misdemeanors where the person has spent two consecutive years since the last date of release from confinement, full-time residential treatment, or entry of disposition in the community without being convicted of any offense or crime; and
- diversions where the person has spent two consecutive years in the community since the completion of the diversion agreement without being convicted of any offense or crime.

In addition, the court cannot order juvenile records sealed if there is: a proceeding pending against the moving party seeking his or her conviction for a juvenile or criminal offense; a proceeding pending seeking the formation of a diversion agreement with that person; and full restitution has not been paid.

If the court grants the motion to seal, the order to seal covers the juvenile court file, the social file, and other records relating to the case as are named in the order. The order to seal means the proceedings in the case can be treated as though they never occurred and the subject of the records may reply accordingly to any inquiry about the events contained in the record.

Summary of Bill:

Throughout the Juvenile Justice Act, the terms relating to "sealing" juvenile records are replaced with the term "restricting access to." This new term means that, except as otherwise provided in the statute, no person or entity may obtain the records of a juvenile offender.

The term adjudication as used in the juvenile section of the statute has the same meaning as conviction but only for purposes of sentencing under the Sentencing Reform Act.

The court has the authority to restrict access to records for class A offenses if, since the last date of release from confinement, full time residential treatment or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in an adjudication or conviction; is not party to a pending proceeding seeking his or her conviction for a juvenile or criminal offense; is not a party to a proceeding seeking the formation of a diversion agreement; has not been convicted of a sex offense; and has paid full restitution.

A person who has reached his or her 18th birthday must petition the court to have access to his or her records for class B, C, gross misdemeanor, misdemeanor and diversions, other than sex offenses, restricted. Before the court orders that access to the records will be restricted, the person must show that:

- he or she has resided in the community for two consecutive years since the date he or she was released from confinement, entry of disposition or completion of a diversion agreement without being convicted of any crime or offense;
- no proceeding is pending against him or her seeking conviction for a juvenile or adult crime;

- no proceeding is pending against him or her for the formation of a diversion agreement; and
- full restitution has been paid.

<i>Type of Offense</i>	<i>Current Law: Length of Time Since Confinement or Entry of Disposition and Having Committed No Offenses before Records can be Sealed</i>	<i>E2SSB 6561: Length of Time Since Confinement or Entry of Disposition and Having Committed No Offenses be for Access can be Restricted</i>
Sex Offenses	Records may never be sealed.	Access may never be restricted.
Class A Felony	Records may never be sealed.	5 Years
Class B Felony	5 Years	2 Years
Class C Felony	2 Years	2 Years
Gross Misdemeanor	2 Years	2 Years
Misdemeanor	2 Years	2 Years

Selling or Distribution of Juvenile Records.

No juvenile offense records maintained by any court, law enforcement agency, or state agency may be sold or distributed to any private database company. This provision does not apply to records maintained and distributed by the Washington Association of Sheriffs and Police Chiefs.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

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