

# HOUSE BILL REPORT

## ESB 5262

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**As Reported by House Committee On:**  
Judiciary

**Title:** An act relating to access to juvenile case records for the Washington state office of civil legal aid.

**Brief Description:** Releasing juvenile case records to the Washington state office of civil legal aid.

**Sponsors:** Senators O'Ban, Pedersen, Darneille, Dammeier and Honeyford.

**Brief History:**

**Committee Activity:**

Judiciary: 3/24/15, 4/1/15 [DPA].

**Brief Summary of Engrossed Bill  
(As Amended by Committee)**

- Requires courts to release juvenile case records to the Office of Civil Legal Aid that are needed to implement the agency's oversight, technical assistance, and other functions associated with appointment of attorneys to children whose parents' rights have been terminated.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass as amended. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall, Stokesbary and Walkinshaw.

**Staff:** Omeara Harrington (786-7136).

**Background:**

Court Records.

For purposes of the chapter of the RCW governing the release of records by juvenile justice or care agencies, "records" include the official juvenile court file, the social file, and records

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of other juvenile justice or care agencies in a case. Courts may only permit inspection of records or release of information for the limited purposes outlined in statute. Records may be disclosed to:

- clinics, hospitals, or agencies providing care or treatment to the subject of the records;
- individuals or agencies engaged in legitimate research for educational, scientific, or public purposes;
- the Caseload Forecast Council for its research and data-gathering functions; and
- the Office of Public Defense as needed for oversight, technical assistance, and other functions associated with providing defense counsel in criminal matters and other proceedings.

In addition, the Administrative Office of the Courts must maintain an electronic research copy of all records in the judicial information system related to juveniles. Access to the research copy is limited to the Washington State Center for Court Research.

#### Appointment of Attorneys to Children in Dependency Proceedings.

Pursuant to legislation enacted in 2014 (Engrossed Second Substitute Senate Bill 6126), a court must appoint an attorney for a child in a dependency proceeding six months after granting a petition to terminate the parent and child relationship when the child has no remaining parent with parental rights. Subject to appropriated amounts, the state is responsible for the cost of legal services provided by an appointed attorney. The Office of Civil Legal Aid (OCLA) administers the funds appropriated by the state for the purpose of appointment of attorneys to children who have no parent with parental rights.

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#### **Summary of Amended Bill:**

The court must release records to the OCLA that are needed to implement the OCLA's oversight, technical assistance, and other functions associated with appointment of attorneys to children who have no parent with parental rights. Access to the records is restricted to the OCLA. The OCLA must maintain the confidentiality of all confidential information included in the records, and must, as soon as possible, destroy any retained notes or records not necessary for its functions related to administration of funds for appointment of attorneys to children.

#### **Amended Bill Compared to Engrossed Bill:**

The underlying provisions of the bill are retained with two changes:

- the requirement that the OCLA designate a custodian of records to exclusively receive and maintain provided records is removed; and
- a requirement is added that the OCLA, as soon as possible, destroy any retained notes or records that are not necessary for the agency's functions related to administration of funds for appointment of attorneys to children after termination of parental rights.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Staff Summary of Public Testimony:**

(In support) Last year, the Legislature created a right of representation for young people in foster care who need a lawyer to help them through the process. This is a fix to allow the OCLA to have access to records so that they can provide oversight.

This bill should pass in its original form. The Senate amended the bill to require the OCLA to designate a custodian of records, which would mean that only one person would be able to review the records. This is a small agency and there is a need to be able to share responsibilities. The OCLA will not be retaining any of the records, but rather will go to the courthouse and review the records there and leave them there. The Office of Public Defense records access provision, which is otherwise identical, does not require a records custodian.

(Opposed) None.

**Persons Testifying:** Senator O'Ban, prime sponsor; and Jill Malet, Office of Civil Legal Aid.

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