
Early Learning & Human Services Committee

E2SSB 5564

Brief Description: Concerning the sealing of juvenile records and fines imposed in juvenile cases.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators O'Ban, Darneille, Miloscia, Hargrove, Kohl-Welles, Fain, Jayapal, Brown, Habib, Dammeier, Frockt, Litzow, Warnick, Hasegawa and McAuliffe).

Brief Summary of Engrossed Second Substitute Bill

- Allows courts to seal juvenile records if the person has paid the full amount of restitution owing to the individual victim named in the charging document.
- Eliminates various legal financial obligations and other fees for juveniles, except the DNA collection fee and the penalty assessment if there is an actual victim.
- Eliminates interest for legal financial obligations for juveniles.

Hearing Date: 3/18/15

Staff: Luke Wickham (786-7146).

Background:

Sealing Juvenile Records.

Since 1977 juvenile offender records have been public unless sealed. Records of non-offender juvenile cases, such as dependency or adoption records, are not open to public inspection.

There are two methods by which individuals may seal their juvenile records:

1. An individual may make a motion to seal the official juvenile court record, the social file, and records of the court and any other agency in the case.
2. An individual may have their record sealed during regularly held sealing hearings.

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.

Once a juvenile record is sealed, the proceedings in the case must be treated as if they never occurred. Any subsequent criminal adjudication or adult felony charge unseals the case.

Regular Sealing Hearings.

At the disposition hearing of a juvenile offender, courts must schedule an administrative sealing hearing after that offender turns 18 years old and is anticipated to have completed any probation and confinement. Courts shall seal the individual's juvenile court record if none of the offenses for which the court is entering disposition are a most serious offense, a sex offense under chapter 9A.44 RCW, or a felony drug offense. Respondents must also have completed the terms and conditions of disposition, including financial obligations, to seal a record during a regular sealing hearing.

Motions to Seal Juvenile Records.

An individual may also file a motion requesting that the court seal his or her juvenile record. An individual is eligible to have his or her record sealed under this process after remaining in the community without further conviction for a period of time and paying any restitution associated with the case. For class A felonies, an individual must remain in the community without conviction for five years. For class B felonies, class C felonies, and all misdemeanors, an individual must remain in the community without conviction for two years.

Individuals convicted of Rape in the first degree, Rape in the second degree, and Indecent Liberties by Forcible Compulsion are not eligible for record sealing. Other sex offenses are eligible for sealing, but an individual must be relieved of the obligation to register as a sex offender.

Legal Financial Obligations.

When an individual is adjudicated as a juvenile offender, the court may impose Legal Financial Obligations (LFOs) as part of the disposition. The LFOs include victim restitution, crime victims' compensation fees, costs associated with the offender's prosecution and sentence, fines, penalties, and assessments.

Interest Rate on Legal Financial Obligations.

Legal Financial Obligation judgments bear interest from the date of judgment at the same rate that applies to civil judgments. The rate of interest generally applicable to civil judgments is the greater of 12 percent or four points above the 26-week treasury bill rate. As a result of low treasury bill rates, 12 percent has been the interest rate on LFOs for over two decades.

Interest that accrues on restitution is paid to the victim of the offense. All other accrued interest is split between the state and county as follows: 25 percent goes to the state General Fund, 25 percent goes to the Judicial Information System Account, and 50 percent goes to the county, 25 percent of which must be used to fund local courts.

Summary of Bill:

Sealing Juvenile Records.

Courts shall seal the juvenile records of individuals who have paid the full amount of restitution owing to the individual victim named in the charging document, and meet the existing criteria for sealing records.

"Good faith effort to pay" is defined as paying the principal amount in full, having made at least 80 percent of the value of full monthly payments within the period from disposition until the time the restitution is under review, or a showing of good cause as to why less than 80 percent has been paid.

The Department of Licensing (DOL) may only release sealed juvenile records to the extent necessary to comply with federal law and regulation. The contents of a driving abstract must not include any information related to sealed juvenile records unless required by federal law or regulation.

The Washington State Patrol must ensure that the Washington State Identification System provides criminal justice agencies access to sealed juvenile record information.

Sealed juvenile social files are still available to juvenile justice and care agencies when an investigation or case involving the juvenile is being prosecuted or when an agency is responsible for supervising the juvenile. Juvenile records, whether sealed or not, may be provided without personal identifiers to researchers conducting legitimate research so long as the information is not used to identify an individual with a juvenile record.

Clerks are authorized to interact or correspond with the respondent, his or her parents, and any holders of potential assets or wages of the respondent for purposes of collecting an outstanding LFO after a juvenile court record is sealed.

Restitution.

If a court determines that a juvenile has insufficient funds to pay restitution, and upon agreement of the victim, the court may order community service in place of a monetary penalty. The court must allow the victim to determine the nature of the community service when practicable.

Courts may either order joint and several restitution or may divide restitution equally among the respondents.

When a court considers whether to relieve a respondent of the requirement to pay full or partial restitution to an insurance provider based on the respondent's inability to pay, the court is no longer required to consider whether the individual could acquire the means to pay over a 10 year period.

When a court considers a petition to modify a restitution order, the court may modify the restitution order for good cause, including inability to pay.

The county clerk must make restitution disbursements to victims prior to payments to an insurance provider.

Interest on restitution is eliminated for juveniles.

Juvenile Legal Financial Obligations or Other Fees Modified or Eliminated.

The following LFOs or other fees are eliminated for juveniles:

- fines for gross misdemeanors related to pet animals;

- fines for the crime of selling a stolen pet animal to a research institution;
- penalties for cheating crimes;
- deferred prosecution or sentence fees;
- fees for the crime of Commercial Sexual Abuse of a Minor involving an internet advertisement;
- general fines for felonies and misdemeanors;
- fines for interference with a health care facility;
- fines for the crime of Unlawful Issuance of a Bank Check;
- fines for the crime of Theft of Livestock;
- fines for the crimes of Indecent Exposure and Prostitution;
- fines after impoundment of a vehicle upon arrest for Prostitution related and Commercial Sexual Abuse of a Minor crimes;
- appellate costs;
- interest on financial obligations;
- penalty assessments for crimes involving domestic violence;
- juvenile diversion fines;
- clerk's collection fees;
- conviction fees;
- sheriffs fees;
- crime lab analysis fees;
- fees for crimes including Driving Under the Influence, Physical Control of a Vehicle Under the Influence, and Vehicular Homicide or Assault;
- fees for crimes listed in the Uniform Controlled Substances Act;
- fines for the crime of intent to manufacture controlled substances;
- criminal wildlife penalty assessments for the crime of Unlawful Hunting of Big Game; and
- public defense costs.

In addition to the elimination of those LFOs, cities, towns, and counties may not impose any LFOs for juveniles without express statutory authority.

The DNA collection fee may not be imposed on juvenile offenders if the state has previously collected the juvenile's DNA. The juvenile penalty assessment may only be imposed if there is an actual victim in the case.

Application.

The bill applies to juvenile offender cases filed after the bill becomes effective.

Appropriation: None.

Fiscal Note: Not requested.

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