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**SUBSTITUTE HOUSE BILL 2794**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** House Human Services & Early Learning (originally sponsored by Representatives Frame, Davis, Peterson, Lekanoff, Pollet, and Santos)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to juvenile record sealing; amending RCW  
2 13.50.260; creating new sections; and providing an expiration date.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 13.50.260 and 2015 c 265 s 3 are each amended to  
5 read as follows:

6 (1)(a) The court shall hold regular sealing hearings. During  
7 these regular sealing hearings, the court shall administratively seal  
8 an individual's juvenile record pursuant to the requirements of this  
9 subsection (~~((unless the court receives an objection to sealing or the  
10 court notes a compelling reason not to seal, in which case, the court  
11 shall set a contested hearing to be conducted on the record to  
12 address sealing))~~). Although the juvenile record shall be sealed, the  
13 social file may be available to any juvenile justice or care agency  
14 when an investigation or case involving the juvenile subject of the  
15 records is being prosecuted by the juvenile justice or care agency or  
16 when the juvenile justice or care agency is assigned the  
17 responsibility of supervising the juvenile. (~~((The contested hearing  
18 shall be set no sooner than eighteen days after notice of the hearing  
19 and the opportunity to object has been sent to the juvenile, the  
20 victim, and juvenile's attorney.))~~) The juvenile respondent's presence

1 is not required at ((a)) any administrative sealing hearing  
2 (~~pursuant to this subsection~~).

3 (b) At the disposition hearing of a juvenile offender, the court  
4 shall schedule an administrative sealing hearing to take place during  
5 the first regularly scheduled sealing hearing after the latest of the  
6 following events that apply:

7 (i) The respondent's eighteenth birthday;

8 (ii) Anticipated (~~completion~~) end date of a respondent's  
9 probation, if ordered;

10 (iii) Anticipated release from confinement at the juvenile  
11 rehabilitation administration, or the completion of parole, if the  
12 respondent is transferred to the juvenile rehabilitation  
13 administration.

14 (c) (~~A court shall enter a written order sealing an individual's~~  
15 ~~juvenile court record pursuant to this subsection if:~~

16 ~~(i))~~ The court shall not schedule an administrative sealing  
17 hearing at the disposition and no administrative sealing hearing  
18 shall occur if one of the offenses for which the court has entered a  
19 disposition is ((not)) at the time of commission of the offense:

20 ~~((A))~~ (i) A most serious offense, as defined in RCW 9.94A.030;

21 ~~((B))~~ (ii) A sex offense under chapter 9A.44 RCW; or

22 ~~((C))~~ (iii) A drug offense, as defined in RCW 9.94A.030(~~+~~  
23 ~~and~~)).

24 ~~((ii))~~ (d) At the time of the scheduled administrative sealing  
25 hearing, the court shall enter a written order sealing the  
26 respondent's juvenile court record pursuant to this subsection if the  
27 court finds by a preponderance of the evidence that the respondent  
28 (has completed the terms and conditions of disposition, including  
29 affirmative conditions)) is no longer on supervision for the case  
30 being considered for sealing and has paid the full amount of  
31 restitution owing to the individual victim named in the restitution  
32 order, excluding restitution owed to any ((insurance provider  
33 authorized under Title 48 RCW)) public or private entity providing  
34 insurance coverage or health care coverage. In determining whether  
35 the respondent is on supervision or owes restitution, the court shall  
36 take judicial notice of court records, including records of the  
37 county clerk, and, if necessary, sworn testimony from a  
38 representative of the juvenile department.

39 ~~((d) Following a contested sealing hearing on the record after~~  
40 ~~an objection is made pursuant to (a) of this subsection, the court~~

1 ~~shall enter a written order sealing the juvenile court record unless~~  
2 ~~the court determines that sealing is not appropriate.))~~ (e) At the  
3 time of the administrative sealing hearing, if the court finds the  
4 respondent remains on supervision for the case being considered for  
5 sealing, then the court shall continue the administrative sealing  
6 hearing to a date within thirty days following the anticipated end  
7 date of the respondent's supervision. At the next administrative  
8 sealing hearing, the court shall again determine the respondent's  
9 eligibility for sealing his or her juvenile court record pursuant to  
10 (d) of this subsection, and, if necessary, continue the hearing again  
11 as provided in this subsection.

12 (f) (i) During the administrative sealing hearing, if the court  
13 finds the respondent is no longer on supervision for the case being  
14 considered for sealing, but the respondent has not paid the full  
15 amount of restitution owing to the individual victim named in the  
16 restitution order, excluding any public or private entity providing  
17 insurance coverage or health care coverage, the court shall deny  
18 sealing the juvenile court record in a written order that: (A)  
19 Specifies the amount of restitution that remains unpaid to the  
20 original victim, excluding any public or private entity providing  
21 insurance coverage or health care coverage; and (B) provides  
22 direction to the respondent on how to pursue the sealing of records  
23 associated with this cause of action.

24 (ii) Within five business days of the entry of the written order  
25 denying the request to seal a juvenile court record, the juvenile  
26 court department staff shall notify the respondent of the denial by  
27 providing a copy of the order of denial to the respondent in person  
28 or in writing mailed to the respondent's last known address in the  
29 department of licensing database or the respondent's address provided  
30 to the court, whichever is more recent.

31 (iii) At any time following entry of the written order denying  
32 the request to seal a juvenile court record, the respondent may  
33 contact the juvenile court department, provide proof of payment of  
34 the remaining unpaid restitution to the original victim, excluding  
35 any public or private entity providing insurance coverage or health  
36 care coverage, and request an administrative sealing hearing. Upon  
37 verification of the satisfaction of the restitution payment, the  
38 juvenile court department staff shall circulate for signature an  
39 order sealing the file, and file the signed order with the clerk's  
40 office, who shall seal the record.

1       (iv) The administrative office of the courts must ensure that  
2 sealed juvenile records remain private in case of an appeal and are  
3 either not posted or redacted from any clerks papers that are posted  
4 online with the appellate record, as well as taking any other prudent  
5 steps necessary to avoid exposing sealed juvenile records to the  
6 public.

7       (2) Except for dismissal of a deferred disposition under RCW  
8 13.40.127, the court shall enter a written order immediately sealing  
9 the official juvenile court record upon the acquittal after a fact  
10 finding or upon the dismissal of charges with prejudice, subject to  
11 the state's right, if any, to appeal the dismissal.

12       (3) If a juvenile court record has not already been sealed  
13 pursuant to this section, in any case in which information has been  
14 filed pursuant to RCW 13.40.100 or a complaint has been filed with  
15 the prosecutor and referred for diversion pursuant to RCW 13.40.070,  
16 the person who is the subject of the information or complaint may  
17 file a motion with the court to have the court vacate its order and  
18 findings, if any~~((7))~~; resolve the status of any debts owing; and,  
19 subject to RCW 13.50.050(13), order the sealing of the official  
20 juvenile court record, the social file, and records of the court and  
21 of any other agency in the case, with the exception of identifying  
22 information under RCW 13.50.050(13).

23       (4) (a) The court shall grant any motion to seal records for class  
24 A offenses made pursuant to subsection (3) of this section if:

25       (i) Since the last date of release from confinement, including  
26 full-time residential treatment, if any, or entry of disposition, the  
27 person has spent five consecutive years in the community without  
28 committing any offense or crime that subsequently results in an  
29 adjudication or conviction;

30       (ii) No proceeding is pending against the moving party seeking  
31 the conviction of a juvenile offense or a criminal offense;

32       (iii) No proceeding is pending seeking the formation of a  
33 diversion agreement with that person;

34       (iv) The person is no longer required to register as a sex  
35 offender under RCW 9A.44.130 or has been relieved of the duty to  
36 register under RCW 9A.44.143 if the person was convicted of a sex  
37 offense;

38       (v) The person has not been convicted of rape in the first  
39 degree, rape in the second degree, or indecent liberties that was  
40 actually committed with forcible compulsion; and

1 (vi) The person has paid the full amount of restitution owing to  
2 the individual victim named in the restitution order, excluding  
3 restitution owed to any (~~insurance provider authorized under Title~~  
4 ~~48 RCW~~) public or private entity providing insurance coverage or  
5 health care coverage.

6 (b) The court shall grant any motion to seal records for class B,  
7 class C, gross misdemeanor, and misdemeanor offenses and diversions  
8 made under subsection (3) of this section if:

9 (i) Since the date of last release from confinement, including  
10 full-time residential treatment, if any, entry of disposition, or  
11 completion of the diversion agreement, the person has spent two  
12 consecutive years in the community without being convicted of any  
13 offense or crime;

14 (ii) No proceeding is pending against the moving party seeking  
15 the conviction of a juvenile offense or a criminal offense;

16 (iii) No proceeding is pending seeking the formation of a  
17 diversion agreement with that person;

18 (iv) The person is no longer required to register as a sex  
19 offender under RCW 9A.44.130 or has been relieved of the duty to  
20 register under RCW 9A.44.143 if the person was convicted of a sex  
21 offense; and

22 (v) The person has paid the full amount of restitution owing to  
23 the individual victim named in the restitution order, excluding  
24 restitution owed to any insurance provider authorized under Title 48  
25 RCW.

26 (c) Notwithstanding the requirements in (a) or (b) of this  
27 subsection, the court shall grant any motion to seal records of any  
28 deferred disposition vacated under RCW 13.40.127(9) prior to June 7,  
29 2012, if restitution has been paid and the person is eighteen years  
30 of age or older at the time of the motion.

31 (5) The person making a motion pursuant to subsection (3) of this  
32 section shall give reasonable notice of the motion to the prosecution  
33 and to any person or agency whose records are sought to be sealed.

34 (6) (a) If the court enters a written order sealing the juvenile  
35 court record pursuant to this section, it shall, subject to RCW  
36 13.50.050(13), order sealed the official juvenile court record, the  
37 social file, and other records relating to the case as are named in  
38 the order. Thereafter, the proceedings in the case shall be treated  
39 as if they never occurred, and the subject of the records may reply  
40 accordingly to any inquiry about the events, records of which are

1 sealed. Any agency shall reply to any inquiry concerning confidential  
2 or sealed records that records are confidential, and no information  
3 can be given about the existence or nonexistence of records  
4 concerning an individual.

5 (b) In the event the subject of the juvenile records receives a  
6 full and unconditional pardon, the proceedings in the matter upon  
7 which the pardon has been granted shall be treated as if they never  
8 occurred, and the subject of the records may reply accordingly to any  
9 inquiry about the events upon which the pardon was received. Any  
10 agency shall reply to any inquiry concerning the records pertaining  
11 to the events for which the subject received a pardon that records  
12 are confidential, and no information can be given about the existence  
13 or nonexistence of records concerning an individual.

14 (c) Effective July 1, 2019, the department of licensing may  
15 release information related to records the court has ordered sealed  
16 only to the extent necessary to comply with federal law and  
17 regulation.

18 (7) Inspection of the files and records included in the order to  
19 seal may thereafter be permitted only by order of the court upon  
20 motion made by the person who is the subject of the information or  
21 complaint, except as otherwise provided in RCW 13.50.010(8) and  
22 13.50.050(13).

23 (8)(a) Any adjudication of a juvenile offense or a crime  
24 subsequent to sealing has the effect of nullifying a sealing order;  
25 however, the court may order the juvenile court record resealed upon  
26 disposition of the subsequent matter if the case meets the sealing  
27 criteria under this section and the court record has not previously  
28 been resealed.

29 (b) Any charging of an adult felony subsequent to the sealing has  
30 the effect of nullifying the sealing order.

31 (c) The administrative office of the courts shall ensure that the  
32 superior court judicial information system provides prosecutors  
33 access to information on the existence of sealed juvenile records.

34 (d) The Washington state patrol shall ensure that the Washington  
35 state identification system provides criminal justice agencies access  
36 to sealed juvenile records information.

37 (9) If the juvenile court record has been sealed pursuant to this  
38 section, the record of an employee is not admissible in an action for  
39 liability against the employer based on the former juvenile  
40 offender's conduct to show that the employer knew or should have

1 known of the juvenile record of the employee. The record may be  
2 admissible, however, if a background check conducted or authorized by  
3 the employer contained the information in the sealed record.

4 (10) County clerks may interact or correspond with the  
5 respondent, his or her parents, restitution recipients, and any  
6 holders of potential assets or wages of the respondent for the  
7 purposes of collecting an outstanding legal financial obligation  
8 after juvenile court records have been sealed pursuant to this  
9 section.

10 (11) Persons and agencies that obtain sealed juvenile records  
11 information pursuant to this section may communicate about this  
12 information with the respondent, but may not disseminate or be  
13 compelled to release the information to any person or agency not  
14 specifically granted access to sealed juvenile records in this  
15 section.

16 (12) Any criminal justice agency must not disclose confidential  
17 information or sealed records accessed through the Washington state  
18 identification system or other means, and no information can be given  
19 to third parties other than Washington state criminal justice  
20 agencies about the existence or nonexistence of confidential or  
21 sealed records concerning an individual.

22 NEW SECTION. Sec. 2. (1) The department of children, youth, and  
23 families and the office of the superintendent of public instruction  
24 shall develop policies and procedures that prevent any information  
25 from being included on a student transcript indicating that a student  
26 received credit while confined in a detention facility as defined  
27 under RCW 13.40.020, institution as defined under RCW 13.40.020,  
28 juvenile correctional facility under alternative administration  
29 operated by a consortium of counties under RCW 13.04.035, community  
30 facility as defined under RCW 72.05.020, or correctional facility as  
31 defined under RCW 70.48.020.

32 (2) By November 1, 2020, and in compliance with RCW 43.01.036,  
33 the department of children, youth, and families and the office of the  
34 superintendent of public instruction shall provide a report to the  
35 appropriate committees of the legislature and the governor describing  
36 the actions, policies, and procedures in place to prevent information  
37 from being included on a student transcript indicating that a student  
38 received credit while confined in a detention facility as defined  
39 under RCW 13.40.020, institution as defined under RCW 13.40.020,

1 juvenile correctional facility under alternative administration  
2 operated by a consortium of counties under RCW 13.04.035, community  
3 facility as defined under RCW 72.05.020, or correctional facility as  
4 defined under RCW 70.48.020.

5 (3) This section expires June 30, 2021.

6 NEW SECTION. **Sec. 3.** This act applies to all juvenile record  
7 sealing hearings commenced on or after the effective date of this  
8 section, regardless of when the underlying hearing was scheduled or  
9 the underlying record was created. To this extent, this act applies  
10 retroactively, but in all other respects it applies prospectively.

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