

ESHB 1600 - S COMM AMD

By Committee on Law & Justice

ADOPTED 04/06/2023

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 13.50.260 and 2020 c 184 s 1 are each amended to
4 read as follows:

5 (1)(a) The court shall hold regular sealing hearings. During
6 these regular sealing hearings, the court shall administratively seal
7 an individual's juvenile record pursuant to the requirements of this
8 subsection. Although the juvenile record shall be sealed, the social
9 file may be available to any juvenile justice or care agency when an
10 investigation or case involving the juvenile subject of the records
11 is being prosecuted by the juvenile justice or care agency or when
12 the juvenile justice or care agency is assigned the responsibility of
13 supervising the juvenile. The juvenile respondent's presence is not
14 required at any administrative sealing hearing.

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

19 (i) The respondent's eighteenth birthday;

20 (ii) Anticipated end date of a respondent's probation, if
21 ordered;

22 (iii) Anticipated release from confinement at the juvenile
23 rehabilitation administration, or the completion of parole, if the
24 respondent is transferred to the juvenile rehabilitation
25 administration.

26 (c) The court shall not schedule an administrative sealing
27 hearing at the disposition and no administrative sealing hearing
28 shall occur if one of the offenses for which the court has entered a
29 disposition is at the time of commission of the offense:

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

31 (ii) A sex offense under chapter 9A.44 RCW; or

1 (iii) A drug offense, as defined in RCW 9.94A.030.

2 (d) At the time of the scheduled administrative sealing hearing,
3 the court shall enter a written order sealing the respondent's
4 juvenile court record pursuant to this subsection if the court finds
5 by a preponderance of the evidence that the respondent is no longer
6 on supervision for the case being considered for sealing and has paid
7 the full amount of restitution owing to the individual victim named
8 in the restitution order, excluding restitution owed to any public or
9 private entity providing insurance coverage or health care coverage.
10 In determining whether the respondent is on supervision or owes
11 restitution, the court shall take judicial notice of court records,
12 including records of the county clerk, and, if necessary, sworn
13 testimony from a representative of the juvenile department.

14 (e) At the time of the administrative sealing hearing, if the
15 court finds the respondent remains on supervision for the case being
16 considered for sealing, then the court shall continue the
17 administrative sealing hearing to a date within thirty days following
18 the anticipated end date of the respondent's supervision. At the next
19 administrative sealing hearing, the court shall again determine the
20 respondent's eligibility for sealing his or her juvenile court record
21 pursuant to (d) of this subsection, and, if necessary, continue the
22 hearing again as provided in this subsection.

23 (f) (i) During the administrative sealing hearing, if the court
24 finds the respondent is no longer on supervision for the case being
25 considered for sealing, but the respondent has not paid the full
26 amount of restitution owing to the individual victim named in the
27 restitution order, excluding any public or private entity providing
28 insurance coverage or health care coverage, the court shall deny
29 sealing the juvenile court record in a written order that: (A)
30 Specifies the amount of restitution that remains unpaid to the
31 original victim, excluding any public or private entity providing
32 insurance coverage or health care coverage; and (B) provides
33 direction to the respondent on how to pursue the sealing of records
34 associated with this cause of action.

35 (ii) Within five business days of the entry of the written order
36 denying the request to seal a juvenile court record, the juvenile
37 court department staff shall notify the respondent of the denial by
38 providing a copy of the order of denial to the respondent in person
39 or in writing mailed to the respondent's last known address in the

1 department of licensing database or the respondent's address provided
2 to the court, whichever is more recent.

3 (iii) At any time following entry of the written order denying
4 the request to seal a juvenile court record, the respondent may
5 contact the juvenile court department, provide proof of payment of
6 the remaining unpaid restitution to the original victim, excluding
7 any public or private entity providing insurance coverage or health
8 care coverage, and request an administrative sealing hearing. Upon
9 verification of the satisfaction of the restitution payment, the
10 juvenile court department staff shall circulate for signature an
11 order sealing the file, and file the signed order with the clerk's
12 office, who shall seal the record.

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

19 (2) Except for dismissal of a deferred disposition under RCW
20 13.40.127, the court shall enter a written order immediately sealing
21 the official juvenile court record upon the acquittal after a fact
22 finding or upon the dismissal of charges with prejudice, subject to
23 the state's right, if any, to appeal the dismissal.

24 (3) If a juvenile court record has not already been sealed
25 pursuant to this section, in any case in which information has been
26 filed pursuant to RCW 13.40.100 or a complaint has been filed with
27 the prosecutor and referred for diversion pursuant to RCW 13.40.070,
28 the person who is the subject of the information or complaint may
29 file a motion with the court to have the court vacate its order and
30 findings, if any; resolve the status of any debts owing; and, subject
31 to RCW 13.50.050(13), order the sealing of the official juvenile
32 court record, the social file, and records of the court and of any
33 other agency in the case, with the exception of identifying
34 information under RCW 13.50.050(13).

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

37 (i) Since the last date of release from confinement, including
38 full-time residential treatment, if any, or entry of disposition, the
39 person has spent five consecutive years in the community without

1 committing any offense or crime that subsequently results in an
2 adjudication or conviction;

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

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

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

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

14 (vi) The person has paid the full amount of restitution owing to
15 the individual victim named in the restitution order, excluding
16 restitution owed to any public or private entity providing insurance
17 coverage or health care coverage.

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

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

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

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

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

34 (v) The person has paid the full amount of restitution owing to
35 the individual victim named in the restitution order, excluding
36 restitution owed to any insurance provider authorized under Title 48
37 RCW.

38 (c) Notwithstanding the requirements in (a) or (b) of this
39 subsection, the court shall grant any motion to seal records of any
40 deferred disposition vacated under RCW 13.40.127(9) prior to June 7,

1 2012, if restitution has been paid and the person is eighteen years
2 of age or older at the time of the motion.

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

6 (6) (a) If the court enters a written order sealing the juvenile
7 court record pursuant to this section, it shall, subject to RCW
8 13.50.050(13), order sealed the official juvenile court record, the
9 social file, and other records relating to the case as are named in
10 the order. Thereafter, the proceedings in the case shall be treated
11 as if they never occurred, and the subject of the records may reply
12 accordingly to any inquiry about the events, records of which are
13 sealed. Any agency shall reply to any inquiry concerning confidential
14 or sealed records that records are confidential, and no information
15 can be given about the existence or nonexistence of records
16 concerning an individual.

17 (b) In the event the subject of the juvenile records receives a
18 full and unconditional pardon, the proceedings in the matter upon
19 which the pardon has been granted shall be treated as if they never
20 occurred, and the subject of the records may reply accordingly to any
21 inquiry about the events upon which the pardon was received. Any
22 agency shall reply to any inquiry concerning the records pertaining
23 to the events for which the subject received a pardon that records
24 are confidential, and no information can be given about the existence
25 or nonexistence of records concerning an individual.

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

30 (7) Inspection of the files and records included in the order to
31 seal may thereafter be permitted only by order of the court upon
32 motion made by the person who is the subject of the information or
33 complaint, except as otherwise provided in RCW 13.50.010(8) and
34 13.50.050(13).

35 (8) (a) Any adjudication of a juvenile offense or a crime
36 subsequent to sealing has the effect of nullifying a sealing order;
37 however, the court may order the juvenile court record resealed upon
38 disposition of the subsequent matter if the case meets the sealing
39 criteria under this section and the court record has not previously
40 been resealed.

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

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

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

9 (e) The Washington state patrol shall ensure that the Washington
10 state identification system provides non-Washington criminal justice
11 agencies access to sealed juvenile records only for the purposes of
12 processing and purchasing firearms, concealed pistol licenses, or
13 alien firearms licenses, or releasing of firearms from evidence.

14 (f) Non-Washington criminal justice agencies that access sealed
15 juvenile records pursuant to this subsection shall not knowingly
16 disseminate the accessed records or any information derived therefrom
17 to any third party. Dissemination of such records or such information
18 shall subject the disseminating agency to the jurisdiction of the
19 courts of Washington and a civil penalty of not more than \$1,000 per
20 violation.

21 (9) If the juvenile court record has been sealed pursuant to this
22 section, the record of an employee is not admissible in an action for
23 liability against the employer based on the former juvenile
24 offender's conduct to show that the employer knew or should have
25 known of the juvenile record of the employee. The record may be
26 admissible, however, if a background check conducted or authorized by
27 the employer contained the information in the sealed record.

28 (10) County clerks may interact or correspond with the
29 respondent, his or her parents, restitution recipients, and any
30 holders of potential assets or wages of the respondent for the
31 purposes of collecting an outstanding legal financial obligation
32 after juvenile court records have been sealed pursuant to this
33 section.

34 (11) Persons and agencies that obtain sealed juvenile records
35 information pursuant to this section may communicate about this
36 information with the respondent, but may not disseminate or be
37 compelled to release the information to any person or agency not
38 specifically granted access to sealed juvenile records in this
39 section.

1 (12) All criminal justice agencies must not disclose confidential
2 information or sealed records accessed through the Washington state
3 identification system or other means, and no information can be given
4 to third parties, other than ((Washington state)) criminal justice
5 agencies, about the existence or nonexistence of confidential or
6 sealed records concerning an individual."

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7 On page 1, line 2 of the title, after "purposes;" strike the
8 remainder of the title and insert "amending RCW 13.50.260; and
9 prescribing penalties."

EFFECT: Prohibits non-Washington criminal justice agencies that
access sealed juvenile records from knowingly disseminating the
accessed records or any information derived therefrom to any third
party, and adds a \$1,000 fine per violation of this prohibition.

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