

# HOUSE BILL ANALYSIS

## HB 1748

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**Title:** An act relating to juvenile diversion records.

**Brief Description:** Changing provisions relating to diversion records.

**Sponsors:** Representatives Dickerson, Constantine, Hurst and Lantz.

### Brief Summary of Bill

- Removes the requirement that the juvenile court notify the school principal when a juvenile has entered into a diversion agreement for certain offenses.
- Allows a person to file a motion with the court to vacate and destroy the person's juvenile diversion record under certain conditions.

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### HOUSE COMMITTEE ON JUDICIARY

**Staff:** Trudes Hutcheson (786-7384).

#### Background:

Diversion is a disposition option available for certain juvenile offenders. The offender is diverted from the formal prosecution procedures and sanctions of the juvenile court and referred to a diversion unit.— The diversion unit may enter into a contract with the juvenile. If the juvenile successfully completes a diversion contract, no further action is taken.

A juvenile must be diverted if the alleged offense is a misdemeanor or gross misdemeanor and the juvenile has no prior offenses. A juvenile is not eligible for diversion if the offense is almost any felony offense, the juvenile has previously been committed to the Juvenile Rehabilitation Administration, the juvenile has been diverted at least two times, the juvenile is alleged to have been armed with a firearm during the offense, or the juvenile desires prosecution or is referred for prosecution by a diversion unit.

The court must notify the principal of the juvenile's school when a juvenile has been convicted in adult court, adjudicated in juvenile court, or entered into a diversion agreement for the following offenses:

- any violent or sex offense;
- inhaling toxic fumes;

- violation of the controlled substances act;
- a liquor violation;
- any crime of assault, kidnapping, unlawful imprisonment, custodial interference, harassment, arson, reckless burning, or malicious mischief.

A juvenile adjudicated of an offense may petition the court to seal the records when certain conditions are met. A person who is at least 18 and whose entire criminal history consists of one diversion may have the record destroyed if two years have elapsed since the completion of the diversion agreement.

In 1997, the Legislature made several changes to the juvenile justice laws, including the statute regarding the sealing and destruction of juvenile court records. Prior to 1997, a person could file a motion in court to have his or her juvenile records, including diversion agreements, destroyed if the person was at least 23 years old, had not subsequently been convicted of a felony, had no criminal proceeding pending, and had never been found guilty of a serious offense. The ability to destroy the records of a juvenile offender, other than an offender who only has a history of one diversion, was removed. The law currently does not address the sealing or destruction of juvenile records for diversions.

**Summary of Bill:**

The requirement that the juvenile court notify the school when the juvenile has entered into a diversion agreement for certain offenses is removed.

A provision regarding vacating and destroying diversion records is added. A person may file a motion with the court to have the court vacate and destroy any diversion records if the person:

- is at least 23 years old;
- has not subsequently been convicted of a felony;
- has no criminal proceedings currently pending; and
- has never been found guilty of a serious offense.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

Office of Program Research