

HOUSE BILL REPORT

HB 1212

As Reported by House Committee On:

Juvenile Justice

Title: An act relating to sealing juvenile records relating to misdemeanors, diversions, and gross misdemeanors.

Brief Description: Sealing certain juvenile records.

Sponsors: Representative Bush.

Brief History:

Committee Activity:

Juvenile Justice: 1/31/01, 2/13/01 [DPS].

Brief Summary of Substitute Bill

- Allows a court to seal a person's juvenile record for misdemeanors and diversions if the person is at least 18 years old and has been in the community for two consecutive years without a subsequent diversion or conviction.
- Allows a court to seal a person's juvenile record for gross misdemeanors if the person is at least 18 years old and has been in the community for three consecutive years without a subsequent conviction.

HOUSE COMMITTEE ON JUVENILE JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Delvin, Republican Co-Chair; Dickerson, Democratic Co-Chair; Eickmeyer, Democratic Vice Chair; Marine, Republican Vice Chair; Armstrong, Carrell, Darneille and Tokuda.

Staff: Jean Ann Quinn (786-7310).

Background:

A juvenile adjudicated of an offense may petition the court to vacate its order and findings and seal the records when certain conditions are met. A juvenile record for any

offense may not be sealed until the offender has paid full restitution. Any subsequent adjudication of a juvenile offense or subsequent charging of an adult felony nullifies a sealing order on the offender's juvenile records.

Juvenile records related to class A or sex offenses may not be sealed. Juvenile records relating to class B offenses may be sealed if the offender has spent 10 years in the community without committing an offense. Juvenile records relating to class C offenses may be sealed after the offender has spent five years in the community without committing an offense. There is no provision in current law authorizing the court to seal juvenile records for diversions, misdemeanors, or gross misdemeanors.

Summary of Substitute Bill:

A person's juvenile records for misdemeanors and diversions may be sealed if the person is at least 18 years old, and has spent two consecutive years after release from confinement, if any, or entry of the order of disposition, or completion of the diversion agreement, in the community without committing any offense or crime that subsequently results in conviction or diversion.

A person's juvenile records for gross misdemeanors may be sealed if the person is at least 18 years old and has spent three consecutive years after release from confinement, if any, or entry of the order of disposition, in the community without committing any offense or crime that subsequently results in conviction.

Substitute Bill Compared to Original Bill:

With respect to the sealing of diversion records, the substitute bill provides that the two-year time period that must be spent crime-free in the community begins when the diversion agreement is completed. It also clarifies that sealing is permitted only if the person has not committed any new offense during that time that results in either diversion or conviction.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: (In support) This is a simple and minor adjustment to correct an oversight that occurred during the passage of HB 3900 a few years ago. That bill

inadvertently did not address the sealing of gross misdemeanor, misdemeanor, and diversion records, which resulted in a tougher stance regarding lesser offenses than is used for more serious crimes. This is simply a cleanup provision that will provide equity and consistency in the system. An amendment may be necessary to correct the situation where a juvenile who has committed a class C felony at age 12 may petition to have his or her records sealed at the age of 17, but a juvenile who commits a gross misdemeanor, misdemeanor, or diversion must wait until the age of 18 to request that the records be sealed. Courts often require a juvenile to hire an attorney to file the motion to have the records sealed. Because of the cost associated with this, very few juveniles request sealing. Perhaps the bill should direct the Office of the Administrator for the Courts to develop standard forms to be used for this purpose.

(With concerns) Juveniles should not be required to wait until they reach the age of 18 to have their records sealed if they have shown that they have rehabilitated themselves and have complied with the requirements of their sentence and conditions of parole.

Testimony Against: None.

Testified: (In support) Tom McBride, Washington Association of Prosecuting Attorneys; Jim St. Ours, Community Youth Services/Thurston County Diversion; Charles Shelan, Community Youth Services; and Martha Harden, Superior Court Judges Association.

(With concerns) Sherry Appleton, Washington Defender Association.