

HOUSE BILL REPORT

SB 5691

As Reported by House Committee On:

Juvenile Justice

Title: An act relating to limitations on sealing of juvenile offender records.

Brief Description: Adding a limitation on sealing of juvenile offender records.

Sponsors: By Senators Costa, Long, Hargrove and Kohl-Welles.

Brief History:

Committee Activity:

Juvenile Justice: 3/21/01, 3/28/01 [DP].

Brief Summary of Bill

- Provides that a motion to seal a juvenile record filed on or after July 1, 1997, must be decided according to the law in effect on that date, regardless of when the adjudication occurred.

HOUSE COMMITTEE ON JUVENILE JUSTICE

Majority Report: 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:

Before the law was changed in 1997, a juvenile offender could petition the juvenile court to seal his or her juvenile court record if at least two years had elapsed since the entry of a court order regarding the juvenile offense, or since the juvenile was discharged from state agency supervision, whichever was later. If the juvenile had committed no other offenses, the court was required to grant the motion to seal.

This law was substantially revised, effective July 1, 1997, as follows:

- 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 authorizing the court to seal juvenile records for diversions, misdemeanors, or gross misdemeanors.

In October 1999, the Washington Supreme Court in *State v. T.K.* ruled that any motion by a juvenile to seal the record of an adjudication that occurred before July 1, 1997, must be decided based upon the law in effect before July 1, 1997, even if the motion was filed after July 1, 1997. In other words, the law that applies is based on the date of the adjudication, not the date of the filing of the motion to seal. The court further held that the 1997 amendments may not be applied retroactively because they affect a substantive right.

Summary of Bill:

The Legislature intends to change the results of the holding in *State v. T.K.*. Any motion to seal a juvenile record that is filed on or after July 1, 1997, must be decided based on the law in effect on that date, regardless of when the adjudication occurred.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: The bill attempts to reverse a court decision. In 1997 the Legislature addressed the question of what records can be sealed and when. A recent court decision overturned a portion of that, holding that if someone was adjudicated of a crime prior to 1997, then that record could be sealed based on the law in effect at that time. This bill clarifies the intent of the Legislature when passing the 1997 Juvenile Justice Reform Act. The bill shouldn't set up a conflict with the court ruling, because the law was ambiguous then. The decision about when records are to be sealed clearly falls within the purview of the Legislature, and the Legislature should retain its authority in this area. It would be difficult from a practical point of view to figure out what the law was in all the prior years and decide how it applies to a particular offender. The bill works well with two earlier House bills " HB 1212 and HB 1471 " setting out the requirements for when records are to be sealed in the juvenile arena.

Testimony Against: None.

Testified: Senator Costa, prime sponsor; and Tom McBride, Washington Association of Prosecuting Attorneys.