

FINAL BILL REPORT

SHB 1471

C 175 L 01

Synopsis as Enacted

Brief Description: Regarding diversions.

Sponsors: By House Committee on Juvenile Justice (originally sponsored by Representatives Darneille, Delvin, Dickerson and Armstrong).

House Committee on Juvenile Justice
Senate Committee on Human Services & Corrections

Background:

Diversion

Diversion is an agreement entered into between a juvenile accused of an offense and a diversionary unit, such as a community accountability board, in which the juvenile agrees to fulfill certain conditions in lieu of prosecution. If the juvenile violates the terms of his or her diversion agreement, the case is referred back to the prosecutor for the filing of charges.

Sealing of Records

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 an 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.

Destruction of Records

A person 18 years of age or older who has only one referral for diversion on his or her criminal history may request the court to destroy the records in that case. If it has been

at least two years since the diversion agreement was completed, the court must grant the request and order the destruction of the official juvenile court file, the social file, and any other file named in the order.

In addition, a juvenile justice agency may develop procedures for the routine destruction of records related to juvenile offenses and diversions. A juvenile justice agency may routinely destroy records once the person that is the subject of the complaint has reached the age of 23. The official juvenile court file may not be routinely destroyed under this authority.

Deferred Disposition

Deferred disposition is a disposition alternative for some juveniles offenders. In a deferred disposition, a guilty plea or finding of guilt is entered, the case is continued generally for up to one year, and the juvenile is placed on community supervision. If the juvenile complies with the conditions of supervision and pays full restitution, the guilty plea is vacated and the case is dismissed with prejudice. If the juvenile fails to comply with the conditions of the community supervision, the court must enter the original disposition order.

A juvenile is ineligible for deferred disposition if the juvenile has two or more diversions in his or her criminal history. No limit is placed on the number of prior misdemeanors or gross misdemeanors a juvenile may have before becoming ineligible for deferred disposition.

Summary:

Sealing of Diversion Records

Diversion records may be sealed if the juvenile has reached the age of 18 and has spent two years since completion of the diversion agreement in the community without committing a new offense that subsequently results in conviction or diversion.

Destruction of Diversion Records

A juvenile who is 23 years of age or older and has two or more diversions in his or her criminal history, but no other adjudications, may request that the diversion records be destroyed. The court must grant the request if it finds that all diversion agreements have been successfully completed and no criminal proceedings are pending.

Deferred Disposition

A juvenile is ineligible for deferred disposition if he or she has two or more adjudications of any kind in his or her criminal history. Thus, a juvenile with two prior misdemeanors

or gross misdemeanors would be ineligible for a deferred disposition.

Votes on Final Passage:

House 93 0

Senate 46 2 (Senate amended)

House 88 0 (House concurred)

Effective: July 22, 2001