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**Human Services Committee**

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**HB 1141**

**Brief Description:** Modifying diversion records provisions.

**Sponsors:** Representatives Roberts, Haler, O'Brien, Green, Goodman, Kagi, Appleton, Walsh, Williams, Dickerson, Darneille, Flannigan, McCoy, Hinkle, Pettigrew and Hasegawa.

**Brief Summary of Bill**

- Requires the records of a diversion agreement to be automatically destroyed when the person who is the subject of the charge turns 18 years of age, so long as the diversion contract has been successfully completed and there is no restitution owing in the case.

**Hearing Date:** 1/23/07

**Staff:** Sonja Hallum (786-7092).

**Background:**

If a prosecuting attorney receives a report from law enforcement of an alleged offense, the prosecutor screens the complaint to determine whether there is juvenile court jurisdiction over the alleged offense and whether there is probable cause to believe that the juvenile committed the offense.

If the prosecutor determines the case is legally sufficient, the prosecutor is required to divert the case if the alleged offense is a misdemeanor, gross misdemeanor, or violation and the alleged offense is the offender's first offense or violation.

When the case is referred to Diversion, the juvenile will sign a contract in which the juvenile agrees to fulfill certain obligations in lieu of prosecution. These obligations may include restitution, community service, and counseling as well as other possible obligations.

If a diversion contract is signed and the juvenile fails to follow the terms of the contract, the contract may be terminated by the court and the case re-referred to the prosecuting attorney to decide whether to file formal charges and bring the juvenile into the court system.

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If the juvenile completes the terms of the contract, the juvenile's obligation ends and the offense is reflected on the juvenile's criminal history.

The juvenile's history in the official juvenile court file is open to the public unless the file has been sealed by court order or destroyed. A person's juvenile record may be destroyed in only the following circumstances:

- 1) If the person who is 18 years of age or older requests the court destroy his or her record, the criminal history consists of only one diversion, and two years has passed since the diversion was completed;
- 2) If the person who is twenty-three years of age or older requests the court destroy his or her record, the criminal history consists of only diversion referrals which have been successfully completed, and there are no criminal proceedings pending against the person; or
- 3) If the juvenile justice care agency has developed routine procedures for destroying records when two years have elapsed since the completion of the agreement and the person who is the subject of the information or complaint has turned twenty-three years of age or older or the person is 18 years of age and his or her criminal history consists of only one diversion agreement.

**Summary of Bill:**

The criminal history records of a person who is 18 years of age must be automatically destroyed if the criminal history consists of only one diversion which was successfully completed and there is no restitution owing in the case.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.