

# FINAL BILL REPORT

## SHB 1793

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Synopsis as Enacted

**Brief Description:** Restricting access to juvenile records.

**Sponsors:** House Committee on Early Learning & Human Services (originally sponsored by Representatives Darneille, Roberts and Kagi).

**House Committee on Early Learning & Human Services**  
**House Committee on General Government Appropriations & Oversight**  
**Senate Committee on Human Services & Corrections**

### **Background:**

#### Motions to Seal Records.

The "official juvenile court file" is the legal file of the juvenile court containing petitions, information, motions, memorandums, briefs, findings of the court, and court orders. The social file is the juvenile court file which contains the records and reports of a probation counselor. Juvenile records are a combination of the official juvenile court file, the social file, and the records of any other juvenile justice or care agency regarding a particular case.

In order to request that his or her juvenile records be sealed, a person must file a motion with the superior court. Courts do not have the authority to issue an order sealing the record of an adjudication for a sex offense. The court may order the following records to be sealed:

- class A offenses where the person has spent five consecutive years since the last date of release from confinement, full-time residential treatment, or entry of disposition in the community without being convicted of any offense or crime; and
- class B, class C, gross misdemeanor, and misdemeanor offenses and diversions where the person has spent two consecutive years since the last date of release from confinement, full-time residential treatment, or entry of disposition in the community without being convicted of any offense or crime.

In addition, the court may not order juvenile records sealed if there is: a proceeding pending against the moving party seeking his or her conviction for a juvenile or criminal offense; a proceeding pending seeking the formation of a diversion agreement with that person; and full restitution that has not been fully paid.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

If the court grants the motion to seal, the order to seal covers the juvenile court file, the social file, and other records relating to the case as are named in the order. The order to seal means the proceedings in the case are treated as though they never occurred and the subject of the records may reply accordingly to any inquiry about the events contained in the record.

#### Fair Credit Reporting Act.

The Fair Credit Reporting Act (FCRA) generally requires that credit reporting agencies, also known as consumer reporting agencies, follow reasonable procedures to protect the confidentiality, accuracy, and relevance of credit information. To accomplish this, the FCRA establishes a framework of fair information practices for personal information maintained by credit reporting agencies that includes the right to access and correct data, data security, limitations on use, requirements for data destruction, notice, consent, and accountability.

Consumer reporting agencies are prohibited from making a consumer report that contains information regarding records of arrest, indictment, or conviction of a crime where more than seven years has elapsed since the date of disposition, release, or parole.

#### Pardons.

Under the Washington State Constitution, the authority to pardon an individual rests with the Governor. The Governor may grant a full or conditional pardon. The Governor may also commute a death sentence to one of life imprisonment. The Clemency and Pardons Board (Board) may receive and consider petitions from individuals, organizations, and the Department of Corrections for review and commutation of sentences and pardoning of offenders in extraordinary cases. The Board makes recommendations regarding a request for pardon or commutation to the Governor.

#### **Summary:**

#### Fair Credit Reporting Act.

Consumer reporting agencies are prohibited from making a consumer report containing juvenile records where the subject of the records is 21 years or older at the time of the report. This prohibition does not apply where a consumer report is used in connection with: (1) a credit transaction involving or may reasonably be expected to involve \$50,000 or more; (2) the underwriting of life insurance involving, or that may reasonably be expected to involve, \$50,000 or more; or (3) employment of an individual at an annual salary that equals or that may reasonably be expected to equal \$20,000 or more. No arrests, indictments, or convictions of an adult may be included in a report where more than seven years has elapsed since the date of disposition, release, or parole.

#### Joint Legislative Task Force.

A joint legislative task force is convened to determine how to cost-effectively restrict public access to juvenile records when a person has met the statutory requirements for sealing those records. The cost effective measures to be considered should allow a person to seal his or her juvenile records without filing a motion to seal. The task force must also determine how to restrict access to diversion records and any other issues that may arise during the work of the task force.

The President of the Senate and the Speaker of the House of Representatives each appoint two members from the largest caucuses of their respective chambers. One member from each chamber co-chairs the task force. The legislative members convene the first meeting of the task force.

In addition to the legislative members, the task force must include representatives of the following entities:

- The Administrative Office of the Courts;
- The Judicial Information Systems Data Dissemination Committee;
- The Association of Counties, specifically county clerks;
- The Washington Association of Prosecuting Attorneys;
- The Washington State Patrol;
- The Juvenile Law section of the Washington State Bar Association;
- The Washington Defender's Association;
- The Juvenile Rehabilitation Administration; and
- The Juvenile Court Administrators Association.

Staff support for the task force must be provided by Senate Committee Services and the Office of Program Research.

Pardons.

Where the subject of juvenile records has received a full and unconditional pardon, the proceedings for which the pardon was granted are treated as if they never occurred. An agency, in response to an inquiry regarding such records, must reply that no information can be given about the existence or nonexistence of records concerning the pardoned individual.

All records maintained by any court or law enforcement agency must be automatically destroyed within 30 days of being notified by the Governor's office that the subject of those records has received a full and unconditional pardon.

The provisions regarding the juvenile records after a pardon has been granted apply retroactively and prospectively.

**Votes on Final Passage:**

House	56	41	
Senate	41	7	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	26	20
House	65	31

**Effective:** July 22, 2011