

HOUSE BILL REPORT

SHB 2541

As Passed Legislature

Title: An act relating to sealing juvenile records.

Brief Description: Concerning the sealing of juvenile records.

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

Brief History:

Committee Activity:

Early Learning & Human Services: 1/24/12, 1/26/12, 1/27/12 [DPS].

Floor Activity:

Passed House: 2/9/12, 97-0.

Passed Senate: 2/29/12, 45-3.

Passed Legislature.

Brief Summary of Substitute Bill

- Requires the court to set a date for an administrative hearing, within 30 days of the juvenile's eighteenth birthday, to enter an order sealing a successfully completed deferred disposition.
- Requires the court to grant a motion to seal a successfully completed deferred disposition which was vacated prior to the effective date of this act, if the person is 18 years or older when the motion to seal is made.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Kagi, Chair; Roberts, Vice Chair; Walsh, Ranking Minority Member; Dickerson, Goodman, Johnson, Orwall and Overstreet.

Staff: Linda Merelle (786-7092).

Background:

Deferred Disposition.

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.

A deferred disposition in juvenile court is akin to a deferred prosecution in adult court. The juvenile offender is found guilty at the time that the court agrees to allow a deferred disposition. A deferred disposition allows a juvenile to complete certain conditions set out by the court and probation, including any restitution payment, in exchange for having the charges dismissed. A disposition is the juvenile court equivalent of sentencing in adult court.

A juvenile is eligible for a deferred disposition unless he or she:

- is charged with a sex or violent offense;
- has a criminal history which includes any felony; or
- has two or more prior adjudications.

If a court grants a deferred disposition, the juvenile is required to:

- stipulate to the admissibility of the facts contained in the written police report;
- acknowledge that the report will be entered and used to support a finding of guilt and to impose a disposition (i.e., sentencing) if the juvenile fails to comply with terms of supervision; and
- waive the right to a speedy disposition and to call and confront witnesses.

After the court enters a finding or plea of guilty, the court defers entry of an order of disposition. The juvenile offender is placed on community supervision, and the court may impose any conditions that it deems appropriate. Payment of restitution must be a condition of supervision. The juvenile normally has one year to complete the conditions but may have up to two years. If the juvenile fails to complete the conditions, as determined by a hearing before the court, the court must enter an order of disposition.

If the court finds that the juvenile offender has successfully complied with the conditions of his or her supervision, including payment of restitution, the conviction is vacated and the court dismisses the case with prejudice. If the juvenile has a conviction for Animal Cruelty in the first degree, his or her conviction is not vacated.

Sealing of Deferred Dispositions.

A juvenile's records of a deferred disposition must be sealed within 30 days after the juvenile's eighteenth birthday if:

- the conditions of the deferred disposition have been completed;
- the deferred disposition has been vacated and the case dismissed with prejudice; and
- the juvenile does not have any pending charges.

If the juvenile is already 18 years old at the time that the deferred disposition is vacated, he or she may request that the court seal his or her records, and that request must be granted. Records sealed under this provision have the same legal status as records sealed under other laws governing records related to juvenile offenses.

Summary of Substitute Bill:

At the time that a court vacates a deferred disposition, the court must set a date for an administrative hearing within 30 days of the juvenile's eighteenth birthday. At that

administrative hearing, the court must execute an order sealing the juvenile's deferred disposition, and the juvenile does not have to appear.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Initially, the goal was to find a way to automatically seal juvenile records. Instead, the Legislature created a task force. Through the work of the task force, a very well-informed process allowed these bills to come forward. If the person is subsequently adjudicated, the sealed record is unsealed. There are no risks to public safety, and this will be cheaper for the taxpayer.

(Opposed) None.

Persons Testifying: Representative Darneille, prime sponsor; and Tom McBride, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.