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## Early Learning & Human Services Committee

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### HB 1651

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

**Sponsors:** Representatives Kagi, Walsh, Freeman, Roberts, Farrell, Zeiger, Goodman, Pollet, Sawyer, Appleton, Bergquist, Hunt, Moscoso, Jinkins, Ryu and Morrell.

#### Brief Summary of Bill

- Provides that juvenile offender records are confidential unless the juvenile has been adjudicated for a serious violent offense; the court may release juvenile records for inspection upon good cause shown.
- Provides that juvenile offender records may not be published, distributed or sold.
- Provides that the provisions of the act are prospective and retrospective; and the act takes effect July 1, 2014.

**Hearing Date:** 2/12/13

**Staff:** Linda Merelle (786-7092).

#### **Background:**

##### Juvenile Offender Records.

Since 1977 juvenile offender records have been public unless sealed in accordance with statutory requirements. Non-offender juvenile records, such as records in a dependency matter or adoption, are not open to public inspection.

The requirements for sealing juvenile records have changed since the records became public. The most stringent requirements were imposed in 1997 when class A felonies and sex offenses could not be sealed, and a person seeking to seal a juvenile class B felony was required to remain in the community without any further offenses for 10 years, along with the payment of any

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restitution ordered. A person seeking to seal a juvenile class C felony was required to wait five years, in addition to any restitution. In 2011 and 2010 the Legislature amended the sealing statutes to allow the records for class A felonies and sex offenses to be sealed. Before any juvenile offender record may be sealed, the person who is the subject of the record must not have any pending diversions or criminal charges. He or she must have been relieved of the duty to register as a sex offender and must have paid in full any restitution ordered by the court. Depending upon the offense, the person seeking to seal his or records must have spent a minimum period of time in the community after being released from confinement without any new offenses, as follows:

<b><i>Offense Type</i></b>	<b><i>Years in Community without a New Offense</i></b>
<b>Class A Felony</b>	Five years, unless the offense was Rape in the first degree, Rape in the second degree, or Indecent Liberties with Forcible Compulsion.
<b>Sex Offense</b> May only be sealed if a court has relieved the juvenile of the duty to register as a sex offender. (Juvenile convictions for Rape in the first degree, Rape in the second degree, or Indecent Liberties with Forcible Compulsion may not be sealed.)	For class A juvenile sex offenses, committed when the juvenile was 15 years or older, the individual must be in the community five years without conviction of additional sex or kidnapping offenses before he or she may petition to be relieved of the duty to register. For all other offenses, the person must be in the community two years without conviction of additional sex or kidnapping offenses before petitioning the court to be relieved of the duty to register.
<b>Class B Felony</b>	Two years.
<b>Class C Felony</b>	Two years.
<b>Gross Misdemeanors</b>	Two years.
<b>Misdemeanors</b>	Two years.
<b>Diversions</b>	Two years.

Serious Violent Offenses.

A "serious violent offense" is a subcategory of violent offenses, and includes the following offenses, as well as an attempt, solicitation, or conspiracy to commit such offense:

- Murder in the first degree;
- Homicide by Abuse;
- Murder in the second degree;
- Manslaughter in the first degree;
- Assault in the first degree;
- Kidnapping in the first degree;
- Rape in the first degree; or
- Assault of a Child in the first degree.

Consumer Reporting Agencies.

In 2011 the Legislature enacted Substitute House Bill 1793 which prohibited consumer reporting agencies from including in their reports the juvenile record of a person, aged 21 or older, at the time that the report is made.

**Summary of Bill:**

Juvenile Offender Records Classified as Confidential.

Juvenile offender records are confidential unless the juvenile has been adjudicated of a serious violent offense. Access to confidential juvenile offender records is limited to the court, the prosecuting attorney, the parties and their attorneys, and juvenile justice or care agencies. The juvenile justice or care agencies, such as law enforcement, diversion units or the Department of Social and Health Services and its contractors, may have access only when an investigation or case is being pursued by such agency or the agency is responsible for supervising the juvenile who is the subject of the records.

Hearing to Open Records to Public.

Upon the application of an interested party, and after a hearing with notice to all parties, the court may, for good cause shown, may release to the petitioner individual records, reports, or certain information contained in the juvenile file. The release of information in the file must be limited to the specific purpose expressly ordered by the court upon the following findings:

- anyone present when the motion to open the juvenile records was heard had an opportunity to address the motion;
- the court has weighed the competing privacy interests of the juvenile with the interests identified by the petitioners as they apply to the specific court record, with the presumption in favor of confidentiality;
- the court has determined that a compelling reason exists for the requested inspection and that the release or disclosure is necessary for the protection of a compelling public or private interest; and
- the order of the court is not broader in application or duration than necessary.

Access to Confidential Juvenile Offender Records.

Confidential juvenile offense records that are maintained by the court, law enforcement, state agencies, or the prosecutor's office may not be published, distributed, or sold. The prohibition against publication, distribution, or sale does not affect or prevent the use of a juvenile offender's prior adjudication in later juvenile or adult offender proceedings.

The provisions regarding the confidentiality of juvenile records apply prospectively and retroactively to all existing juvenile court files of any alleged or proven juvenile offender. Except for juvenile court files that have already been sealed, any existing juvenile offender record containing an adjudication for a serious violent offense prior to July 1, 2014, is public effective July 1, 2014.

**Appropriation:** None.

**Fiscal Note:** Requested on February 4, 2013.

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