

# SENATE BILL REPORT

## SB 5689

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As of February 18, 2013

**Title:** An act relating to access to juvenile records.

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

**Sponsors:** Senator Darneille.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/19/13.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Shani Bauer (786-7468)

**Background:** In 1977, the Legislature passed HB 371 which made juvenile offender records accessible to the public. Under current law, a person may seal their juvenile record if the person meets certain criteria. The criteria for sealing juvenile records since 1977 gradually became more stringent until 1997. Since 2004, the Legislature has enacted provisions that decrease the amount of time a person must wait before being eligible to have a juvenile record sealed and has allowed more serious offenses to be sealed.

Before a juvenile offender record may be sealed, the person must not have any pending diversion or criminal charges, must have been relieved of any duty to register as a sex offender, and must have paid any restitution ordered in full. The person must have also spent a specified period of time in the community without committing a new offense: five years for a class A felony and two years for other felonies, misdemeanors, and diversions.

In 2011, the Legislature established the Joint Legislative Task Force on Juvenile Record Sealing (Task Force) to:

- determine how to cost-effectively restrict public access to juvenile records when an individual has met statutory criteria without requiring a motion in court;
- determine whether and how to restrict access to diversion records; and
- address other juvenile criminal record access issues that may arise during the work of the Task Force.

The Task Force completed its report in December 2012. The Task Force explored several alternatives and options but did not come to consensus recommendations.

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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.*

Serious violent offenses are defined in the Sentencing Reform Act to include murder 1 and 2, homicide by abuse, manslaughter 1, assault 1, kidnapping 1, rape 1, assault of a child 1, or an attempt to commit any of those crimes.

**Summary of Bill:** The official court file of a juvenile offender is confidential, unless the juvenile has been adjudicated of a serious violent offense. Access to a confidential juvenile court file is limited to the court, prosecuting attorney, and the parties and their attorneys. Juvenile justice or care agencies must have access only when an investigation or case involving the juvenile is being pursued by the agency or when the agency is responsible for supervising the juvenile.

An interested person may petition the court for the release of records for good cause. The court may release the records upon a written finding that anyone present when the motion was heard had an opportunity to address the motion, the court weighed the competing privacy interests of the juvenile and the interests of the person seeking access to the records, the court has determined that a compelling reason exists for the inspection and that disclosure is necessary to protect those interests, and the order of the court is no broader than necessary to achieve its purpose.

Confidential juvenile offense records maintained by any court, law enforcement agency, or state agency may not be published, distributed, or sold. Nothing in this section prevents the use of a juvenile offender's prior adjudication in later juvenile offender or adult criminal proceedings.

The provisions of the bill apply prospectively and retroactively. Except for juvenile court files that have been sealed under existing law, any official juvenile court file containing an adjudication for a serious violent offense with an adjudication date prior to July 1, 2014, must be public.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill takes effect on July 1, 2014.