

SENATE BILL REPORT

SB 5564

As of February 4, 2015

Title: An act relating to decreasing the barriers to successful community participation for individuals involved with the juvenile justice system.

Brief Description: Concerning the sealing of juvenile records and fines imposed in juvenile cases.

Sponsors: Senators O'Ban, Darneille, Miloscia, Hargrove, Kohl-Welles, Fain, Jayapal, Brown, Habib, Dammeier, Frockt, Litzow, Warnick, Hasegawa and McAuliffe.

Brief History:

Committee Activity: Human Services, Mental Health & Housing: 2/05/15.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Staff: Lindsay Erickson (786-7465)

Background: Sealing Juvenile Records. Since 1977, juvenile offender records have been public unless sealed. Records of non-offender juvenile cases, such as dependency or adoption records, are not open to public inspection.

There are two methods by which individuals may seal their juvenile records:

- an individual may make a motion to seal the official juvenile court record, the social file, and records of the court and any other agency in the case; or
- an individual may have their record sealed during regularly held sealing hearings.

Once a juvenile record is sealed, the proceedings in the case must be treated as if they never occurred. Any subsequent criminal adjudication or adult felony charge unseals the case.

Regular Sealing Hearings. At the disposition hearing of a juvenile offender, courts must schedule an administrative sealing hearing after that offender turns age 18 and is anticipated to have completed any probation and confinement. Courts must seal the individual's juvenile court record if none of the offenses for which the court is entering disposition are a most serious offense, a sex offense under chapter 9A.44, or a felony drug offense. Respondents must also have completed the terms and conditions of disposition, including financial obligations, to seal a record during a regular sealing hearing.

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.

Motions to Seal Juvenile Records. An individual may also file a motion requesting that the court seal the individual's juvenile record. An individual is eligible to have the individual's record sealed under this process after remaining in the community without further conviction for a period of time and paying any restitution associated with the case. For class A felonies, an individual must remain in the community without conviction for five years. For class B felonies, class C felonies, and all misdemeanors, an individual must remain in the community without conviction for two years.

Individuals convicted of rape in the first degree, rape in the second degree, and indecent liberties with forcible compulsion are not eligible for record sealing. Other sex offenses are eligible for sealing, but an individual must be relieved of the obligation to register as a sex offender.

Legal Financial Obligations (LFOs). When an individual is adjudicated as a juvenile offender, the court may impose LFOs as part of the disposition. LFOs include victim restitution, crime victims' compensation fees, costs associated with the offender's prosecution and sentence, fines, penalties, and assessments.

Interest Rate on LFOs. LFO judgments bear interest from the date of judgment at the same rate that applies to civil judgments. The rate of interest generally applicable to civil judgments is the greater of 12 percent or four points above the 26-week treasury bill rate. As a result of low treasury bill rates, 12 percent has been the interest rate on LFOs for over two decades.

Interest that accrues on restitution is paid to the victim of the offense. All other accrued interest is split between the state and county as follows: 25 percent goes to the general fund, 25 percent goes to the Judicial Information System Account, and 50 percent goes to the county, 25 percent of which must be used to fund local courts.

Summary of Bill: Restitution. Courts are allowed to modify juvenile restitution amounts at any time, including the time of a contested record-sealing hearing for good cause shown, including ability to pay. Respondents may also petition for relief from restitution.

Courts must seal the juvenile records of individuals who meet the existing criteria for sealing records and if either the individual has paid the full amount of restitution or made a good faith effort to pay. Good faith effort to pay is defined as paying the principal amount in full, having made at least 80 percent of the value of full monthly payments within the period from disposition until the time the restitution is under review, or a showing of good cause as to why less than 80 percent has been paid. If a court seals a juvenile record with restitution still owing, the court must issue a civil order in the amount of the remaining restitution.

Information Sharing. Sealed juvenile social files are still available to juvenile justice and care agencies when an investigation or case involving the juvenile is being prosecuted or when an agency is responsible for supervising the juvenile. Juvenile records, whether sealed or not, may be provided without personal identifiers to researchers conducting legitimate research so long as the information is not used to identify an individual with a juvenile record.

Juvenile LFOs or Other Fees Modified or Eliminated. The following LFOs or other fees are eliminated for juveniles:

- juvenile penalty assessments;
- fines for gross misdemeanors related to pet animals;
- fines for the crime of selling a pet animal to a research institution;
- penalties for cheating crimes;
- deferred prosecution or sentence fees;
- fees for the crime of commercial sexual abuse of a minor involving an internet advertisement;
- general fines for felonies and misdemeanors;
- fines for interference with a health care facility;
- fines for the crime of unlawful issuance of a bank check;
- fines for the crime of theft of livestock;
- fines for the crimes of indecent exposure and prostitution;
- fines after impoundment of a vehicle upon arrest for prostitution-related and commercial sexual abuse of a minor crimes;
- appellate costs;
- interest on financial obligations;
- penalty assessments for crimes involving domestic violence;
- juvenile diversion fines;
- clerk's collection fees;
- conviction fees;
- sheriffs' fees;
- crime lab analysis fees;
- fees for crimes including driving under the influence, physical control of a vehicle under the influence, and vehicular homicide or assault;
- fees for crimes listed in the Uniform Controlled Substances Act;
- fines for the crime of intent to manufacture controlled substances;
- criminal wildlife penalty assessments for the crime of unlawful hunting of big game; and
- public defense costs.

In addition to the elimination of those LFOs, cities, towns, and counties may not impose any LFOs for juveniles without express statutory authority.

Other Provisions. Records of a juvenile offense maintained by the Department of Licensing must be sealed when the court enters an order sealing a juvenile court record.

Appropriation: None.

Fiscal Note: Requested on January 30, 2015.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.