

SENATE BILL REPORT

SB 5694

As of January 5, 2018

Title: An act relating to the sealing of juvenile records.

Brief Description: Concerning the sealing of juvenile records.

Sponsors: Senator Darneille.

Brief History:

Committee Activity: Human Services, Mental Health & Housing: 2/07/17.

Human Services & Corrections: 1/08/18.

Brief Summary of Bill

- Makes all juvenile court files of alleged or proven offenders confidential.
- Prohibits public inspection of court juvenile files.
- Allows release of juvenile court offender records only if (1) authorized in the juvenile court records law, (2) an authorized disclosure from a sex offender registry, or (3) a required notice of discharge, release or escape of a juvenile stalker, violent offender, or sex offender.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Staff: Melissa Burke-Cain (786-7755)

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Kevin Black (786-7747)

Background: Since 1977, juvenile offender records have been public unless sealed in accordance with statutory requirements. The requirements for sealing juvenile records have changed since the records became public. For example, in 1997, Class A felonies and sex offenses were prohibited from being sealed, and a person seeking to seal a juvenile Class B felony was required to remain in the community without any further offenses for ten years, along with the payment of any restitution ordered. A person seeking to seal a juvenile class C felony was required to wait five years, in addition to payment of any restitution ordered.

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.

Since 2004, the Legislature has enacted provisions that decreased the time that a person must wait before being eligible to have a juvenile record sealed and allowed records of more serious offenses to be sealed. Before any juvenile offender record may be sealed, the person must: not have any pending diversions or criminal charges; have been relieved of any duty to register as a sex offender; and have paid any restitution ordered in full. Many criminal conviction records were still not sealable.

In 2011, legislation was enacted which prohibited consumer reporting agencies from including in their reports the juvenile record of a person, 21 years of age or older, at the time that the report is made. Also in 2011, the Legislature established a Joint Legislative Task Force on Juvenile Record Sealing (Task Force). The Task Force looked at cost-effective ways restrict public access to juvenile records without requiring a need to file a motion to seal once records qualified for sealing. The Task Force submitted a report to the legislature in 2012 that did not include any unanimous recommendations.

In June 2014, a newly enacted law took effect. It required courts to hold regular hearings to administratively seal juvenile records unless an objection to sealing is made or a compelling reason not to seal is brought to the court's attention. Juvenile court records of sex, drug, or most serious offenses were not sealable at a regularly scheduled sealing hearing. The bill provided for scheduling contested sealing hearings, with notice to the respondent, but the respondent did not have to appear at the hearing. After a contested sealing hearing, the court enters a written sealing order unless it determines sealing is inappropriate. If a new juvenile crime is adjudicated after a sealing order is entered, the sealing order is nullified, subject to resealing after the new matter is concluded. When a juvenile court record is sealed, it is not admissible in a liability action against the employer of the person who is the subject of the sealed record unless the record came to the employer's attention from a background check that contained information from the sealed record.

Summary of Bill: The official juvenile court file of any alleged or proven juvenile offender is confidential, and is not open for public inspection. The juvenile court file records may be released:

- only as provided by the juvenile court records law;
- through authorized disclosures of information from a sex offender registry; or
- through statutorily-required notice of a juvenile stalker's, violent offender's, or sex offender's discharge, parole, release, or escape.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony (Human Services, Mental Health & Housing): *Testimony from 2017 Regular Session.* PRO: The administrative sealing process does not work very well on the ground. The juvenile record information should not be showing up on

credit checks, but it is. Secondary credit companies are refusing to update and remove records from public access that should be sealed. In a study on ways to improve indigent defense, the number one bar to effective reentry is the juvenile record.

CON: Clerks charge a modest amount for making the public records available. If juvenile court records are made confidential, the records are closed from the start of the case, essentially putting a blanket seal. Since 1977, the juvenile court has transitioned from a parens patrias system to a true court system. The administrative sealing process was addressed in 2014. There are opinions on both sides of this issue; both sides will contest this bill.

OTHER: The law provides for sealing, but the problem is with the Internet. Secondary Internet sources continue to make the records publically available even after sealing because the Internet companies do not go back and remove information after it is sealed. This bill would make the juvenile court records confidential just like the records of adoption and juvenile dependency are confidential. It prevents a credit agency from using the information against a person once he or she has served their time. It would prevent a prospective employer from refusing a hire based on the past juvenile record. Newspapers would still have access as provided in other laws. However, sealing and confidentiality protect a person's opportunities for education and work that are now being impaired. Records are still available to a prosecutor.

Persons Testifying (Human Services, Mental Health & Housing): PRO: Senator Jeannie Darneille, Prime Sponsor.

CON: Rowland Thompson, Allied Daily Newspapers of Washington.

OTHER: George Yeannakis, State Office of Public Defense.

Persons Signed In To Testify But Not Testifying (Human Services, Mental Health & Housing): No one.