
SENATE BILL 5339

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By Senators Das, Nguyen, Darneille, Lias, Lovelett, Nobles, and Salomon

Read first time 01/25/21. Referred to Committee on Human Services, Reentry & Rehabilitation.

1 AN ACT Relating to juvenile records; amending RCW 13.50.260 and
2 13.50.150; and reenacting and amending RCW 13.50.010.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 13.50.010 and 2019 c 470 s 22 and 2019 c 82 s 1 are
5 each reenacted and amended to read as follows:

6 (1) For purposes of this chapter:

7 (a) "Expunge" means to destroy the applicable documents or data
8 named in the expungement order so as to make it permanently
9 irretrievable and erase or completely remove any direct connection of
10 the case to the offender in any system maintained by any agency as
11 named in the order. Previous findings in an expunged case are
12 considered vacated and nonexistent.

13 (b) "Good faith effort to pay" means a juvenile offender has
14 either (i) paid the principal amount in full; (ii) made at least
15 ~~((eighty))~~ 80 percent of the value of full monthly payments within
16 the period from disposition or deferred disposition until the time
17 the amount of restitution owed is under review; or (iii) can show
18 good cause why he or she paid an amount less than ~~((eighty))~~ 80
19 percent of the value of full monthly payments;

20 ~~((b))~~ (c) "Juvenile justice or care agency" means any of the
21 following: Police, diversion units, court, prosecuting attorney,

1 defense attorney, detention center, attorney general, the oversight
2 board for children, youth, and families, the office of the family and
3 children's ombuds, the department of social and health services and
4 its contracting agencies, the department of children, youth, and
5 families and its contracting agencies, schools; persons or public or
6 private agencies having children committed to their custody; and any
7 placement oversight committee created under RCW 72.05.415;

8 ~~((e))~~ (d) "Official juvenile court file" means the legal file
9 of the juvenile court containing the petition or information,
10 motions, memorandums, briefs, notices of hearing or appearance,
11 service documents, witness and exhibit lists, findings of the court
12 and court orders, agreements, judgments, decrees, notices of appeal,
13 as well as documents prepared by the clerk, including court minutes,
14 letters, warrants, waivers, affidavits, declarations, invoices, and
15 the index to clerk papers;

16 ~~((d))~~ (e) "Records" means the official juvenile court file, the
17 social file, and records of any other juvenile justice or care agency
18 in the case;

19 ~~((e))~~ (f) "Social file" means the juvenile court file
20 containing the records and reports of the probation counselor.

21 (2) Each petition or information filed with the court may include
22 only one juvenile and each petition or information shall be filed
23 under a separate docket number. The social file shall be filed
24 separately from the official juvenile court file.

25 (3) It is the duty of any juvenile justice or care agency to
26 maintain accurate records. To this end:

27 (a) The agency may never knowingly record inaccurate information.
28 Any information in records maintained by the department of social and
29 health services or the department of children, youth, and families
30 relating to a petition filed pursuant to chapter 13.34 RCW that is
31 found by the court to be false or inaccurate shall be corrected or
32 expunged from such records by the agency;

33 (b) An agency shall take reasonable steps to assure the security
34 of its records and prevent tampering with them; and

35 (c) An agency shall make reasonable efforts to insure the
36 completeness of its records, including action taken by other agencies
37 with respect to matters in its files.

38 (4) Each juvenile justice or care agency shall implement
39 procedures consistent with the provisions of this chapter to
40 facilitate inquiries concerning records.

1 (5) Any person who has reasonable cause to believe information
2 concerning that person is included in the records of a juvenile
3 justice or care agency and who has been denied access to those
4 records by the agency may make a motion to the court for an order
5 authorizing that person to inspect the juvenile justice or care
6 agency record concerning that person. The court shall grant the
7 motion to examine records unless it finds that in the interests of
8 justice or in the best interests of the juvenile the records or parts
9 of them should remain confidential.

10 (6) A juvenile, or his or her parents, or any person who has
11 reasonable cause to believe information concerning that person is
12 included in the records of a juvenile justice or care agency may make
13 a motion to the court challenging the accuracy of any information
14 concerning the moving party in the record or challenging the
15 continued possession of the record by the agency. If the court grants
16 the motion, it shall order the record or information to be corrected
17 or destroyed.

18 (7) The person making a motion under subsection (5) or (6) of
19 this section shall give reasonable notice of the motion to all
20 parties to the original action and to any agency whose records will
21 be affected by the motion.

22 (8) The court may permit inspection of records by, or release of
23 information to, any clinic, hospital, or agency which has the subject
24 person under care or treatment. The court may also permit inspection
25 by or release to individuals or agencies, including juvenile justice
26 advisory committees of county law and justice councils, engaged in
27 legitimate research for educational, scientific, or public purposes.
28 Each person granted permission to inspect juvenile justice or care
29 agency records for research purposes shall present a notarized
30 statement to the court stating that the names of juveniles and
31 parents will remain confidential.

32 (9) The court shall release to the caseload forecast council the
33 records needed for its research and data-gathering functions. Access
34 to caseload forecast data may be permitted by the council for
35 research purposes only if the anonymity of all persons mentioned in
36 the records or information will be preserved.

37 (10) Juvenile detention facilities shall release records to the
38 caseload forecast council upon request. The commission shall not
39 disclose the names of any juveniles or parents mentioned in the
40 records without the named individual's written permission.

1 (11) Requirements in this chapter relating to the court's
2 authority to compel disclosure shall not apply to the oversight board
3 for children, youth, and families or the office of the family and
4 children's ombuds.

5 (12) For the purpose of research only, the administrative office
6 of the courts shall maintain an electronic research copy of all
7 records in the judicial information system related to juveniles.
8 Access to the research copy is restricted to the administrative
9 office of the courts for research purposes as authorized by the
10 supreme court or by state statute. The administrative office of the
11 courts shall maintain the confidentiality of all confidential records
12 and shall preserve the anonymity of all persons identified in the
13 research copy. Data contained in the research copy may be shared with
14 other governmental agencies as authorized by state statute, pursuant
15 to data-sharing and research agreements, and consistent with
16 applicable security and confidentiality requirements. The research
17 copy may not be subject to any records retention schedule and must
18 include records destroyed or removed from the judicial information
19 system pursuant to RCW 13.50.270 and 13.50.100(3).

20 (13) The court shall release to the Washington state office of
21 public defense records needed to implement the agency's oversight,
22 technical assistance, and other functions as required by RCW
23 2.70.020. Access to the records used as a basis for oversight,
24 technical assistance, or other agency functions is restricted to the
25 Washington state office of public defense. The Washington state
26 office of public defense shall maintain the confidentiality of all
27 confidential information included in the records.

28 (14) The court shall release to the Washington state office of
29 civil legal aid records needed to implement the agency's oversight,
30 technical assistance, and other functions as required by RCW
31 2.53.045. Access to the records used as a basis for oversight,
32 technical assistance, or other agency functions is restricted to the
33 Washington state office of civil legal aid. The Washington state
34 office of civil legal aid shall maintain the confidentiality of all
35 confidential information included in the records, and shall, as soon
36 as possible, destroy any retained notes or records obtained under
37 this section that are not necessary for its functions related to RCW
38 2.53.045.

39 (15) For purposes of providing for the educational success of
40 youth in foster care, the department of children, youth, and families

1 may disclose only those confidential child welfare records that
2 pertain to or may assist with meeting the educational needs of
3 current and former foster youth to another state agency or state
4 agency's contracted provider responsible under state law or contract
5 for assisting current and former foster youth to attain educational
6 success. The records retain their confidentiality pursuant to this
7 chapter and federal law and cannot be further disclosed except as
8 allowed under this chapter and federal law.

9 (16) For the purpose of ensuring the safety and welfare of the
10 youth who are in foster care, the department of children, youth, and
11 families may disclose to the department of commerce and its
12 contracted providers responsible under state law or contract for
13 providing services to youth, only those confidential child welfare
14 records that pertain to ensuring the safety and welfare of the youth
15 who are in foster care who are admitted to crisis residential centers
16 or HOPE centers under contract with the office of homeless youth
17 prevention and protection. Records disclosed under this subsection
18 retain their confidentiality pursuant to this chapter and federal law
19 and may not be further disclosed except as permitted by this chapter
20 and federal law.

21 (17) For purposes of investigating and preventing child abuse and
22 neglect, and providing for the health care coordination and the well-
23 being of children in foster care, the department of children, youth,
24 and families may disclose only those confidential child welfare
25 records that pertain to or may assist with investigation and
26 prevention of child abuse and neglect, or may assist with providing
27 for the health and well-being of children in foster care to the
28 department of social and health services, the health care authority,
29 or their contracting agencies. For purposes of investigating and
30 preventing child abuse and neglect, and to provide for the
31 coordination of health care and the well-being of children in foster
32 care, the department of social and health services and the health
33 care authority may disclose only those confidential child welfare
34 records that pertain to or may assist with investigation and
35 prevention of child abuse and neglect, or may assist with providing
36 for the health care coordination and the well-being of children in
37 foster care to the department of children, youth, and families, or
38 its contracting agencies. The records retain their confidentiality
39 pursuant to this chapter and federal law and cannot be further
40 disclosed except as allowed under this chapter and federal law.

1 (18) For the purpose of investigating child sexual abuse, online
2 sexual exploitation and commercial sexual exploitation of minors, and
3 child fatality, child physical abuse, and criminal neglect cases for
4 the well-being of the child, the department of children, youth, and
5 families may disclose only those confidential child welfare records
6 that pertain to or may assist with such an investigation pursuant to
7 RCW 26.44.180 and 26.44.175. The records retain their confidentiality
8 pursuant to this chapter and federal law and cannot be further
9 disclosed except as allowed under this chapter and federal law.

10 **Sec. 2.** RCW 13.50.260 and 2020 c 184 s 1 are each amended to
11 read as follows:

12 (1)(a) The court shall hold regular sealing hearings. During
13 these regular sealing hearings, the court shall administratively seal
14 an individual's juvenile record pursuant to the requirements of this
15 subsection. Although the juvenile record shall be sealed, the social
16 file may be available to any juvenile justice or care agency when an
17 investigation or case involving the juvenile subject of the records
18 is being prosecuted by the juvenile justice or care agency or when
19 the juvenile justice or care agency is assigned the responsibility of
20 supervising the juvenile. The juvenile respondent's presence is not
21 required at any administrative sealing hearing.

22 (b) At the disposition hearing of a juvenile offender, the court
23 shall schedule an administrative sealing hearing to take place during
24 the first regularly scheduled sealing hearing after the latest of the
25 following events that apply:

26 (i) The respondent's (~~eighteenth~~) 18th birthday;

27 (ii) Anticipated end date of a respondent's probation, if
28 ordered;

29 (iii) Anticipated release from confinement at the juvenile
30 rehabilitation administration, or the completion of parole, if the
31 respondent is transferred to the juvenile rehabilitation
32 administration.

33 (c) The court shall not schedule an administrative sealing
34 hearing at the disposition and no administrative sealing hearing
35 shall occur if one of the offenses for which the court has entered a
36 disposition is at the time of commission of the offense:

37 (i) A most serious offense, as defined in RCW 9.94A.030; or

38 (ii) A sex offense under chapter 9A.44 RCW (~~or~~

39 ~~(iii) A drug offense, as defined in RCW 9.94A.030)).~~

1 (d) At the time of the scheduled administrative sealing hearing,
2 the court shall enter a written order sealing the respondent's
3 juvenile court record pursuant to this subsection if the court finds
4 by a preponderance of the evidence that the respondent is no longer
5 on supervision for the case being considered for sealing and has paid
6 the full amount of restitution owing to the individual victim named
7 in the restitution order, excluding restitution owed to any public or
8 private entity providing insurance coverage or health care coverage.
9 In determining whether the respondent is on supervision or owes
10 restitution, the court shall take judicial notice of court records,
11 including records of the county clerk, and, if necessary, sworn
12 testimony from a representative of the juvenile department.

13 (e) At the time of the administrative sealing hearing, if the
14 court finds the respondent remains on supervision for the case being
15 considered for sealing, then the court shall continue the
16 administrative sealing hearing to a date within (~~(thirty)~~) 30 days
17 following the anticipated end date of the respondent's supervision.
18 At the next administrative sealing hearing, the court shall again
19 determine the respondent's eligibility for sealing his or her
20 juvenile court record pursuant to (d) of this subsection, and, if
21 necessary, continue the hearing again as provided in this subsection.

22 (f)(i) During the administrative sealing hearing, if the court
23 finds the respondent is no longer on supervision for the case being
24 considered for sealing, but the respondent has not paid the full
25 amount of restitution owing to the individual victim named in the
26 restitution order, excluding any public or private entity providing
27 insurance coverage or health care coverage, the court shall deny
28 sealing the juvenile court record in a written order that: (A)
29 Specifies the amount of restitution that remains unpaid to the
30 original victim, excluding any public or private entity providing
31 insurance coverage or health care coverage; and (B) provides
32 direction to the respondent on how to pursue the sealing of records
33 associated with this cause of action.

34 (ii) Within five business days of the entry of the written order
35 denying the request to seal a juvenile court record, the juvenile
36 court department staff shall notify the respondent of the denial by
37 providing a copy of the order of denial to the respondent in person
38 or in writing mailed to the respondent's last known address in the
39 department of licensing database or the respondent's address provided
40 to the court, whichever is more recent.

1 (iii) At any time following entry of the written order denying
2 the request to seal a juvenile court record, the respondent may
3 contact the juvenile court department, provide proof of payment of
4 the remaining unpaid restitution to the original victim, excluding
5 any public or private entity providing insurance coverage or health
6 care coverage, and request an administrative sealing hearing. Upon
7 verification of the satisfaction of the restitution payment, the
8 juvenile court department staff shall circulate for signature an
9 order sealing the file, and file the signed order with the clerk's
10 office, who shall seal the record.

11 (iv) The administrative office of the courts must ensure that
12 sealed juvenile records remain private in case of an appeal and are
13 either not posted or redacted from any clerks papers that are posted
14 online with the appellate record, as well as taking any other prudent
15 steps necessary to avoid exposing sealed juvenile records to the
16 public.

17 (2) Except for dismissal of a deferred disposition under RCW
18 13.40.127, the court shall enter a written order immediately sealing
19 the official juvenile court record upon the acquittal after a fact
20 finding or upon the dismissal of charges with prejudice, subject to
21 the state's right, if any, to appeal the dismissal.

22 (3) If a juvenile court record has not already been sealed
23 pursuant to this section, in any case in which information has been
24 filed pursuant to RCW 13.40.100 or a complaint has been filed with
25 the prosecutor and referred for diversion pursuant to RCW 13.40.070,
26 the person who is the subject of the information or complaint may
27 file a motion with the court to have the court vacate its order and
28 findings, if any; resolve the status of any debts owing; and, subject
29 to RCW 13.50.050(13), order the sealing of the official juvenile
30 court record, the social file, and records of the court and of any
31 other agency in the case, with the exception of identifying
32 information under RCW 13.50.050(13).

33 (4) (a) The court shall grant any motion to seal records for class
34 A offenses made pursuant to subsection (3) of this section if:

35 (i) Since the last date of release from confinement, including
36 full-time residential treatment, if any, or entry of disposition, the
37 person has spent five consecutive years in the community without
38 committing any offense or crime that subsequently results in an
39 adjudication or conviction;

1 (ii) No proceeding is pending against the moving party seeking
2 the conviction of a juvenile offense or a criminal offense;

3 (iii) No proceeding is pending seeking the formation of a
4 diversion agreement with that person;

5 (iv) The person is no longer required to register as a sex
6 offender under RCW 9A.44.130 or has been relieved of the duty to
7 register under RCW 9A.44.143 if the person was convicted of a sex
8 offense;

9 (v) The person has not been convicted of rape in the first
10 degree, rape in the second degree, or indecent liberties that was
11 actually committed with forcible compulsion; and

12 (vi) The person has paid the full amount of restitution owing to
13 the individual victim named in the restitution order, excluding
14 restitution owed to any public or private entity providing insurance
15 coverage or health care coverage.

16 (b) The court shall grant any motion to seal records for class B,
17 class C, gross misdemeanor, and misdemeanor offenses and diversions
18 made under subsection (3) of this section if:

19 (i) Since the date of last release from confinement, including
20 full-time residential treatment, if any, entry of disposition, or
21 completion of the diversion agreement, the person has spent two
22 consecutive years in the community without being convicted of any
23 offense or crime;

24 (ii) No proceeding is pending against the moving party seeking
25 the conviction of a juvenile offense or a criminal offense;

26 (iii) No proceeding is pending seeking the formation of a
27 diversion agreement with that person;

28 (iv) The person is no longer required to register as a sex
29 offender under RCW 9A.44.130 or has been relieved of the duty to
30 register under RCW 9A.44.143 if the person was convicted of a sex
31 offense; and

32 (v) The person has paid the full amount of restitution owing to
33 the individual victim named in the restitution order, excluding
34 restitution owed to any insurance provider authorized under Title 48
35 RCW.

36 (c) Notwithstanding the requirements in (a) or (b) of this
37 subsection, the court shall grant any motion to seal records of any
38 deferred disposition vacated under RCW 13.40.127(9) prior to June 7,
39 2012, if restitution has been paid and the person is eighteen years
40 of age or older at the time of the motion.

1 (5) The person making a motion pursuant to subsection (3) of this
2 section shall give reasonable notice of the motion to the prosecution
3 and to any person or agency whose records are sought to be sealed.

4 (6) (a) If the court enters a written order sealing the juvenile
5 court record pursuant to this section, it shall, subject to RCW
6 13.50.050(13), order sealed the official juvenile court record, the
7 social file, and other records relating to the case as are named in
8 the order. Thereafter, the proceedings in the case shall be treated
9 as if they never occurred, and the subject of the records may reply
10 accordingly to any inquiry about the events, records of which are
11 sealed. Any agency shall reply to any inquiry concerning confidential
12 or sealed records that records are confidential, and no information
13 can be given about the existence or nonexistence of records
14 concerning an individual.

15 (b) In the event the subject of the juvenile records receives a
16 full and unconditional pardon, the proceedings in the matter upon
17 which the pardon has been granted shall be treated as if they never
18 occurred, and the subject of the records may reply accordingly to any
19 inquiry about the events upon which the pardon was received. Any
20 agency shall reply to any inquiry concerning the records pertaining
21 to the events for which the subject received a pardon that records
22 are confidential, and no information can be given about the existence
23 or nonexistence of records concerning an individual.

24 (c) Effective July 1, 2019, the department of licensing may
25 release information related to records the court has ordered sealed
26 only to the extent necessary to comply with federal law and
27 regulation.

28 (7) Inspection of the files and records included in the order to
29 seal may thereafter be permitted only by order of the court upon
30 motion made by the person who is the subject of the information or
31 complaint, except as otherwise provided in RCW 13.50.010(8) and
32 13.50.050(13).

33 (8) (a) Any adjudication of a juvenile offense or a crime
34 subsequent to sealing has the effect of nullifying a sealing order;
35 however, the court may order the juvenile court record resealed upon
36 disposition of the subsequent matter if the case meets the sealing
37 criteria under this section and the court record has not previously
38 been resealed.

39 (b) Any charging of an adult felony subsequent to the sealing has
40 the effect of nullifying the sealing order.

1 (c) The administrative office of the courts shall ensure that the
2 superior court judicial information system provides prosecutors
3 access to information on the existence of sealed juvenile records.

4 (d) The Washington state patrol shall ensure that the Washington
5 state identification system provides Washington state criminal
6 justice agencies access to sealed juvenile records information sealed
7 after July 24, 2015. To assure and preserve due process rights, the
8 Washington state patrol shall remove all records sealed prior to this
9 date from the Washington state identification system and any other
10 system they maintain.

11 (9) If the juvenile court record has been sealed pursuant to this
12 section, the record of an employee is not admissible in an action for
13 liability against the employer based on the former juvenile
14 offender's conduct to show that the employer knew or should have
15 known of the juvenile record of the employee. The record may be
16 admissible, however, if a background check conducted or authorized by
17 the employer contained the information in the sealed record.

18 (10) County clerks may interact or correspond with the
19 respondent, his or her parents, restitution recipients, and any
20 holders of potential assets or wages of the respondent for the
21 purposes of collecting an outstanding legal financial obligation
22 after juvenile court records have been sealed pursuant to this
23 section.

24 (11) Persons and agencies that obtain sealed juvenile records
25 information pursuant to this section may communicate about this
26 information with the respondent, but may not disseminate or be
27 compelled to release the information to any person or agency not
28 specifically granted access to sealed juvenile records in this
29 section.

30 (12) All criminal justice agencies must not disclose confidential
31 information or sealed records accessed through the Washington state
32 identification system or other means, and no information can be given
33 to third parties other than Washington state criminal justice
34 agencies about the existence or nonexistence of confidential or
35 sealed records concerning an individual.

36 **Sec. 3.** RCW 13.50.150 and 1977 ex.s. c 291 s 13 are each amended
37 to read as follows:

1 (1) Nothing in this chapter shall be construed to prevent the
2 expungement of any juvenile record ordered expunged by a court to
3 preserve the due process rights of its subject.

4 (2) For any previously sealed juvenile record, the subject of the
5 record may petition the superior court to destroy and expunge in its
6 entirety, the official juvenile court file, the social file, and
7 records of the court and of any other agency in any case in which a
8 juvenile offender's record has been sealed pursuant to RCW
9 13.50.050(14), 13.50.260, or 13.40.127 provided:

10 (a) The subject's offender history consists of one single
11 offender case, which is not a class A felony, a felony sex offense,
12 and the offense is no longer subject to inclusion in RCW 9.94A.525.
13 The request shall be granted if the court finds all obligations have
14 been completed, restitution has been paid in full, and no proceeding
15 is pending seeking the conviction of a criminal offense.

16 (b) The subject's offender history consists of two offender
17 cases, which are not class A felonies, a felony sex offense, and the
18 offenses are no longer subject to inclusion in RCW 9.94A.525. The
19 request shall be granted if the court finds all obligations have been
20 completed, restitution has been paid in full, no proceeding is
21 pending seeking the conviction of a criminal offense, and an
22 additional two years have passed since the subject's cases have not
23 been subject to inclusion in RCW 9.94A.525.

24 (c) The subject's offender history consists of more than two
25 offender cases, which are not class A felonies, a felony sex offense,
26 and the offenses are no longer subject to inclusion in RCW 9.94A.525.
27 The request shall be granted if the court finds all obligations have
28 been completed, restitution has been paid in full, no proceeding is
29 pending seeking the conviction of a criminal offense, and an
30 additional two years for each subsequent case have passed since the
31 subject's cases have not been subject to inclusion in RCW 9.94A.525.

32 (3) If the court orders the records destroyed and expunged
33 pursuant to this subsection and RCW 13.50.050(13), it shall order the
34 official juvenile court record, the social file, and any other
35 records named in the order and any reference to the record(s) to be
36 expunged. Thereafter, the findings are vacated, the proceedings in
37 the case shall be treated as if they never occurred, and the subject
38 of the records may reply accordingly to any inquiry about the events
39 of the expunged record(s). Any agency directed to destroy and expunge

1 the subject's records shall do so including any reference to the
2 records ordered expunged.

3 (4) Subject to RCW 13.50.050(13), the Washington state patrol
4 shall expunge all information relating to the case from the
5 Washington state identification system, and any other system it
6 maintains.

7 (5) The administrative office of the courts shall maintain the
8 confidentiality of all confidential records and shall preserve and
9 assure the anonymity of all persons identified in the research copy.

10 (6) Expunged record information maintained by the county clerk's
11 offices and available for public view shall be limited to case number
12 and date expunged. The case shall be unassociated from the
13 individual's name and replaced with "record expunged."

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