

# SENATE BILL REPORT

## ESHB 1954

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As Reported by Senate Committee On:  
Human Services & Corrections, March 26, 2009

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

**Brief Description:** Sealing juvenile records under certain conditions.

**Sponsors:** House Committee on Human Services (originally sponsored by Representative Dickerson).

**Brief History:** Passed House: 3/11/09, 96-0.

**Committee Activity:** Human Services & Corrections: 3/26/09 [DP].

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** Do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Kauffman and McAuliffe.

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

**Background:** Deferred Disposition. A deferred disposition allows a juvenile to complete certain conditions set out by the court and probation, including any restitution payment, in exchange for having the charges dismissed. A juvenile is not eligible for a deferred disposition if the juvenile is charged with a sex or violent offense, has a criminal history which includes any felony, or has two or more prior adjudications.

If a court grants a deferred disposition the juvenile is required to:

- stipulate to the admissibility of the facts contained in the written police report;
- acknowledge that the report will be used to support a finding of guilt and impose a disposition if the juvenile fails to comply with the terms of supervision; and
- waive the right to a speedy disposition and to call and confront witnesses.

After the court enters a finding or plea of guilty, the court defers entry of an order of disposition. The juvenile offender is placed on community supervision, and the court may impose any conditions that it deems appropriate. The juvenile normally has one year to complete the conditions but may be given up to two years.

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If the juvenile offender successfully complies with the conditions of his or her supervision, including the payment of restitution, the court will vacate the conviction and dismiss the case with prejudice. A conviction for animal cruelty in the first degree may not be vacated.

Sealing Juvenile Records. The juvenile court file of any alleged or proven juvenile offender is open to public inspection unless it has been sealed by the court. Before 1977, juvenile records were not public. Between 1977 and 1997, a juvenile could seal his or her records for any offense, two years after being released from confinement or sentenced if the juvenile had no further offenses.

In 1998 the Legislature placed various time requirements on the ability to seal certain records and precluded the sealing of records for certain offenses, such as sex offenses and violent offenses. Currently, a juvenile may request that the court vacate its order and seal his or her records within the following time periods:

<i>Type of Offense</i>	<i>Length of Time Since Confinement or Entry of Disposition and No New Offenses</i>
Sex Offenses	Records may never be sealed
Class A Felony	Records may never be sealed
Class B Felony	5 years
Class C Felony	2 years
Gross Misdemeanor	2 years
Misdemeanor	2 years

A subsequent finding of guilt nullifies a court order sealing a juvenile's record. A subsequent charge of a felony as an adult nullifies the court's sealing order.

**Summary of Bill:** A juvenile's records of a deferred disposition must be sealed within 30 days after the juvenile's 18th birthday if:

- the conditions of the deferred disposition have been completed;
- the deferred disposition has been vacated and the case dismissed with prejudice; and
- the juvenile does not have any pending charges.

If the juvenile is already 18 on the effective date of this act, the juvenile may request that the court seal his or her record. Records that are sealed under this provision have the same legal status as records sealed under RCW 13.50.050.

**Appropriation:** None.

**Fiscal Note:** Available.

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

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

**Staff Summary of Public Testimony:** PRO: This is a simple bill dealing only with deferred dispositions. Kids have a very difficult time getting their records sealed. It requires

a detailed presentation to the court and a good deal of money. Many kids also don't know that they have this right. A number of changes have been made to reduce the fiscal impact. Children believe that their records go away when their conviction goes away under the deferred disposition process or they turn 18. The record will show up in a criminal background check as a "vacated" conviction and the user does not know how to interpret that, often impacting the child's ability to get a job or a place to live. This would accomplish sealing of the records automatically when the child turns 18 and avoid the time and expense needed for the child to go back to court.

CON: The Juvenile Court Administrators have concerns that the process is not as simple as stated. When a child turns 18, the court administrator will get notice to seal the records. The Juvenile Court Administrator will do this, but it does not require anything to happen with the arrest record for the child. The court administrator does not have the authority to tell the particular law enforcement office to seal or purge their records. Only a court can do that.

**Persons Testifying:** PRO: Representative Dickerson, prime sponsor; Sara Senser, Street Youth Legal Advocates of Washington; Kim Ambrose, Washington State Bar Association, Juvenile Law Section.

CON: Pete Peterson, Washington Association of Juvenile Court Administrators.