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**SENATE BILL 5182**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Kuderer, Darneille, Wellman, Hunt, Hasegawa, Saldaña, and Wilson, C.

Read first time 01/15/19. Referred to Committee on Human Services, Reentry & Rehabilitation.

1 AN ACT Relating to juvenile record sealing; amending RCW  
2 13.50.260; and creating a new section.

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

4 **Sec. 1.** RCW 13.50.260 and 2015 c 265 s 3 are each amended to  
5 read as follows:

6 (1)(a) The court shall hold regular sealing hearings. During  
7 these regular sealing hearings, the court shall administratively seal  
8 an individual's juvenile record pursuant to the requirements of this  
9 subsection (~~((unless the court receives an objection to sealing or the  
10 court notes a compelling reason not to seal, in which case, the court  
11 shall set a contested hearing to be conducted on the record to  
12 address sealing))~~). Although the juvenile record shall be sealed, the  
13 social file may be available to any juvenile justice or care agency  
14 when an investigation or case involving the juvenile subject of the  
15 records is being prosecuted by the juvenile justice or care agency or  
16 when the juvenile justice or care agency is assigned the  
17 responsibility of supervising the juvenile. (~~((The contested hearing  
18 shall be set no sooner than eighteen days after notice of the hearing  
19 and the opportunity to object has been sent to the juvenile, the  
20 victim, and juvenile's attorney.))~~) The juvenile respondent's presence

1 is not required at ~~((a))~~ any administrative sealing hearing  
2 ~~((pursuant to this subsection))~~.

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

7 (i) The respondent's eighteenth birthday;

8 (ii) Anticipated ~~((completion))~~ end date of a respondent's  
9 probation, if ordered;

10 (iii) Anticipated release from confinement at the juvenile  
11 rehabilitation administration, or the completion of parole, if the  
12 respondent is transferred to the juvenile rehabilitation  
13 administration.

14 ~~((A court shall enter a written order sealing an individual's  
15 juvenile court record pursuant to this subsection if:~~

16 ~~((i)))~~ The court shall not schedule an administrative sealing  
17 hearing at the disposition and no administrative sealing hearing  
18 shall occur if one of the offenses for which the court has entered a  
19 disposition is ~~((not))~~ at the time of commission of the offense:

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

21 ~~((B))~~ (ii) A sex offense under chapter 9A.44 RCW; or

22 ~~((C))~~ (iii) A drug offense, as defined in RCW 9.94A.030; and

23 ~~((ii))~~ (d) At the time of the scheduled administrative sealing  
24 hearing, the court shall enter a written order sealing the  
25 respondent's juvenile court record pursuant to this subsection if the  
26 court finds by a preponderance of the evidence that the respondent  
27 ~~((has completed the terms and conditions of disposition, including  
28 affirmative conditions))~~ is no longer on supervision for the case  
29 being considered for sealing and has paid the full amount of  
30 restitution owing to the individual victim named in the restitution  
31 order, excluding restitution owed to any ~~((insurance provider  
32 authorized under Title 48 RCW))~~ public or private entity providing  
33 insurance coverage or health care coverage. In determining whether  
34 the respondent is on supervision or owes restitution, the court shall  
35 take judicial notice of court records, including records of the  
36 county clerk, and, if necessary, sworn testimony from a  
37 representative of the juvenile department.

38 ~~((d) Following a contested sealing hearing on the record after  
39 an objection is made pursuant to (a) of this subsection, the court  
40 shall enter a written order sealing the juvenile court record unless~~

1 ~~the court determines that sealing is not appropriate.)~~ (e) At the  
2 time of the administrative sealing hearing scheduled at disposition,  
3 if the court finds the respondent remains on supervision for the case  
4 being considered for sealing, then the court shall continue the  
5 administrative sealing hearing to a date within thirty days following  
6 the anticipated end date of the respondent's supervision. At the next  
7 administrative sealing hearing, the court shall again determine the  
8 respondent's eligibility for sealing his or her juvenile court record  
9 pursuant to (d) of this subsection, and, if necessary, continue the  
10 hearing again as provided in this subsection.

11 (f) (i) During the administrative sealing hearing, if the court  
12 finds the respondent is no longer on supervision for the case being  
13 considered for sealing, but the respondent has not paid the full  
14 amount of restitution owing to the individual victim named in the  
15 restitution order, excluding any public or private entity providing  
16 insurance coverage or health care coverage, the court shall deny  
17 sealing the juvenile court record in written order that specifies:  
18 (A) The amount of restitution that remains unpaid to the original  
19 victim, excluding any public or private entity providing insurance  
20 coverage or health care coverage; (B) that the respondent may request  
21 the juvenile court record be sealed upon payment of the remaining  
22 unpaid restitution to the original victim, excluding any public or  
23 private entity providing insurance coverage or health care coverage;  
24 and (C) that the clerk of the court shall seal the respondent's  
25 juvenile court record if the respondent contacts the clerk, provides  
26 proof of payment of the remaining unpaid restitution to the original  
27 victim, excluding any public or private entity providing insurance  
28 coverage or health care coverage, and requests the juvenile record to  
29 be sealed.

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

37 (iii) At any time following entry of the written order of denying  
38 the request to seal a juvenile court record, the respondent may  
39 contact the clerk, provide proof of payment of the amount of  
40 restitution that remains unpaid to the individual victim, excluding

1 any public or private entity providing insurance coverage or health  
2 care coverage, and request the record be sealed.

3 (iv) Within five business days of the respondent's request to  
4 seal a juvenile court record pursuant to this subsection (1)(f), the  
5 clerk of the court shall seal the respondent's juvenile court record.  
6 If the clerk of the court fails to seal the respondent's juvenile  
7 court record within five business days for any reason, then the clerk  
8 of the court shall note the matter for a court hearing pursuant to  
9 (d) of this subsection within sixty days of the respondent's request  
10 to seal, and provide the respondent written notice of the hearing  
11 mailed at least ten days prior to the hearing. If the clerk of the  
12 court fails to note the matter for a court hearing within sixty days  
13 for any reason, the respondent may bring a motion under the original  
14 cause number to administratively seal the record as set forth in (d)  
15 of this subsection.

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

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

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

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

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

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

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

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

10 (vi) The person has paid the full amount of restitution owing to  
11 the individual victim named in the restitution order, excluding  
12 restitution owed to any (~~insurance provider authorized under Title~~  
13 ~~48 RCW~~) public or private entity providing insurance coverage or  
14 health care coverage.

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

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

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

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

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

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

35 (c) Notwithstanding the requirements in (a) or (b) of this  
36 subsection, the court shall grant any motion to seal records of any  
37 deferred disposition vacated under RCW 13.40.127(9) prior to June 7,  
38 2012, if restitution has been paid and the person is eighteen years  
39 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  
5 Washington state identification system provides criminal justice  
6 agencies access to sealed juvenile records information.))~~

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

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

19 (11) Persons and agencies that obtain sealed juvenile records  
20 information pursuant to this section may communicate about this  
21 information with the respondent, but may not disseminate or be  
22 compelled to release the information to any person or agency not  
23 specifically granted access to sealed juvenile records in this  
24 section.

25 NEW SECTION. **Sec. 2.** This act applies to all juvenile record  
26 sealing hearings commenced on or after the effective date of this  
27 section, regardless of when the underlying hearing was scheduled or  
28 the underlying record was created. To this extent, this act applies  
29 retroactively, but in all other respects it applies prospectively.

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