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**SENATE BILL 6444**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Senators Kuderer, Das, Darneille, Wilson, C., Nguyen, and Saldaña

Read first time 01/16/20. Referred to Committee on Human Services,  
Reentry & Rehabilitation.

1 AN ACT Relating to juvenile records; and amending RCW 13.50.260  
2 and 13.50.270.

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  
21 is not required at a sealing hearing pursuant to this subsection.

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

5 (i) The respondent's eighteenth birthday;

6 (ii) Anticipated completion of a respondent's probation, if  
7 ordered;

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

12 (c) A court shall enter a written order sealing an individual's  
13 juvenile court record pursuant to this subsection if:

14 (i) One of the offenses for which the court has entered a  
15 disposition is not at the time of commission of the offense:

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

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

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

19 (ii) The respondent has completed the terms and conditions of  
20 disposition, including affirmative conditions and has paid the full  
21 amount of restitution owing to the individual victim named in the  
22 restitution order, excluding restitution owed to any insurance  
23 provider authorized under Title 48 RCW.

24 (d) Following a contested sealing hearing on the record after an  
25 objection is made pursuant to (a) of this subsection, the court shall  
26 enter a written order sealing the juvenile court record unless the  
27 court determines that sealing is not appropriate.

28 (2) The court shall enter a written order immediately sealing the  
29 official juvenile court record upon the acquittal after a fact  
30 finding or upon the dismissal of charges with prejudice, subject to  
31 the state's right, if any, to appeal the dismissal.

32 (3) If a juvenile court record has not already been sealed  
33 pursuant to this section, in any case in which information has been  
34 filed pursuant to RCW 13.40.100 or a complaint has been filed with  
35 the prosecutor and referred for diversion pursuant to RCW 13.40.070,  
36 the person who is the subject of the information or complaint may  
37 file a motion with the court to have the court vacate its order and  
38 findings, if any, and, subject to RCW 13.50.050(13), order the  
39 sealing of the official juvenile court record, the social file, and  
40 records of the court and of any other agency in the case.

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

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

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

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

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

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

19 (vi) The person has paid the full amount of restitution owing to  
20 the individual victim named in the restitution order, excluding  
21 restitution owed to any insurance provider authorized under Title 48  
22 RCW.

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

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

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

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

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

39 (v) The person has paid the full amount of restitution owing to  
40 the individual victim named in the restitution order, excluding

1 restitution owed to any insurance provider authorized under Title 48  
2 RCW.

3 (c) Notwithstanding the requirements in (a) or (b) of this  
4 subsection, the court shall grant any motion to seal records of any  
5 deferred disposition vacated under RCW 13.40.127(9) prior to June 7,  
6 2012, if restitution has been paid and the person is eighteen years  
7 of age or older at the time of the motion.

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

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

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

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

35 (7) Inspection of the files and records included in the order to  
36 seal may thereafter be permitted only by order of the court upon  
37 motion made by the person who is the subject of the information or  
38 complaint, except as otherwise provided in RCW 13.50.010(8) and  
39 13.50.050(13).

1 (8) (a) Any adjudication of a juvenile offense or a crime  
2 subsequent to sealing has the effect of nullifying a sealing order;  
3 however, the court may order the juvenile court record resealed upon  
4 disposition of the subsequent matter if the case meets the sealing  
5 criteria under this section and the court record has not previously  
6 been resealed.

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

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

12 (d) The Washington state patrol shall ensure that the Washington  
13 state identification system (~~provides~~) does not provide criminal  
14 justice agencies access to sealed juvenile records information. By  
15 October 1, 2020, the Washington state patrol shall remove all sealed  
16 juvenile records from the Washington state identification system and  
17 any other system it maintains.

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

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

30 (11) Persons and agencies that obtain sealed juvenile records  
31 information pursuant to this section may communicate about this  
32 information with the respondent, but may not disseminate or be  
33 compelled to release the information to any person or agency not  
34 specifically granted access to sealed juvenile records in this  
35 section.

36 **Sec. 2.** RCW 13.50.270 and 2018 c 82 s 5 are each amended to read  
37 as follows:

38 (1) (~~(a)~~) Subject to RCW 13.50.050(13), all records maintained  
39 by any court or law enforcement agency, including the juvenile court,

1 local law enforcement, the Washington state patrol, and the  
2 prosecutor's office, shall be automatically destroyed within ninety  
3 days of becoming eligible for destruction. Juvenile records are  
4 eligible for destruction when:

5 (a)(i) The person who is the subject of the information or  
6 complaint is at least eighteen years of age;

7 (ii) The records in question consist of successfully completed  
8 diversion agreements and counsel and release agreements, or both,  
9 which were completed on or after June 7, 2018; and

10 (iii) There is no restitution owing in the case(~~(-)~~); or

11 (b)(i) The person who is the subject of the information or  
12 complaint is at least twenty-three years of age;

13 (ii) The record is sealed pursuant to RCW 13.50.260 or 13.40.127;

14 (iii) The person has not been convicted of a felony offense  
15 subsequent to the disposition of the juvenile record; and

16 (iv) There are no pending criminal cases against the person.

17 (2) Notwithstanding (~~this~~) subsection (1) of this section,  
18 records of successfully completed diversion agreements and counsel  
19 and release agreements remain subject to destruction under the terms  
20 set forth in subsections (~~(2)~~) (5) through (~~(4)~~) (7) of this  
21 section, as well as sealing under RCW 13.50.260.

22 (~~(e)~~) (3) No less than quarterly, the administrative office of  
23 the courts shall provide a report to the juvenile courts of those  
24 individuals whose records may be eligible for destruction. The  
25 juvenile court shall verify eligibility and notify the Washington  
26 state patrol and the appropriate local law enforcement agency and  
27 prosecutor's office of the records to be destroyed. The requirement  
28 to destroy records under this subsection is not dependent on a court  
29 hearing or the issuance of a court order to destroy records.

30 (~~(d)~~) (4) The state and local governments and their officers  
31 and employees are not liable for civil damages for the failure to  
32 destroy records pursuant to this section.

33 (~~(2)~~) (5) All records maintained by any court or law  
34 enforcement agency, including the juvenile court, local law  
35 enforcement, the Washington state patrol, and the prosecutor's  
36 office, shall be automatically destroyed within thirty days of being  
37 notified by the governor's office that the subject of those records  
38 received a full and unconditional pardon by the governor.

39 (~~(3)~~) (6)(a) A person may request that the court order the  
40 records in his or her case destroyed as follows:

1 (i) A person eighteen years of age or older whose criminal  
2 history consists entirely of one diversion agreement or counsel and  
3 release entered prior to June 12, 2008. The request shall be granted  
4 if the court finds that two years have elapsed since completion of  
5 the agreement or counsel and release.

6 (ii) A person twenty-three years of age or older (~~whose criminal~~  
7 ~~history consists of only referrals for diversion~~) who has not been  
8 convicted of a felony offense subsequent to the disposition of the  
9 juvenile record. The request shall be granted if the court finds that  
10 (~~all diversion agreements have been successfully completed~~) the  
11 record has been sealed under RCW 13.50.260 or 13.40.127, or is  
12 currently eligible for sealing and no proceeding is pending against  
13 the person seeking the conviction of a criminal offense.

14 (b) If the court grants the motion to destroy records made  
15 pursuant to this subsection, it shall, subject to RCW 13.50.050(13),  
16 order the official juvenile court record, the social file, and any  
17 other records named in the order to be destroyed.

18 (c) The person making the motion pursuant to this subsection must  
19 give reasonable notice of the motion to the prosecuting attorney and  
20 to any agency whose records are sought to be destroyed.

21 (~~(4)~~) (7) Any juvenile justice or care agency may, subject to  
22 the limitations in RCW 13.50.050(13) and this section, develop  
23 procedures for the routine destruction of records relating to  
24 juvenile offenses and diversions.

25 (a) Records may be routinely destroyed only when the person the  
26 subject of the information or complaint has attained twenty-three  
27 years of age or older or pursuant to subsections (1) through (4) of  
28 this section.

29 (b) The court may not routinely destroy the official juvenile  
30 court record or recordings or transcripts of any proceedings.

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