

Joint Legislative Task Force
on
Sealing Juvenile Records

Report to Legislature

January 2012

Contents

Task Force Members	4
Executive Summary	5
Access to Juvenile Offender Records in Washington.....	5
Access to Juvenile Records in Other States	6
Other Proposals and Issues Raised Regarding Access to Juvenile Offender Records.....	7
Cost Estimates for Sealing or Making Confidential Juvenile Records	8
Proposals Presented to Task Force Members for Recommendation	9
Member Responses to Proposals	10
Conclusion	10
Appendices	11

Task Force Members

The task force was co-chaired by two legislative members, one from the Senate, and one from the House of Representatives. The task force members were:

Jeannie Darneille, Co-Chair, Representative

Mike Carrell, Co-Chair, Senator

Debbie Regala, Senator

Nick Harper, Senator

Mary Helen Roberts, Representative

Jason Overstreet, Representative

Matt Shea, Representative

Lynne Alfasso, Administrative Office of the Courts

Kim Ambrose, Washington Defender's Association

John Clayton, Juvenile Rehabilitation Administration

Todd Dowell, Washington Association of Prosecuting Attorneys

Judge J. Robert Leach, Judicial Information Systems Data Dissemination Committee

Kim McFarland, Washington State Patrol

Barb Miner, Association of Counties

Becky Miner, Washington State Patrol

Katie Hurley, Juvenile Law Section, WSBA

Judge Thomas Wynne, Judicial Information Systems Data Dissemination Committee

George Yeannakis, Juvenile Law Section, WSBA

Pete Peterson, Juvenile Court Administrators

Executive Summary

During the 2011 regular session, the legislature established the Joint Legislative Task Force on Juvenile Record Sealing in SHB 1793 § 3. The charge of the task force was to:

- Determine how to cost-effectively restrict public access to juvenile records when an individual has met the statutory requirements for sealing records without requiring individuals who are the subject of those records to file a motion to seal the records in juvenile court;
- Determine whether and how to restrict access to diversion records; and
- Address other juvenile criminal record access issues that may arise during the work of the task force.

The task force worked within an aggressive time frame to develop its recommendations. It held five (5) meetings from September through December, 2011. In the short time frame, the task force considered many options, but it did not reach a consensus regarding recommendations to the Legislature. There was broad, but not unanimous consensus for several proposals, and the members agreed that the work of the task force resulted in a greater awareness of the need for change in several areas regarding juvenile records. Two bills that reflect some of the ideas studied during the task force proceedings are being considered in the 2012 session. This report details the work of the task force and its review and consideration of the complex issues and proposals regarding public access to juvenile records.

Access to Juvenile Offender Records in Washington

Juvenile records pertaining to the juvenile's social file, child welfare records for adoptions, or records regarding dependences are not publicly accessible. In 1977, the Legislature passed HB 371 which made juvenile offender records accessible to the public. Under current law, a person, if he or she meets certain criteria, may seal his or her juvenile records. The criteria for sealing juvenile records since 1977 gradually became more stringent until 1997. Since 2004, the Legislature has enacted provisions that decreased the time that a person must wait before being eligible to have juvenile record sealed and allowed 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, must have been relieved of any duty to register as a sex offender, and must have paid any restitution ordered in full. The following criteria must also be met:

Offense Type	Years in Community w/o New Offense
Class A Felony	5 Years
Sex Offense¹	Sex offenses may only be sealed if a court has relieved the juvenile of the duty to register as a sex offender. For Class A juvenile sex offenses, committed when the juvenile was 15 or older, the individual must be in the community 5 years without conviction of additional sex or kidnapping offenses before he or she may petition to be relieved of the duty to register. For all other offenses, the person must be in the community 2 years without conviction of additional sex or kidnapping offenses before petitioning the court to be relieved of the duty to register.
Class B Felony	2 Years
Class C Felony	2 Years
Gross Misdemeanors	2 Years
Misdemeanors	2 Years
Diversions	2 Years

The task force considered Washington law regarding records kept by the courts and the public's ability to access those records. At issue were the Washington statutes that govern access to juvenile records, the Washington State Constitution, case law, and court rules.

Access to Juvenile Records in Other States

The task force also considered the statutes that govern juvenile records in other states. The treatment of juvenile records across the states varies considerably, but some generalizations can be made.

A number of states consider juvenile court records to be confidential and not available to the public. Nonetheless, numerous professional entities have access to these confidential court records including: judges and court personnel; probation officers; representatives of agencies with custody or supervision responsibilities over the juvenile; a parent or legal guardian of the juvenile; the juvenile's attorney or guardian ad litem; certain school personnel; prosecutors; law enforcement; and research entities.

In several states, while the records are confidential, the proceedings are open to the public (Colorado, Minnesota, Virginia). A number of states allow public access to juvenile court records if the juvenile is accused or adjudicated of specific crimes and/or is of a specific age (Delaware, Maine, Massachusetts, New Jersey).

¹ Juvenile convictions for Rape 1°, Rape 2°, or Indecent Liberties with Forcible Compulsion may not be sealed.

In some states, similar to Washington, the official juvenile court record is open to the public (Iowa, Kansas, Maine, Michigan, Montana). In these states that permit public access to juvenile court records, there are generally procedures that allow for sealing or expunging those records provided the juvenile meets certain criteria.

Other Proposals and Issues Raised Regarding Access to Juvenile Offender Records

The Co-Chairs sought, and received, proposals from the task force members. Preliminarily, the task force considered a multitude of ideas and issues, sometimes contradictory, that were submitted regarding access to juvenile offender records. The following are the ideas and issues that were submitted to the task force:

Sealing Records

- Clarify the scope and timing of sealing records
- Provide clarity and consistency throughout the state regarding the sealing process, including clarification of statutes regarding what records are actually being sealed
- Address the logistics of sealing
 - Inclusion of Court order if records are to be sealed "automatically"
 - Sealing of deferred dispositions should be done pursuant to court order
 - Require that all records pertaining to a particular juvenile be eligible to be sealed at the time a motion to seal is made
 - Set an administrative hearing at a date certain after the subject of the record turns 18 to seal the record of a successful and vacated deferred disposition; the subject of the record need not be present

Confidentiality

- Treat all juvenile offender records the same as adoption records, involuntary commitment records, dependency records, parental termination records, records regarding at-risk youth proceedings, and truancy records
- Require that juvenile records that are confidential and may not be published, distributed, sold or otherwise released except as required by law
- Avoid making juvenile court records and hearings confidential, which would be contrary to constitutional mandates and case law
- All juvenile records should be confidential unless a juvenile is later convicted of an adult felony or a judge makes finding that it is in the best interest of the public and juvenile to make the records public
- Make juvenile records confidential, but allow access by law enforcement and courts if a juvenile is charged with certain violent or sex crimes

- All juvenile records will become confidential when a juvenile turns 19 and will remain confidential unless the individual is convicted of a felony offense; juvenile records could still be sealed if the criteria are met.

Military Records

- Clarify a policy regarding checks or requests by military

Scope of Access to Records

- Clarify in statute who can use juvenile records for what purpose(s)
- Records for non-confidential case types that are available at the courthouse should also be available on line
- Restricting online access to public case records will not cause the records to be invisible

Non-Conviction Data

- ▶ Restrict the distribution of non-conviction data

Cost Estimates for Sealing or Making Confidential Juvenile Records

During the 2011 regular session, HB 1793 was introduced to the Legislature. Under the original draft of the bill, juvenile "records of the court and any other agency in the case" were required to be "sealed automatically within 120 days of becoming eligible for sealing. . . ." The Administrative Office of the Courts prepared a fiscal note for HB 1793, as it was originally introduced. The fiscal note estimated that the cost of "automatically" sealing juvenile records would be approximately \$975,996 per year for the first five years and \$355,114 for each year after the first five years, not including capital costs. After consideration of the estimated cost of automatically sealing records, the task force did not give further consideration to this option.

As part of the work of the task force, the Administrative Office of the Courts (AOC) prepared a cost estimate to make juvenile offender records confidential, other than those records for juveniles charged with serious violent offenses. In one option, the AOC estimated that changes to security settings would be needed. In this scenario, the county prosecutor would need to include an order to open files with charges of serious violent offenses, at the time of filing. This first option would require adding a new security level to the Judicial Information System (JIS) at an estimated one-time cost of \$114,600. A second option would require that offenses that should be public are flagged in the JIS so that the case is open upon filing. The AOC determined that the estimated cost to modify the JIS to open flagged cases was not quantifiable, but that the costs would be in addition to the \$114,600 one-time cost required in the first option. The AOC also estimated that there would be an additional cost to counties to seal non-serious violent juvenile records filed prior to the effective date of any legislation.

Proposals Presented to Task Force Members for Recommendation

After further discussion of various proposals and issues raised by task force members, the final meeting in December adjourned, and proposals were presented to the members that contained the following options:

- ▶ Make the official juvenile court file confidential unless:
 - ◆ The juvenile has been charged with a serious violent offense²; or
 - ◆ The juvenile court has, after a hearing, ordered that the juvenile court file, in whole or in part, be made public. The court must also make written findings that:
 - Compelling circumstances for continual confidentiality have not be identified;
 - Interested parties present at the time of the motion had an opportunity to be heard;
 - The court has analyzed whether continued confidentiality would be the least restrictive means available and effective in protecting the interests of the juvenile which may be threatened by opening the official juvenile court file to the public;
 - ◆ When weighing the competing privacy interests of the juveniles and the public's right to open court records, the court must consider:
 - The impact to the victims;
 - Whether there were multiple victims;
 - Whether monetary loss was greater than the typical offense;
 - Whether the charged offense is a violent offense;
 - Whether the charged offense involved the use of a deadly weapon;
 - Prior criminal history; and
 - The age of the juvenile charged
- ▶ No confidential juvenile offense records may be published or distributed.
- ▶ No juvenile records shall be sold.
- ▶ Apply confidentiality provisions prospectively and retroactively to all existing juvenile court files; any existing court file containing a serious violent offense charged prior to the effective date of the act would be public.
- ▶ At the time that a successful deferred disposition is vacated, the court must schedule an administrative hearing on a date certain, within 30 days of the juvenile's 18th birthday, to seal the deferred disposition; if the juvenile is 18 at the time that the deferred disposition is

² Serious violent offenses, as defined in RCW 9.94A.030 are: Murder 1°, Homicide by abuse, Murder 2°, Manslaughter 1°, Assault 1°, Kidnapping 1°, Rape 1°, Assault of a Child 1°, or an anticipatory offense to commit any of these felonies.

vacated, the court must sign an order sealing the record at the time that the deferred disposition is vacated.

- ▶ If a deferred disposition has been previously vacated, the court shall grant any motion to seal those records if the person is 18 or older at the time the motion is made.
- ▶ The court shall not seal any juvenile records unless all records for the person making the motion are eligible to be sealed.

Member Responses to Proposals

Not all members responded to the options provided. Some of the members who responded remained neutral on some proposals while expressing favor or disfavor for others. There was no consensus among the members regarding recommendations to the Legislature. Of note, some members expressed disfavor with the proposal to make juvenile offender records confidential, some objected to a proposed prohibition of the sale of juvenile records; and some members objected to the requirement that at the time a motion to seal juvenile records is made, that all juvenile records for a given individual must be eligible to be sealed.

Some members made additional proposals as follows:

- ▶ Require that serious violent offenses that are charged but reduced as a result of a plea bargain, dismissed, or for which there is a finding of not guilty, become confidential.
- ▶ Require that an order sealing a deferred disposition be issued at the time that the deferred disposition is vacated, rather than setting an administrative hearing for a date after the juvenile turns 18.
- ▶ Expressly state that serious violent offenses that have been sealed before any legislation making a charge of a serious violent offense public, shall not become public.

Conclusion

While the task force did not unite behind any specific recommendations to the Legislature, the task force members offered intelligent proposals and ideas regarding access to juvenile records, and these proposals were examined thoughtfully and vigorously by all members of the task force.

Appendices

- A. Substitute House Bill 1793 (2011)
 - 1. Bill Text
 - 2. Final Bill Report
- B. Washington State Constitution, Article 1, § 10
- C. Juvenile Sealing Statutes, Selected Legislation 1977 – 2011
- D. Case Law Summaries
- E. Washington State Superior Court General Rule 31
- F. House Bill 1793 Fiscal Note
- G. Estimated Cost of Making Juvenile Records Confidential (Prepared by Administrative Office of the Courts)
- H. Summary of Recommendations by Members of the Joint Legislative Task Force on Sealing Juvenile Records

Appendix A.1

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1793

Chapter 333, Laws of 2011

62nd Legislature
2011 Regular Session

JUVENILE RECORDS--ACCESS

EFFECTIVE DATE: 07/22/11

Passed by the House April 22, 2011
Yeas 65 Nays 31

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 22, 2011
Yeas 26 Nays 20

BRAD OWEN

President of the Senate

Approved May 12, 2011, 2:14 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1793** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 13, 2011

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1793

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By House Early Learning & Human Services (originally sponsored by Representatives Darneille, Roberts, and Kagi)

READ FIRST TIME 02/17/11.

1 AN ACT Relating to restricting access to juvenile records; amending
2 RCW 19.182.040 and 13.50.050; creating new sections; and providing an
3 expiration date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) One of the goals of the juvenile justice system is to
7 rehabilitate juvenile offenders and promote their successful
8 reintegration into society. Without opportunities to reintegrate,
9 juveniles suffer increased recidivism and decreased economic function.

10 (2) The public has an interest in accessing information relating to
11 juvenile records for public safety and research purposes.

12 (3) The public's legitimate interest in accessing personal
13 information must be balanced with the rehabilitative goals of the
14 juvenile justice system. All benefit when former juvenile offenders,
15 after paying their debt to society, reintegrate and contribute to their
16 local communities as productive citizens.

17 (4) It is the intent of the legislature to balance the
18 rehabilitative and reintegration needs of an effective juvenile justice

1 system with the public's need to access personal information for public
2 safety and research purposes.

3 **Sec. 2.** RCW 19.182.040 and 1993 c 476 s 6 are each amended to read
4 as follows:

5 (1) Except as authorized under subsection (2) of this section, no
6 consumer reporting agency may make a consumer report containing any of
7 the following items of information:

8 (a) Bankruptcies that, from date of adjudication of the most recent
9 bankruptcy, antedate the report by more than ten years;

10 (b) Suits and judgments that, from date of entry, antedate the
11 report by more than seven years or until the governing statute of
12 limitations has expired, whichever is the longer period;

13 (c) Paid tax liens that, from date of payment, antedate the report
14 by more than seven years;

15 (d) Accounts placed for collection or charged to profit and loss
16 that antedate the report by more than seven years;

17 (e) Records of arrest, indictment, or conviction of an adult for a
18 crime that, from date of disposition, release, or parole, antedate the
19 report by more than seven years;

20 (f) Juvenile records, as defined in RCW 13.50.010(1)(c), when the
21 subject of the records is twenty-one years of age or older at the time
22 of the report; and

23 (g) Any other adverse item of information that antedates the report
24 by more than seven years.

25 (2) Subsection (1)(a) through (e) and (g) of this section is not
26 applicable in the case of a consumer report to be used in connection
27 with:

28 (a) A credit transaction involving, or that may reasonably be
29 expected to involve, a principal amount of fifty thousand dollars or
30 more;

31 (b) The underwriting of life insurance involving, or that may
32 reasonably be expected to involve, a face amount of fifty thousand
33 dollars or more; or

34 (c) The employment of an individual at an annual salary that
35 equals, or that may reasonably be expected to equal, twenty thousand
36 dollars or more.

1 NEW SECTION. **Sec. 3.** (1)(a) A joint legislative task force on
2 juvenile record sealing is established, with members as provided in
3 this subsection.

4 (i) The president of the senate shall appoint two members from each
5 of the two largest caucuses of the senate;

6 (ii) The speaker of the house of representatives shall appoint two
7 members from each of the two largest caucuses of the house of
8 representatives;

9 (iii) A representative of the administrative office of the courts;

10 (iv) A representative of the judicial information systems data
11 dissemination committee;

12 (v) A representative of the association of counties, specifically
13 county clerks;

14 (vi) A representative of the Washington association of prosecuting
15 attorneys;

16 (vii) A representative of the Washington state patrol;

17 (viii) A representative from the juvenile law section of the
18 Washington state bar association;

19 (ix) A representative of the Washington defenders' association;

20 (x) A representative of the juvenile rehabilitation administration
21 within the department of social and health services; and

22 (xi) A representative of the juvenile court administrator's
23 association.

24 (b) The task force shall choose one of the legislative members from
25 the senate and one of the legislative members from the house of
26 representatives to cochair the task force. The legislative members
27 shall convene the first meeting of the task force.

28 (2) The task force shall determine how to cost-effectively restrict
29 public access to juvenile records when an individual has met the
30 statutory requirements of RCW 13.50.050(12) and without requiring
31 individuals who are the subject of the records to file a motion to seal
32 the records in juvenile court; whether and how to restrict access to
33 diversion records; and other juvenile criminal record access issues
34 that may arise during the work of the task force.

35 (3) Staff support for the task force must be provided by the senate
36 committee services and the house of representatives office of program
37 research.

1 (4) The task force shall report its findings and recommendations to
2 the governor and the appropriate committees of the legislature by
3 December 15, 2011.

4 (5) This section expires January 1, 2012.

5 **Sec. 4.** RCW 13.50.050 and 2010 c 150 s 2 are each amended to read
6 as follows:

7 (1) This section governs records relating to the commission of
8 juvenile offenses, including records relating to diversions.

9 (2) The official juvenile court file of any alleged or proven
10 juvenile offender shall be open to public inspection, unless sealed
11 pursuant to subsection (12) of this section.

12 (3) All records other than the official juvenile court file are
13 confidential and may be released only as provided in this section, RCW
14 13.50.010, 13.40.215, and 4.24.550.

15 (4) Except as otherwise provided in this section and RCW 13.50.010,
16 records retained or produced by any juvenile justice or care agency may
17 be released to other participants in the juvenile justice or care
18 system only when an investigation or case involving the juvenile in
19 question is being pursued by the other participant or when that other
20 participant is assigned the responsibility for supervising the
21 juvenile.

22 (5) Except as provided in RCW 4.24.550, information not in an
23 official juvenile court file concerning a juvenile or a juvenile's
24 family may be released to the public only when that information could
25 not reasonably be expected to identify the juvenile or the juvenile's
26 family.

27 (6) Notwithstanding any other provision of this chapter, the
28 release, to the juvenile or his or her attorney, of law enforcement and
29 prosecuting attorneys' records pertaining to investigation, diversion,
30 and prosecution of juvenile offenses shall be governed by the rules of
31 discovery and other rules of law applicable in adult criminal
32 investigations and prosecutions.

33 (7) Upon the decision to arrest or the arrest, law enforcement and
34 prosecuting attorneys may cooperate with schools in releasing
35 information to a school pertaining to the investigation, diversion, and
36 prosecution of a juvenile attending the school. Upon the decision to
37 arrest or the arrest, incident reports may be released unless releasing

1 the records would jeopardize the investigation or prosecution or
2 endanger witnesses. If release of incident reports would jeopardize
3 the investigation or prosecution or endanger witnesses, law enforcement
4 and prosecuting attorneys may release information to the maximum extent
5 possible to assist schools in protecting other students, staff, and
6 school property.

7 (8) The juvenile court and the prosecutor may set up and maintain
8 a central recordkeeping system which may receive information on all
9 alleged juvenile offenders against whom a complaint has been filed
10 pursuant to RCW 13.40.070 whether or not their cases are currently
11 pending before the court. The central recordkeeping system may be
12 computerized. If a complaint has been referred to a diversion unit,
13 the diversion unit shall promptly report to the juvenile court or the
14 prosecuting attorney when the juvenile has agreed to diversion. An
15 offense shall not be reported as criminal history in any central
16 recordkeeping system without notification by the diversion unit of the
17 date on which the offender agreed to diversion.

18 (9) Upon request of the victim of a crime or the victim's immediate
19 family, the identity of an alleged or proven juvenile offender alleged
20 or found to have committed a crime against the victim and the identity
21 of the alleged or proven juvenile offender's parent, guardian, or
22 custodian and the circumstance of the alleged or proven crime shall be
23 released to the victim of the crime or the victim's immediate family.

24 (10) Subject to the rules of discovery applicable in adult criminal
25 prosecutions, the juvenile offense records of an adult criminal
26 defendant or witness in an adult criminal proceeding shall be released
27 upon request to prosecution and defense counsel after a charge has
28 actually been filed. The juvenile offense records of any adult
29 convicted of a crime and placed under the supervision of the adult
30 corrections system shall be released upon request to the adult
31 corrections system.

32 (11) In any case in which an information has been filed pursuant to
33 RCW 13.40.100 or a complaint has been filed with the prosecutor and
34 referred for diversion pursuant to RCW 13.40.070, the person the
35 subject of the information or complaint may file a motion with the
36 court to have the court vacate its order and findings, if any, and,
37 subject to subsection (23) of this section, order the sealing of the

1 official juvenile court file, the social file, and records of the court
2 and of any other agency in the case.

3 (12)(a) The court shall not grant any motion to seal records for
4 class A offenses made pursuant to subsection (11) of this section that
5 is filed on or after July 1, 1997, unless:

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

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

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

15 (iv) The person has not been convicted of a sex offense; and

16 (v) Full restitution has been paid.

17 (b) The court shall not grant any motion to seal records for class
18 B, C, gross misdemeanor and misdemeanor offenses and diversions made
19 under subsection (11) of this section unless:

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

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

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

29 (iv) The person has not been convicted of a sex offense; and

30 (v) Full restitution has been paid.

31 (13) The person making a motion pursuant to subsection (11) of this
32 section shall give reasonable notice of the motion to the prosecution
33 and to any person or agency whose files are sought to be sealed.

34 (14)(a) If the court grants the motion to seal made pursuant to
35 subsection (11) of this section, it shall, subject to subsection (23)
36 of this section, order sealed the official juvenile court file, the
37 social file, and other records relating to the case as are named in the
38 order. Thereafter, the proceedings in the case shall be treated as if

1 they never occurred, and the subject of the records may reply
2 accordingly to any inquiry about the events, records of which are
3 sealed. Any agency shall reply to any inquiry concerning confidential
4 or sealed records that records are confidential, and no information can
5 be given about the existence or nonexistence of records concerning an
6 individual.

7 (b) In the event the subject of the juvenile records receives a
8 full and unconditional pardon, the proceedings in the matter upon which
9 the pardon has been granted shall be treated as if they never occurred,
10 and the subject of the records may reply accordingly to any inquiry
11 about the events upon which the pardon was received. Any agency shall
12 reply to any inquiry concerning the records pertaining to the events
13 for which the subject received a pardon that records are confidential,
14 and no information can be given about the existence or nonexistence of
15 records concerning an individual.

16 (15) Inspection of the files and records included in the order to
17 seal may thereafter be permitted only by order of the court upon motion
18 made by the person who is the subject of the information or complaint,
19 except as otherwise provided in RCW 13.50.010(8) and subsection (23) of
20 this section.

21 (16) Any adjudication of a juvenile offense or a crime subsequent
22 to sealing has the effect of nullifying the sealing order. Any
23 charging of an adult felony subsequent to the sealing has the effect of
24 nullifying the sealing order for the purposes of chapter 9.94A RCW.
25 The administrative office of the courts shall ensure that the superior
26 court judicial information system provides prosecutors access to
27 information on the existence of sealed juvenile records.

28 (17)(a)(i) Subject to subsection (23) of this section, all records
29 maintained by any court or law enforcement agency, including the
30 juvenile court, local law enforcement, the Washington state patrol, and
31 the prosecutor's office, shall be automatically destroyed within ninety
32 days of becoming eligible for destruction. Juvenile records are
33 eligible for destruction when:

34 (A) The person who is the subject of the information or complaint
35 is at least eighteen years of age;

36 (B) His or her criminal history consists entirely of one diversion
37 agreement or counsel and release entered on or after June 12, 2008;

1 (C) Two years have elapsed since completion of the agreement or
2 counsel and release;

3 (D) No proceeding is pending against the person seeking the
4 conviction of a criminal offense; and

5 (E) There is no restitution owing in the case.

6 (ii) No less than quarterly, the administrative office of the
7 courts shall provide a report to the juvenile courts of those
8 individuals whose records may be eligible for destruction. The
9 juvenile court shall verify eligibility and notify the Washington state
10 patrol and the appropriate local law enforcement agency and
11 prosecutor's office of the records to be destroyed. The requirement to
12 destroy records under this subsection is not dependent on a court
13 hearing or the issuance of a court order to destroy records.

14 (iii) The state and local governments and their officers and
15 employees are not liable for civil damages for the failure to destroy
16 records pursuant to this section.

17 (b) All records maintained by any court or law enforcement agency,
18 including the juvenile court, local law enforcement, the Washington
19 state patrol, and the prosecutor's office, shall be automatically
20 destroyed within thirty days of being notified by the governor's office
21 that the subject of those records received a full and unconditional
22 pardon by the governor.

23 (c) A person eighteen years of age or older whose criminal history
24 consists entirely of one diversion agreement or counsel and release
25 entered prior to June 12, 2008, may request that the court order the
26 records in his or her case destroyed. The request shall be granted,
27 subject to subsection (23) of this section, if the court finds that two
28 years have elapsed since completion of the agreement or counsel and
29 release.

30 ((+e+)) (d) A person twenty-three years of age or older whose
31 criminal history consists of only referrals for diversion may request
32 that the court order the records in those cases destroyed. The request
33 shall be granted, subject to subsection (23) of this section, if the
34 court finds that all diversion agreements have been successfully
35 completed and no proceeding is pending against the person seeking the
36 conviction of a criminal offense.

37 (18) If the court grants the motion to destroy records made
38 pursuant to subsection (17)((+b+or)) (c) or (d) of this section, it

1 shall, subject to subsection (23) of this section, order the official
2 juvenile court file, the social file, and any other records named in
3 the order to be destroyed.

4 (19) The person making the motion pursuant to subsection (17)((~~(b)~~
5 ~~or~~) (c) or (d) of this section shall give reasonable notice of the
6 motion to the prosecuting attorney and to any agency whose records are
7 sought to be destroyed.

8 (20) Any juvenile to whom the provisions of this section may apply
9 shall be given written notice of his or her rights under this section
10 at the time of his or her disposition hearing or during the diversion
11 process.

12 (21) Nothing in this section may be construed to prevent a crime
13 victim or a member of the victim's family from divulging the identity
14 of the alleged or proven juvenile offender or his or her family when
15 necessary in a civil proceeding.

16 (22) Any juvenile justice or care agency may, subject to the
17 limitations in subsection (23) of this section and (a) and (b) of this
18 subsection, develop procedures for the routine destruction of records
19 relating to juvenile offenses and diversions.

20 (a) Records may be routinely destroyed only when the person the
21 subject of the information or complaint has attained twenty-three years
22 of age or older or pursuant to subsection (17)(a) of this section.

23 (b) The court may not routinely destroy the official juvenile court
24 file or recordings or transcripts of any proceedings.

25 (23) Except for subsection (17)(b) of this section, no identifying
26 information held by the Washington state patrol in accordance with
27 chapter 43.43 RCW is subject to destruction or sealing under this
28 section. For the purposes of this subsection, identifying information
29 includes photographs, fingerprints, palmprints, soleprints, toeprints
30 and any other data that identifies a person by physical
31 characteristics, name, birthdate or address, but does not include
32 information regarding criminal activity, arrest, charging, diversion,
33 conviction or other information about a person's treatment by the
34 criminal justice system or about the person's behavior.

35 (24) Information identifying child victims under age eighteen who
36 are victims of sexual assaults by juvenile offenders is confidential
37 and not subject to release to the press or public without the
38 permission of the child victim or the child's legal guardian.

1 Identifying information includes the child victim's name, addresses,
2 location, photographs, and in cases in which the child victim is a
3 relative of the alleged perpetrator, identification of the relationship
4 between the child and the alleged perpetrator. Information identifying
5 a child victim of sexual assault may be released to law enforcement,
6 prosecutors, judges, defense attorneys, or private or governmental
7 agencies that provide services to the child victim of sexual assault.

8 NEW SECTION. **Sec. 5.** RCW 13.50.050 (14)(b) and (17)(b) apply to
9 all records of a full and unconditional pardon and should be applied
10 retroactively as well as prospectively.

11 NEW SECTION. **Sec. 6.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

Passed by the House April 22, 2011.

Passed by the Senate April 22, 2011.

Approved by the Governor May 12, 2011.

Filed in Office of Secretary of State May 13, 2011.

Appendix A.2

FINAL BILL REPORT

SHB 1793

C 333 L 11
Synopsis as Enacted

Brief Description: Restricting access to juvenile records.

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Darneille, Roberts and Kagi).

House Committee on Early Learning & Human Services
House Committee on General Government Appropriations & Oversight
Senate Committee on Human Services & Corrections

Background:

Motions to Seal Records.

The "official juvenile court file" is the legal file of the juvenile court containing petitions, information, motions, memorandums, briefs, findings of the court, and court orders. The social file is the juvenile court file which contains the records and reports of a probation counselor. Juvenile records are a combination of the official juvenile court file, the social file, and the records of any other juvenile justice or care agency regarding a particular case.

In order to request that his or her juvenile records be sealed, a person must file a motion with the superior court. Courts do not have the authority to issue an order sealing the record of an adjudication for a sex offense. The court may order the following records to be sealed:

- class A offenses where the person has spent five consecutive years since the last date of release from confinement, full-time residential treatment, or entry of disposition in the community without being convicted of any offense or crime; and
- class B, class C, gross misdemeanor, and misdemeanor offenses and diversions where the person has spent two consecutive years since the last date of release from confinement, full-time residential treatment, or entry of disposition in the community without being convicted of any offense or crime.

In addition, the court may not order juvenile records sealed if there is: a proceeding pending against the moving party seeking his or her conviction for a juvenile or criminal offense; a proceeding pending seeking the formation of a diversion agreement with that person; and full restitution that has not been fully paid.

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.

If the court grants the motion to seal, the order to seal covers the juvenile court file, the social file, and other records relating to the case as are named in the order. The order to seal means the proceedings in the case are treated as though they never occurred and the subject of the records may reply accordingly to any inquiry about the events contained in the record.

Fair Credit Reporting Act.

The Fair Credit Reporting Act (FCRA) generally requires that credit reporting agencies, also known as consumer reporting agencies, follow reasonable procedures to protect the confidentiality, accuracy, and relevance of credit information. To accomplish this, the FCRA establishes a framework of fair information practices for personal information maintained by credit reporting agencies that includes the right to access and correct data, data security, limitations on use, requirements for data destruction, notice, consent, and accountability.

Consumer reporting agencies are prohibited from making a consumer report that contains information regarding records of arrest, indictment, or conviction of a crime where more than seven years has elapsed since the date of disposition, release, or parole.

Pardons.

Under the Washington State Constitution, the authority to pardon an individual rests with the Governor. The Governor may grant a full or conditional pardon. The Governor may also commute a death sentence to one of life imprisonment. The Clemency and Pardons Board (Board) may receive and consider petitions from individuals, organizations, and the Department of Corrections for review and commutation of sentences and pardoning of offenders in extraordinary cases. The Board makes recommendations regarding a request for pardon or commutation to the Governor.

Summary:

Fair Credit Reporting Act.

Consumer reporting agencies are prohibited from making a consumer report containing juvenile records where the subject of the records is 21 years or older at the time of the report. This prohibition does not apply where a consumer report is used in connection with: (1) a credit transaction involving or may reasonably be expected to involve \$50,000 or more; (2) the underwriting of life insurance involving, or that may reasonably be expected to involve, \$50,000 or more; or (3) employment of an individual at an annual salary that equals or that may reasonably be expected to equal \$20,000 or more. No arrests, indictments, or convictions of an adult may be included in a report where more than seven years has elapsed since the date of disposition, release, or parole.

Joint Legislative Task Force.

A joint legislative task force is convened to determine how to cost-effectively restrict public access to juvenile records when a person has met the statutory requirements for sealing those records. The cost effective measures to be considered should allow a person to seal his or her juvenile records without filing a motion to seal. The task force must also determine how to restrict access to diversion records and any other issues that may arise during the work of the task force.

The President of the Senate and the Speaker of the House of Representatives each appoint two members from the largest caucuses of their respective chambers. One member from each chamber co-chairs the task force. The legislative members convene the first meeting of the task force.

In addition to the legislative members, the task force must include representatives of the following entities:

- The Administrative Office of the Courts;
- The Judicial Information Systems Data Dissemination Committee;
- The Association of Counties, specifically county clerks;
- The Washington Association of Prosecuting Attorneys;
- The Washington State Patrol;
- The Juvenile Law section of the Washington State Bar Association;
- The Washington Defender's Association;
- The Juvenile Rehabilitation Administration; and
- The Juvenile Court Administrators Association.

Staff support for the task force must be provided by Senate Committee Services and the Office of Program Research.

Pardons.

Where the subject of juvenile records has received a full and unconditional pardon, the proceedings for which the pardon was granted are treated as if they never occurred. An agency, in response to an inquiry regarding such records, must reply that no information can be given about the existence or nonexistence of records concerning the pardoned individual.

All records maintained by any court or law enforcement agency must be automatically destroyed within 30 days of being notified by the Governor's office that the subject of those records has received a full and unconditional pardon.

The provisions regarding the juvenile records after a pardon has been granted apply retroactively and prospectively.

Votes on Final Passage:

House	56	41	
Senate	41	7	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	26	20
House	65	31

Effective: July 22, 2011

Appendix B

Provision of Washington State Constitution

Article I, Section 10: Justice in all cases shall be administered openly, and without unnecessary delay.

Appendix C

Changes to the Juvenile Sealing Statutes 1977 – 2011
(Selected Legislation)

<i>Session Law Amending RCW 13.50.050</i>	<i>Bill Number</i>	<i>Effect of Amendments</i>
2011 c 333 § 4	1793	<ul style="list-style-type: none"> ◆ Imposed limitations of release of juvenile information by consumer reporting agencies
2011 c 338 § 4	5204	<ul style="list-style-type: none"> ◆ Sex offenses can be sealed; as a prerequisite, a court must issue an order relieving the petitioner of the duty to register as a sex offender for offenses committed as a juvenile
2010 c 150 § 2	6561	<ul style="list-style-type: none"> ◆ Class A felonies can be sealed after 5 years ◆ (Sex offenses still cannot be sealed)
2008 c 221 § 1	1141	<ul style="list-style-type: none"> ◆ Automatic destruction of records for diversions and counsel and release
2004 c 42 § 1	3078	<ul style="list-style-type: none"> ◆ Changed the length of time to 5 years before records for Class B felony convictions could be sealed ◆ Changed the length of time for eligibility to seal records to 2 years for all other offenses ◆ Class A felonies and sex offenses still cannot be sealed
2001 c 175 § 1	1471	<ul style="list-style-type: none"> ◆ Diversions: Added express requirement that the person be in the community for 2 years without offenses before the court may grant an order to seal a record containing a diversion
2001 c 174 § 1	1212	<ul style="list-style-type: none"> ◆ Gross Misdemeanors/Misdemeanors: Added express requirement person be in the community for 2 years without offenses before the court may grant an order to seal gross misdemeanors and misdemeanors
2001 c 49 § 2	5691	<ul style="list-style-type: none"> ◆ In response to <i>State v. T.K.</i>, statutory sealing requirements passed in 1997 apply to all motions to seal filed after July 1, 1997.

Session Law Amending RCW 13.50.050	Bill Number	Effect of Amendments
1997 c 338 § 40	3900	<ul style="list-style-type: none"> ◆ No sealing allowed for Class A felonies or sex offenses ◆ 10 years to seal records for Class B felonies ◆ 5 years to seal records for Class C felonies ◆ Adds express requirement that restitution be paid in full before records may be sealed ◆ No time frame is referenced for gross misdemeanors, misdemeanors, or diversions ◆ Any charging of an adult felony nullified an order sealing records, but <i>(previously, it was any adult conviction)</i>
1992 c 188 § 7	2348	<ul style="list-style-type: none"> ◆ 2 year time for sealing records still applied to all offenses after discharge from supervision
1990 c 3 § 125	6259	<ul style="list-style-type: none"> ◆ 2 year time for sealing records still applied to all offenses after discharge from supervision
1979 c 155 § 9	2768 <i>(Note: this is a Senate Bill)</i>	<ul style="list-style-type: none"> ◆ A new chapter is created in Title 13 regarding juvenile records ◆ All records could be sealed after 2 years after discharge from supervision; there was no statutory requirement that restitution be paid.
1977 1 st Ex. Sess. c 291 § 10		<ul style="list-style-type: none"> ◆ Dependency and offender records are addressed in the same Chapter, 13.04 ◆ Effective July 1, 1978, juvenile offender records become open for public inspection.
Amendment to RCW 13.40.127		
2009 c 236 § 1	1954	<ul style="list-style-type: none"> ◆ Records of deferred dispositions vacated required to be sealed within 30 days of the juvenile's 18th birthday.

Appendix D

**Brief Sampling of Case Law Interpreting Constitutional and Statutory Requirements for
Sealing Records**
(September 2011)

***Monroe v. Tielsch*, 84 Wn.2d 217 (1974)**

After charges of indecent liberties were dismissed against four juvenile offenders, they petitioned the court to expunge all arrest records held by the Seattle Police Department and the King County Juvenile Court. The court denied the motions on the grounds that expungement would deny law enforcement and the juvenile courts of a true picture of a developing pattern of any juvenile. If expunged, no record would be developed, and all those interested in the guidance and rehabilitation of the juvenile would be without the means to “properly evaluate the conduct of the juvenile when he or she is next back within the system.” This case relied on a statutory scheme that was repealed in legislation passed in 1977 and 1979.

***Seattle Times Co. v. Ishikawa*, 97 Wn.2d 30 (1982)**

Before the trial in a criminal matter began, the defendant moved to dismiss the charges against her, and defense counsel moved to exclude the public from the courtroom while the motion was being heard by the court. The prosecutor agreed in the motion. The court granted the motion to exclude public access to the hearing on the motion and granted a motion to seal the documents submitted in support of the motion. The *Seattle Times* intervened and petitioned the court to unseal the records of the pre-trial motion. The trial court denied the petition to unseal the records. The Supreme Court articulated standards for motions to seal: (1) the petitioner must make a showing of a compelling interest; if not based in on a right to a fair trial, there must be a showing of a “serious and imminent threat” to some other important interest; (2) anyone present when the motion to seal is made must be given an opportunity to object; (3) the court must carefully analyze whether the requested method for curtailing access is the least restrictive means available for protecting the threatened interest; (4) the court must weigh the competing interests of the defendant and the public and consider the alternative methods; and (5) the court’s order must be no broader than necessary to serve its purpose. The Supreme Court remanded the case to the trial court to review its decision in light of these standards.

***Allied Daily Newspapers of Washington v. Eikenberry*, 121 Wn.2d 205 (1993)**

The court held that a blanket statutory prohibition of disclosing the names of child witnesses or victims in sexual abuse cases was unconstitutional and violated the legal standards for sealing articulated in the *Ishikawa* case. It violated *Ishikawa* because there was no requirement that the court make a determination of a need to close proceedings to the public. Note: Similar provisions in the statute were not invalidated because the trial court’s ruling that they were constitutional was not challenged on appeal.

***State v. T.K.*, 139 Wn.2d 320 (1999)**

In October 1997, the defendant moved the court to seal a sex offense to which he pleaded guilty in 1993. By 1995, he had completed the terms of his sentence and met the statutory conditions

for sealing a juvenile offense. Effective July 1, 1997, the Legislature amended the statutory requirements for sealing juvenile records, including a provision that sex offenses could not be sealed. The new legislation was in effect at the time the defendant filed the motion to seal. The trial court held that the provisions of the new statute applied and denied the motion to seal. The Court of Appeals revised the trial court and remanded the case back to the trial court with directions to seal the juvenile's records. The Supreme Court affirmed the Court of Appeals and held that since the offender was eligible to have his records sealed before the new legislation took effect, the statutory requirements in effect before July 1, 1997 applied to the motion to seal.

***Dreiling v. Jain*, 151 Wn.2d 900 (2004)**

This case involved civil shareholder derivative action against a corporation. A special litigation committee constituted by the corporation recommended that the action be terminated. The documents filed in support of the recommendation for termination were filed under seal. The *Seattle Times* moved to intervene and unseal the documents that were filed with the court. The trial court denied the motion to unseal. The Supreme Court held that the motion to terminate the derivative action was functionally equivalent to a motion for summary judgment and that the documents were not sealed in accordance with the standards set forth in the *Ishikawa* case. The Supreme Court remanded the case back to the trial court to apply the correct legal standard to its analysis of which documents should be sealed.

***State v. McHenry*, 124 Wn. App. 918 (2004)**

The Superior court granted a petitioner's motion to seal an adult conviction after granting an order vacating the conviction. The State appealed. On appeal, the defendant argued that the standard articulated in *Ishikawa* did not apply. The Court of Appeals reversed the order sealing the record. It held that the standards articulated in *Ishikawa* did apply and that the petitioner failed to demonstrate compelling circumstances for sealing the adult conviction and that the trial court erred in finding that the statutory provision allowing a conviction to be vacated was a sufficient compelling circumstance to justify sealing the record.

***State v. Waldon*, 148 Wn. App. 952 (2009)**

The trial court granted a motion to seal an adult conviction that had been vacated, but it failed to apply the *Ishikawa* analysis. The Court of Appeals held that the provision in GR 15 (governing the procedures for motions to seal or redact records) which stated that a finding that a conviction had been vacated was a "sufficient privacy or safety concern that may be weighed against the public interest" was not, by itself, sufficient to grant a motion to seal a record. The Court of Appeals remanded the case back to the trial court to apply the *Ishikawa* analysis to its decision.

Appendix E



1 of 1 DOCUMENT

WASHINGTON COURT RULES ANNOTATED
Copyright (c) 2011 Matthew Bender & Company, Inc.
a member of the LexisNexis Group
All rights reserved.

*** Rules current through October 1, 2011 ***

STATE RULES
PART I. RULES OF GENERAL APPLICATION
GENERAL RULES (GR)

Wash. GR 31 (2011)

Review Court Orders which may amend this Rule.

Rule 31. Access to court records

(a) *Policy and Purpose.* It is the policy of the courts to facilitate access to court records as provided by Article I, Section 10 of the Washington State Constitution. Access to court records is not absolute and shall be consistent with reasonable expectations of personal privacy as provided by Article I, Section 7 of the Washington State Constitution and shall not unduly burden the business of the courts.

(b) *Scope.* This rule applies to all court records, regardless of the physical form of the court record, the method of recording the court record or the method of storage of the court record. Administrative records are not within the scope of this rule. Court records are further governed by *GR 22*.

(c) *Definitions.*

(1) "Access" means the ability to view or obtain a copy of a court record.

(2) "Administrative record" means any record pertaining to the management, supervision or administration of the judicial branch, including any court, board, or committee appointed by or under the direction of any court or other entity within the judicial branch, or the office of any county clerk.

(3) "Bulk distribution" means distribution of all, or a significant subset, of the information in court records, as is and without modification.

(4) "Court record" includes, but is not limited to: (i) Any document, information, exhibit, or other thing that is maintained by a court in connection with a judicial proceeding, and (ii) Any index, calendar, docket, register of actions, official record of the proceedings, order, decree, judgment, minute, and any information in a case management system created or prepared by the court that is related to a judicial proceeding. Court record does not include data maintained by or for a judge pertaining to a particular case or party, such as personal notes and communications, memoranda, drafts, or other working papers; or information gathered, maintained, or stored by a government agency or other entity to which the court has access but which is not entered into the record.

(5) "Criminal justice agencies" are government agencies that perform criminal justice functions pursuant to statute or executive order and that allocate a substantial part of their annual budget to those functions.

(6) "Dissemination contract" means an agreement between a court record provider and any person or entity, except a Washington State court (Supreme Court, court of appeals, superior court, district court or municipal court), that is provided court records. The essential elements of a dissemination contract shall be promulgated by the JIS Committee.

(7) "Judicial Information System (JIS) Committee" is the committee with oversight of the statewide judicial information system. The judicial information system is the automated, centralized, statewide information system that serves the state courts.

(8) "Judge" means a judicial officer as defined in the Code of Judicial Conduct (CJC) Application of the Code of Judicial Conduct Section (A).

(9) "Public" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency, however constituted, or any other organization or group of persons, however organized.

(10) "Public purpose agency" means governmental agencies included in the definition of "agency" in *RCW 42.17.020* and other non-profit organizations whose principal function is to provide services to the public.

(d) *Access.*

(1) The public shall have access to all court records except as restricted by federal law, state law, court rule, court order, or case law.

(2) Each court by action of a majority of the judges may from time to time make and amend local rules governing access to court records not inconsistent with this rule.

(3) A fee may not be charged to view court records at the courthouse.

(e) *Personal Identifiers Omitted or Redacted from Court Records.*

(1) Except as otherwise provided in *GR 22*, parties shall not include, and if present shall redact, the following personal identifiers from all documents filed with the court, whether filed electronically or in paper, unless necessary or otherwise ordered by the Court.

(A) *Social Security Numbers.* If the Social Security Number of an individual must be included in a document, only the last four digits of that number shall be used.

(B) *Financial Account Numbers.* If financial account numbers are relevant, only the last four digits shall be recited in the document.

(C) *Driver's License Numbers.*

(2) The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Court or the Clerk will not review each pleading for compliance with this rule. If a pleading is filed without redaction, the opposing party or identified person may move the Court to order redaction. The court may award the prevailing party reasonable expenses, including attorney fees and court costs, incurred in making or opposing the motion.

(f) *Distribution of Court Records Not Publicly Accessible.*

(1) A public purpose agency may request court records not publicly accessible for scholarly, governmental, or research purposes where the identification of specific individuals is ancillary to the purpose of the inquiry. In order to grant such requests, the court or the Administrator for the Courts must:

(A) Consider: (i) the extent to which access will result in efficiencies in the operation of the judiciary; (ii) the extent to which access will fulfill a legislative mandate; (iii) the extent to which access will result in efficiencies in other parts of the justice system; and (iv) the risks created by permitting the access.

(B) Determine, in its discretion, that filling the request will not violate this rule.

(C) Determine the minimum access to restricted court records necessary for the purpose is provided to the requestor.

(D) Assure that prior to the release of court records under section (f)(1), the requestor has executed a dissemination contract that includes terms and conditions which: (i) require the requestor to specify provisions for the secure protection of any data that is confidential; (ii) prohibit the disclosure of data in any form which identifies an individual; (iii) prohibit the copying, duplication, or dissemination of information or data provided other than for the stated purpose; and (iv) maintain a log of any distribution of court records which will be open and available for audit by the court or the

Administrator of the Courts. Any audit should verify that the court records are being appropriately used and in a manner consistent with this rule.

(2) Courts, court employees, clerks and clerk employees, and the Commission on Judicial Conduct may access and use court records only for the purpose of conducting official court business.

(3) Criminal justice agencies may request court records not publicly accessible.

(A) The provider of court records shall approve the access level and permitted use for classes of criminal justice agencies including, but not limited to, law enforcement, prosecutors, and corrections. An agency that is not included in a class may request access.

(B) Agencies requesting access under this section of the rule shall identify the court records requested and the proposed use for the court records.

(C) Access by criminal justice agencies shall be governed by a dissemination contract. The contract shall: (i) specify the data to which access is granted; (ii) specify the uses which the agency will make of the data; and (iii) include the agency's agreement that its employees will access the data only for the uses specified.

(g) *Bulk Distribution of Court Records.*

(1) A dissemination contract and disclaimer approved by the JIS Committee for JIS records or a dissemination contract and disclaimer approved by the court clerk for local records must accompany all bulk distribution of court records.

(2) A request for bulk distribution of court records may be denied if providing the information will create an undue burden on court or court clerk operations because of the amount of equipment, materials, staff time, computer time or other resources required to satisfy the request.

(3) The use of court records, distributed in bulk form, for the purpose of commercial solicitation of individuals named in the court records is prohibited.

(h) *Appeals.* Appeals of denials of access to JIS records maintained at state level shall be governed by the rules and policies established by the JIS Committee.

(i) *Notice.* The Administrator for the Courts shall develop a method to notify the public of access to court records and the restrictions on access.

(j) *Access to Juror Information.* Individual juror information, other than name, is presumed to be private. After the conclusion of a jury trial, the attorney for a party, or party pro se, or member of the public, may petition the trial court for access to individual juror information under the control of court. Upon a showing of good cause, the court may permit the petitioner to have access to relevant information. The court may require that juror information not be disclosed to other persons.

(k) *Access to Master Jury Source List.* Master jury source list information, other than name and address, is presumed to be private. Upon a showing of good cause, the court may permit a petitioner to have access to relevant information from the list. The court may require that the information not be disclosed to other persons.

Appendix F

Multiple Agency Fiscal Note Summary

Bill Number: 1793 HB	Title: Access to juvenile records
-----------------------------	------------------------------------------

Estimated Cash Receipts

Agency Name	2011-13		2013-15		2015-17	
	GF- State	Total	GF- State	Total	GF- State	Total
Administrative Office of the Courts	(26,000)	(26,000)	(26,000)	(26,000)	(26,000)	(26,000)
Total \$	(26,000)	(26,000)	(26,000)	(26,000)	(26,000)	(26,000)

Estimated Expenditures

Agency Name	2011-13			2013-15			2015-17		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Administrative Office of the Courts	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Office of Attorney General	.5	140,678	140,678	.5	140,678	140,678	.5	140,678	140,678
Department of Social and Health Services	.0	0	0	.0	0	0	.0	0	0
Total	0.5	\$140,678	\$140,678	0.5	\$140,678	\$140,678	0.5	\$140,678	\$140,678

Local Gov. Courts *	Non-zero but indeterminate cost. Please see discussion.
Local Gov. Other **	Fiscal note not available
Local Gov. Total	

Estimated Capital Budget Impact

NONE

Prepared by: Cherie Berthon, OFM	Phone: 360-902-0659	Date Published: Preliminary
-----------------------------------------	-------------------------------	---------------------------------------

* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

Judicial Impact Fiscal Note

Bill Number: 1793 HB	Title: Access to juvenile records	Agency: 055-Admin Office of the Courts
-----------------------------	------------------------------------------	-----------------------------------------------

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2012	FY 2013	2011-13	2013-15	2015-17
General Fund-State 001-1	(13,000)	(13,000)	(26,000)	(26,000)	(26,000)
Counties					
Cities					
Total \$	(13,000)	(13,000)	(26,000)	(26,000)	(26,000)

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.

Legislative Contact: Linda Merelle	Phone: 360-786-7092	Date: 02/02/2011
Agency Preparation: Julia Appel	Phone: (360) 705-5229	Date: 02/08/2011
Agency Approval: Dirk Marler	Phone: 360-705-5211	Date: 02/08/2011
OFM Review: Cherie Berthon	Phone: 360-902-0659	Date: 02/08/2011

Request # -1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

Section 2 amends RCW 13.50.010 to define "Consumer reporting agency," "Deidentified record," and "Disseminate" for the purposes of the chapter.

Section 3 adds a new section to 13.50 RCW to provide that a consumer reporting agency that collects personally identifiable information pertaining to juvenile records about an individual residing in Washington may not disseminate the information.

Section 5 amends RCW 13.50.050

Subsection (11) provides that for cases referred for diversion, the official juvenile court file, the social file, and records of the court and any other agency in the case, subject to subsection (22) of the section, shall be sealed automatically within 120 days of becoming eligible for sealing pursuant to subsection (12) of the section.

Subsection (12) provides that records for class A, B, C, gross misdemeanor and misdemeanor offenses and diversions shall be automatically sealed by the clerk if a list of requirements are met. It also provides that, no less than quarterly, the Administrative Office of the Courts shall provide a report to the juvenile courts of those individuals whose records may be eligible for sealing. The juvenile court must verify eligibility and notify the Washington State Patrol, appropriate local law enforcement, and the prosecutor's office. The requirement to seal records under the subsection is not dependent on a court hearing or the issuance of a court order to seal records. A person meeting the criteria for automatic sealing may request that the court issue an order sealing the files. The request must be granted subject to subsection (22) of the section. Subsection (22) relates to identifying information held by WSP not subject to sealing.

II. B - Cash Receipts Impact

It is expected that consumer reporting agencies will reduce usage of the Administrative Office of the Court's JIS-Link system as they would no longer be allowed to disseminate identifying information obtained related to juveniles. It is assumed that there are approximately 200,000 transactions annually in this category. The charge assessed for each transaction is 0.065 cents. Therefore, there would be a loss of revenue to the state of approximately \$13,000 annually.

II. C - Expenditures

The primary impact to the courts comes from Section 5. Currently, a person can file a motion in superior court to seal a juvenile diversion or juvenile offender case. This bill requires that qualifying cases be sealed automatically without a hearing. Because there is no time limit specified, it is assumed that all currently unsealed juvenile diversion and juvenile offender cases would be eligible if they meet the conditions for sealing. There are 349,680 unsealed cases that do not have outstanding restitution. It is unknown how many of those cases would ultimately qualify for sealing based on the other listed conditions. In addition it is assumed that there will be approximately 20,000 new cases that could become eligible for sealing annually provided that the conditions are met.

County Costs:

It is assumed that it will take between one and three hours of county clerk and/or juvenile court staff time to confirm that statutory conditions are met and to process records for sealing. Although the judicial information system (JIS) can produce a report that would help staff identify the cases that could qualify for automatic sealing, staff would need to confirm when a juvenile was released from detention and whether the juvenile has charges pending in another jurisdiction. Confirming the existence of other charges would require working through law enforcement agencies to obtain information from the FBI's NCIC database detailing the juvenile's record in other states. Staff would then need to do the sealing including the records in their optical image databases and paper files as well as the electronic JIS record. In addition, the juvenile court is required to notify the Washington State Patrol and appropriate local law enforcement agency and the prosecutor's office of the records to be sealed.

It is not possible to determine how many of the currently unsealed cases and underlying referrals would qualify for sealing. In order to give an example of costs for this fiscal note, it is assumed that 25% of the cases in the backlog (87,420) and 50% of the annual cases (10,000) would qualify. In addition, for purposes of this illustration, it is assumed that it will take only one hour of staff time to process these items. Based on input received from the courts and clerks, these are probably low estimates.

To process the backlog of 87,420 unsealed cases would require 52.30 FTEs. If this is spread out over five years this would result in salary/benefit and operational expenses of approximately \$620,882 to the counties for each of those five years, not including capital

costs.

To process the 10,000 additional items that potentially would become eligible each year would require 5.98 FTEs resulting in annual salary/benefit and operational expenses of approximately \$355,114 to the counties, not including capital costs.

Therefore, annual expenditure to the counties for each of the first five years would be \$975,996 and \$355,114 for each subsequent year, not including capital costs.

State Costs:

To update the JIS to provide the means of reporting potentially qualifying cases involves requirement gathering and writing; a new security profile; new reporting in the superior court case management system, the juvenile case management system, and possibly in the appellate court system; modifications to data entry screens; modifications to the diversion destruction report; testing in all the above systems; documentation; and implementation.

This is projected to require between 1,449 and 1,597 hours at \$120 per hour for a total one-time cost to the state of between \$173,880 and \$191,640.

Offsetting Cost Savings:

It is assumed that there will be a reduction in the number of motions to seal, and that some of the cases that will be automatically sealed in the future would have been sealed based on current law. This would eliminate some judge and staff time. However, as the estimates provided are considered to be conservative, that is not likely to make a significant impact on the overall estimated judicial impact.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

Individual State Agency Fiscal Note

Bill Number: 1793 HB	Title: Access to juvenile records	Agency: 100-Office of Attorney General
-----------------------------	------------------------------------------	-----------------------------------------------

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	0.5	0.5	0.5	0.5	0.5
Account					
General Fund-State 001-1	70,339	70,339	140,678	140,678	140,678
Total \$	70,339	70,339	140,678	140,678	140,678

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Linda Merelle	Phone: 360-786-7092	Date: 02/02/2011
Agency Preparation: Tina Kondo	Phone: (206) 464-6293	Date: 02/04/2011
Agency Approval: Sarian Scott	Phone: (360) 586-2104	Date: 02/04/2011
OFM Review: Matthew Bridges	Phone: (360) 902-0575	Date: 02/07/2011

Request # 11-117-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 1 is a new section which is the legislative intent. The legislature intends to balance the needs of the juvenile justice system with the public's need to access personal information for public safety and research purposes.

Section 2 amends RCW 13.50.010. It adds definitions for "consumer reporting agency", "deidentified record" and "disseminate". It also adds "juvenile records" to the definition of "records".

Section 3 adds a new section to RCW 13.50. A consumer reporting agency that collects personally identifiable information pertaining to, or including, a juvenile record about an individual residing in Washington may not disseminate the information contained within the record, including the existence or nonexistence of such record, to any third party.

Section 3, (2) states that a consumer reporting agency that collects personally identifiable information pertaining to, or including, juvenile records about an individual residing in Washington may disseminate deidentified records for purposes of social science research, trend data, and generalized aggregation.

Section 4 adds a new section to RCW 13.50. A violation is an unfair trade practice and unfair method of competition relating to the Consumer Protection Act..

Section 5 amends RCW 13.50.050. It describes which juvenile court files should be available for inspection and under what conditions. Subsection 11 is amended. In a case where information has been filed pursuant to RCW 13.40.100 or 13.40.070, the official juvenile court file, the social file, and records of the court and any other agency in the case, subject to subsection (22) of this section, shall be sealed automatically within 120 of becoming eligible for sealing pursuant to subsection (12) of this section. Subsection 12(a) is amended to say that records for class A offenses shall automatically be sealed by the clerk if the certain requirements are met. The Administrative Office of the Courts must make quarterly reports of records that may be eligible for sealing. The juvenile court has other related responsibilities. Subsection (d) says the state and local governments and their officers and employees are not liable for civil damages for the failure to seal records pursuant to this section. Other technical amendments are included.

The Attorney General's Office (AGO) estimates a workload impact of 0.2 Assistant Attorney General (AAG), 0.1 Investigator (INV) and 0.2 Paralegal (PL) at a cost of \$70,339 in Fiscal Year (FY) 2012 and each FY thereafter. The workload impact is to provide legal services for enforcement of juvenile justice data misuse.

This bill is assumed effective July 1, 2011.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

These AGO consumer protection activities are funded with General Fund-State dollars (001-1).

II. C - Expenditures

Request # 11-117-1

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

The AGO estimates a workload impact of 0.2 AAG, 0.1 INV and 0.2 PL at a cost of \$70,339 in FY2012 and each FY thereafter.

Assumptions:

1. We assume the AGO CP Division would become the lead enforcer of the policy against consumer reporting agencies promulgating juvenile justice data.
2. We assume an increase of up to three (3) additional general deterrence cases per FY.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	0.5	0.5	0.5	0.5	0.5
A-Salaries and Wages	35,498	35,498	70,996	70,996	70,996
B-Employee Benefits	9,940	9,940	19,880	19,880	19,880
C-Personal Service Contracts					
E-Goods and Services	15,286	20,286	35,572	40,572	40,572
G-Travel	1,615	1,615	3,230	3,230	3,230
J-Capital Outlays	8,000	3,000	11,000	6,000	6,000
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$70,339	\$70,339	\$140,678	\$140,678	\$140,678

III. B - Detail: List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA

Job Classification	Salary	FY 2012	FY 2013	2011-13	2013-15	2015-17
Assistant Attorney general	83,952	0.2	0.2	0.2	0.2	0.2
Investigator 4	69,756	0.1	0.1	0.1	0.1	0.1
Paralegal II	58,656	0.2	0.2	0.2	0.2	0.2
Total FTE's	212,364	0.5	0.5	0.5	0.5	0.5

III. C - Expenditures By Program (optional)

Program	FY 2012	FY 2013	2011-13	2013-15	2015-17
Consumer Protection Division (CPR)	70,339	70,339	140,678	140,678	140,678
Total \$	70,339	70,339	140,678	140,678	140,678

Part IV: Capital Budget Impact

NONE

None.

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

None.

Individual State Agency Fiscal Note

Bill Number: 1793 HB	Title: Access to juvenile records	Agency: 300-Dept of Social and Health Services
-----------------------------	------------------------------------------	-------------------------------------------------------

Part I: Estimates

No Fiscal Impact

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Linda Merelle	Phone: 360-786-7092	Date: 02/02/2011
Agency Preparation: Janet Scheel	Phone: 360-902-8188	Date: 02/04/2011
Agency Approval: Dan Winkley	Phone: 360-902-8179	Date: 02/04/2011
OFM Review: Adam Aaseby	Phone: 360-902-0539	Date: 02/04/2011

Request # 11HB1793.1-1

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part IV: Capital Budget Impact

NONE

Appendix G

December 2, 2011

TO: Joint Legislative Task Force on Juvenile Record Sealing
FROM: Lynne Alfasso, Data Dissemination Administrator
RE: Cost Estimate for Legislative Proposal

The Administrative Office of the Courts (AOC) has prepared an estimate of costs to implement the draft legislative proposal sent out by the Task Force staff on November 15, 2011.

**Estimated Impact of Draft Legislation from the
Joint Legislative Task Force on Juvenile Record Sealing**

Draft Summary:

Section 1 amends RCW 13.40.127 (Deferred Disposition).

Strikes the current requirement that qualifying records of vacated deferred disposition cases are sealed no later than 30 days after the juvenile's 18th birthday.

An order sealing a juvenile offender case will be included in an order vacating a conviction pursuant to RCW 13.40.127(9) when the juvenile offender is 18 or older.

When the juvenile offender is under the age of 18 when an order vacating the offender's conviction is entered, the court will schedule an administrative sealing hearing no later than 30 days after the juvenile's 18th birthday. The respondent (juvenile offender) is not required to appear at the administrative sealing hearing.

Section 2 amends RCW 13.50.050.

Juvenile offender court files will be confidential and not open to public inspection, except when a juvenile is charged with a serious violent offense as defined by RCW 9.94A.030, or a court has ordered that the file be open to public inspection.

Access to the confidential official juvenile court file is limited to the court, prosecutor, the parties and their attorney, and under certain circumstances to juvenile justice or care agencies.

The court may order a confidential official juvenile court file be open to the public after a hearing with notice to all parties.

Juvenile offense records may not be published, distributed, or sold. This includes files that are open to public access.

Section 3. New.

Section 2 is effective April 1, 2013, and applies retroactively to all existing juvenile court files of any alleged or proven juvenile offender. An existing juvenile court file containing a serious violent offense charged prior to the effective date shall be public.

Revenue

Section 2:

It is expected that the Administrative Office of the Court's JIS-Link system will reflect reduced usage since the majority of juvenile offender record information would no longer be disseminated. It is assumed that there are approximately 300,000 transactions for this information annually. The charge assessed for each transaction is \$0.065. Therefore, there would be a loss of revenue to the state of approximately \$19,500 annually.

Expenditures

Section 1:

In 2010 there were 477 juvenile offender cases resolved with a deferred disposition that included an order vacating conviction. Of those cases, 289 cases would qualify for the subsequent administrative sealing hearing.

Court input reflects that there would be no significant increase in judicial workload by including an order sealing a file when entering the order vacating conviction. Input also reflects that the administrative sealing hearing could be conducted ex parte, thus minimizing the time and costs on judicial officers, clerks, and staff. Section 1 would have minimal fiscal impact.

Section 2:

There were 18,605 juvenile offender cases filed in 2010 that did not include serious violent offenses. These cases would be indicative of the number of 2010 cases that would not appear in public search results. These cases could be subject to a hearing to open the confidential official juvenile court file.

It is not known how many hearings would be held statewide to address a motion to open confidential official juvenile court files, considering that the motion can be made by any interested party. The length of these hearings will vary. This bill allows those in attendance at a hearing to provide input. Additionally, the court needs sufficient time to consider all of the bill's requirements to open these files.

The fiscal impact of Section 2 is indeterminate but it is assumed to be in excess of \$50,000. Nevertheless, as an example of the potential impact, if it was assumed that 1 percent of these cases (186) would request a motion to open a juvenile court file that would result in a 1-hour hearing, the impact on the superior courts is estimated to be a .16 additional judge with supporting staff, at an annual cost of \$19,435 to the state, and \$92,472 to the counties, not including capital costs.

JIS Costs:

Restricting qualifying juvenile offender court records from appearing in the results of a public search requires significant modifications to the Judicial Information System. Juvenile offender cases are initiated in the JIS application to attach a JIS Person Record to a new case so that a complete case history is maintained. The case filing process is completed in the superior court case management application (SCOMIS). Security settings determine the case and Person Record information that displays to a user.

The AOC considered two options to meet the requirements of this bill:

Option 1: This juvenile offender case defaults to “confidential” at the time of filing. An “order” docket code would trigger a change from a confidential case to an open case when there is a qualifying severe violent offense. This would require a business process change. The prosecutor would need to include an order to open the file at the time of filing. Changes to security settings would be required. One new security level exclusively for law enforcement would be created for the application used by the public and justice partners (JIS-Link) searching for court record information. Adding a new security level requires significant changes to all JIS applications.

It is estimated that it will take 955 hours (requirements gathering-60; implementation-600; testing-235; documentation-60) at a one-time cost of \$114,600.

Option 2: JIS would use the law tables to determine whether a juvenile offender case qualified as a confidential or open case at time of filing. This option would require extensive changes to three law tables to add a “flag” to qualifying offenses to trigger that a case is open upon filing. Law table structure changes are significant but not quantifiable, and those costs would be in addition to the data, case filing, and security estimate of \$114,600 for Option 1 above.

Section 3.

The information technology changes identified above include a process to convert cases filed prior to the effective date of this bill to confidential cases so that they would not appear in a public search.

If this process is not included, the County Clerks would need to manually seal all juvenile offender cases filed prior to the effective date. The cost for this is indeterminate. However, one County Clerk estimated that one FTE would be required for one year to seal her office’s juvenile offender records. (Caseload filing data reveals approximately 23,300 juvenile offender cases were filed in that office from 1998 to 2010.)

Appendix H

**CATEGORIZATION OF RECOMMENDATIONS BY THE MEMBERS OF THE JUVENILE RECORD SEALING TASK FORCE
(Summary of Issues)**

CATEGORY	PROPOSAL
SEALING	<p><u>Scope and Timing of Sealing</u></p> <ul style="list-style-type: none"> • Automatically seal all records at a time certain. • Juvenile records will be automatically sealed when a juvenile becomes eligible under RCW 13.50.050. Juvenile records will remain sealed unless and until a juvenile is later convicted of an adult felony, in which case the records will be open to the public. <p><u>Clarity and Consistency</u></p> <ul style="list-style-type: none"> • Statutory sealing provisions must be clear and consistent to promote accuracy throughout the state without additional financial burden to court clerks. • Clarify the statutes so that it is clear what records are being sealed: social file, diversion file, official court file, other? <p><u>Logistics of Sealing</u></p> <ul style="list-style-type: none"> • Automatic sealing provisions should include a court order and should not be an administrative function. • Sealing pursuant to RCW 13.40.127 should be done pursuant to court order. • Require that all juvenile records pertaining to a juvenile be sealed at the time the motion to seal is made. • The more criteria that must be met for the record to be sealed, the more difficult it will be to automate the process. • Fix the current problems and ambiguities with sealing records of vacated deferred dispositions under RCW 13.40.127. The proposed statutory fix would require the court to set a hearing to seal prospectively any vacated deferred disposition and regardless of the pending charges or the defendant's presence. • The process of sealing juvenile records should be clear, simple, and consistent; under the current legal process, many criteria must be met and it is complicated and challenging to navigate.

CATEGORY	PROPOSAL
CONFIDENTIALITY – TOTAL AS CLASS OF RECORDS	<p><u>Scope of Confidentiality</u></p> <ul style="list-style-type: none"> • Juvenile court records should be made a category of records that is confidential to the public like adoption records, involuntary commitment records and dependency/termination/at-risk youth/ truancy records. (Easiest method to implement) • Juvenile offender records are confidential and AOC and the county clerks shall not publish, distribute, sell or otherwise release any juvenile offender court record except as required by law. • The record of any unsealed juvenile adjudication will be available through the WSP until the offender reaches the age of 18 (misdemeanors) or 23 (felonies) and thereafter only to law enforcement or the prosecuting attorney.) Avoid making juvenile court records and hearings confidential, which would be contrary to constitutional mandates (Art. I, sec. 10) as well as emerging case law (<i>Ishikawa</i>).
CONFIDENTIALITY WITH SOME EXCEPTIONS	<p><u>Scope of Confidentiality</u></p> <ul style="list-style-type: none"> • All juvenile court records will be kept confidential unless and until: (a) a juvenile is later convicted of an adult felony or (b) a judge enters an order finding that it is in the best interest of the public and juvenile to open the records, after which, the records will be open to the public. Prosecutors, probation counselors, attorneys, youth and other persons considered “juvenile justice and care agencies” will have access to the confidential juvenile records. Juvenile court hearings would remain open to the public. • All juvenile court records will be kept confidential unless: (a) the subject of the record has reached age 19 and has not been convicted of an adult felony offense; or (b) the record has been sealed. • Amend the categories of records, restricting access to all juvenile records. Records would be accessible by law enforcement and courts if juvenile charged with certain violent or sex crimes. • All official juvenile offender court files are confidential unless: (a) the juvenile is charged with a serious violent offense or (b) the juvenile court has ordered that the official juvenile court file be open to public inspection in whole or in part; access to the confidential juvenile court file is limited to the court, prosecuting attorney, the parties, and their attorneys (except for the provisions allowing access for research purposes, to caseload forecast council, or to entities that have the subject under care or treatment) <p><u>Timing</u></p> <ul style="list-style-type: none"> • All juvenile records will become confidential when a juvenile turns 19. The records will remain confidential unless and until a juvenile is convicted of a felony offense. The juvenile would still be able to seal his/her records under the current provisions of RCW 13.50.050 but would also be able to have his/her record sealed automatically at age 19.

CATEGORY	PROPOSAL
	(Could also be listed under Sealing above).
EXONERATION	Not listed as an option by those responding.
OTHER	<p data-bbox="436 305 638 329"><u>Military Records</u></p> <ul data-bbox="485 337 1314 362" style="list-style-type: none"> • Policy regarding checks or requests by military should be clarified. <p data-bbox="436 407 625 431"><u>Scope of Access</u></p> <ul data-bbox="485 440 1793 578" style="list-style-type: none"> • Clarify in statute who can use juvenile records for what purpose(s). • Records for non-confidential case types that are available at the courthouse should also be available on-line. • Restricting online access to public case records will not cause the records to be invisible. • No juvenile records may be published, distributed, or sold to any credit reporting bureau of agency. <p data-bbox="436 618 688 643"><u>Non-Conviction Data</u></p> <ul data-bbox="485 651 1549 675" style="list-style-type: none"> • Pass the Regala bill (SB 5019) that restricts the distribution of a non-conviction record.