

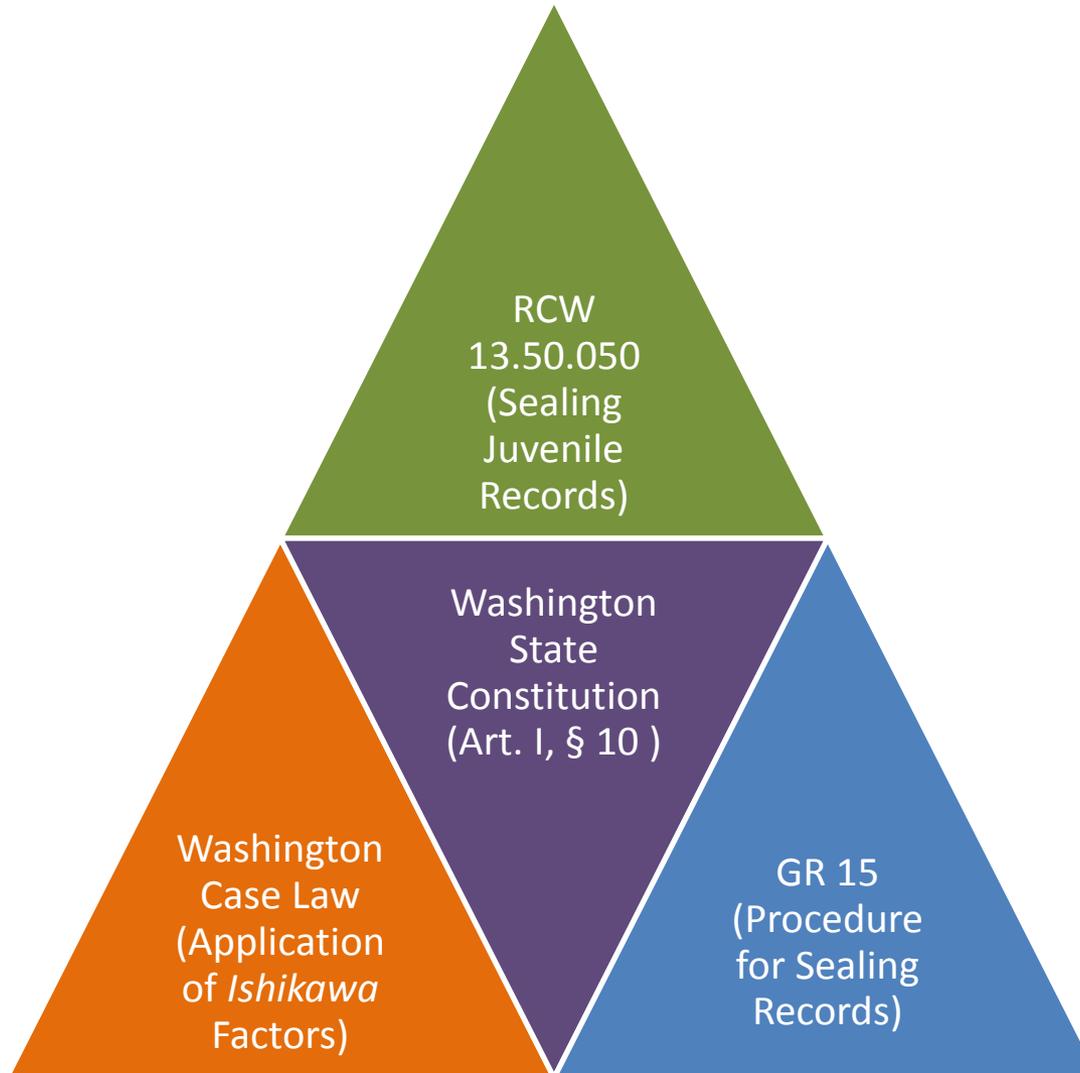
Sealing Juvenile Records Under Washington Law—Brief Overview

Joint Legislative Task Force on Sealing
Juvenile Records

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Office of Program Research

Washington Authority for Sealing Records



Washington State Constitution

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

Case Law

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

Ishikawa (con't)

- The petitioner must make a showing of a compelling interest; if not based on right to fair trial, must show “serious and imminent threat to some other important interest.”
- Anyone present when motion to seal is made must be given an opportunity to object.
- Court must carefully analyze whether the requested method for curtailing access is the least restrictive means available for protecting threatened interest.
- Court must weigh the competing interests of the defendant and the public and consider the alternative methods.
- The Court’s order must be no broader than necessary to serve its purpose.

Court Rule: GR 15

(c) Sealing or Redacting Court Records

(1) “. . .the court, or any party, or any interested person may request a hearing to seal or redact the court records.

Reasonable notice of a hearing must be given to all parties in the case. . . .”

GR 15 (con't)

- (c)(2) “After a hearing, the court may order the court files and records in the proceeding, or any part thereof, to be sealed or redacted if the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety concerns that outweigh the public interest in access to the court record.”

GR 15 (con't)

- “Agreement of the parties alone does not constitute a sufficient basis for the sealing or redaction of court records. Sufficient privacy or safety concerns that may be weighed against the public interest include findings that:
 - (A) The sealing or redaction is permitted by statute.”
 - (B) . . .

Juvenile Record Sealing Statutes

- Before 1977, statutory provisions relating to records of juvenile offenders and dependent juveniles were addressed in the same chapter.
- In 1977, the Legislature passed HB 371 which kept dependency records confidential but made juvenile offender records open to the public, unless sealed.
- In 1979, the provisions regarding juvenile offender records were moved to new and separate chapter in Title 13, which became 13.50.

Juvenile Record Sealing Statutes (con't)

- Before 1997, all juvenile offender records could be sealed after 2 years after discharge from supervision.
- Before 1997, there was no statutory requirement that full restitution be paid as a condition of sealing records.
- Before 1997, an adult felony conviction nullified sealing order

Juvenile Record Sealing Statutes (con't)

- In 1997, the Legislature passed HB 3900
- No sealing allowed for Class A felonies or sex offenses
- Class B felonies could be sealed only after 10 years in community with no offenses or pending charges
- Class C felonies could be sealed after 5 years
- No specific time frame referenced for gross misdemeanors, misdemeanors, and diversions
- Restitution must be paid in full
- Adult felony *charge* triggered nullification of sealing

Juvenile Record Sealing Statutes (con't)

- In 2001 the legislature passed SB 5691 to expressly state that the 1997 provisions applied to all motions to seal filed after July 1, 1997.
- In response to *State v. T.K.* (1999)
- In 2004 the Class B felonies could be sealed after 5 years; Class C, misdemeanors, gross misdemeanors, diversions, after 2 years.
- Class A and Sex Offenses still cannot be sealed.

Juvenile Record Sealing Statutes (con't)

- In 2008, the Legislature passed HB 1141 which required the automatic destruction of records for diversions and “counsel and release” within 90 days after the subject of the records turned 18, under certain conditions.
- In 2010, the Legislature passed SB 6561 which allowed Class A felonies to be sealed after 5 years; Class B, C, gross misdemeanors, misdemeanors, and diversions may be sealed after 2 years.

Juvenile Record Sealing Statutes (con't)

- In 2011, the Legislature passed HB 1793 and SB 5204.
- SB 5204 allowed juvenile sex offenses to be sealed where the court has relieved the petitioner from the duty to register for a sex offense.
- Person may petition to be relieved of duty to register after 5 years if 15 or older when offense committed; after 2 years if under age 15 when the offense was committed.
- HB 1793 required courts and law enforcement agencies to destroy juveniles records for which a full and unconditional pardon has been granted.