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SECOND SUBSTITUTE HOUSE BILL 1651

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AS AMENDED BY THE SENATE

Passed Legislature - 2014 Regular Session

State of Washington

63rd Legislature

2014 Regular Session

By House Appropriations Subcommittee on General Government & Information Technology (originally sponsored by Representatives Kagi, Walsh, Freeman, Roberts, Farrell, Zeiger, Goodman, Pollet, Sawyer, Appleton, Bergquist, S. Hunt, Moscoso, Jinkins, Ryu, and Morrell)

READ FIRST TIME 02/05/14.

1 AN ACT Relating to access to juvenile records; amending RCW  
2 13.50.010, 13.50.050, 13.40.127, 13.40.190, and 13.50.100; adding new  
3 sections to chapter 13.50 RCW; and creating a new section.

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

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

6 (1) The primary goal of the Washington state juvenile justice  
7 system is the rehabilitation and reintegration of former juvenile  
8 offenders. The public has a compelling interest in the rehabilitation  
9 of former juvenile offenders and their successful reintegration into  
10 society as active, law-abiding, and contributing members of their  
11 communities. When juvenile court records are publicly available,  
12 former juvenile offenders face substantial barriers to reintegration,  
13 as they are denied housing, employment, and education opportunities on  
14 the basis of these records.

15 (2) The legislature declares it is the policy of the state of  
16 Washington that the interest in juvenile rehabilitation and  
17 reintegration constitutes compelling circumstances that outweigh the  
18 public interest in continued availability of juvenile court records.  
19 The legislature intends that juvenile court proceedings be openly

1 administered but, except in limited circumstances, the records of these  
2 proceedings be closed when the juvenile has reached the age of eighteen  
3 and completed the terms of disposition.

4 **Sec. 2.** RCW 13.50.010 and 2013 c 23 s 6 are each amended to read  
5 as follows:

6 (1) For purposes of this chapter:

7 (a) "Juvenile justice or care agency" means any of the following:  
8 Police, diversion units, court, prosecuting attorney, defense attorney,  
9 detention center, attorney general, the legislative children's  
10 oversight committee, the office of the family and children's ombuds,  
11 the department of social and health services and its contracting  
12 agencies, schools; persons or public or private agencies having  
13 children committed to their custody; and any placement oversight  
14 committee created under RCW 72.05.415;

15 (b) "Official juvenile court file" means the legal file of the  
16 juvenile court containing the petition or information, motions,  
17 memorandums, briefs, findings of the court, and court orders;

18 (c) "Records" means the official juvenile court file, the social  
19 file, and records of any other juvenile justice or care agency in the  
20 case;

21 (d) "Social file" means the juvenile court file containing the  
22 records and reports of the probation counselor.

23 (2) Each petition or information filed with the court may include  
24 only one juvenile and each petition or information shall be filed under  
25 a separate docket number. The social file shall be filed separately  
26 from the official juvenile court file.

27 (3) It is the duty of any juvenile justice or care agency to  
28 maintain accurate records. To this end:

29 (a) The agency may never knowingly record inaccurate information.  
30 Any information in records maintained by the department of social and  
31 health services relating to a petition filed pursuant to chapter 13.34  
32 RCW that is found by the court to be false or inaccurate shall be  
33 corrected or expunged from such records by the agency;

34 (b) An agency shall take reasonable steps to assure the security of  
35 its records and prevent tampering with them; and

36 (c) An agency shall make reasonable efforts to insure the

1 completeness of its records, including action taken by other agencies  
2 with respect to matters in its files.

3 (4) Each juvenile justice or care agency shall implement procedures  
4 consistent with the provisions of this chapter to facilitate inquiries  
5 concerning records.

6 (5) Any person who has reasonable cause to believe information  
7 concerning that person is included in the records of a juvenile justice  
8 or care agency and who has been denied access to those records by the  
9 agency may make a motion to the court for an order authorizing that  
10 person to inspect the juvenile justice or care agency record concerning  
11 that person. The court shall grant the motion to examine records  
12 unless it finds that in the interests of justice or in the best  
13 interests of the juvenile the records or parts of them should remain  
14 confidential.

15 (6) A juvenile, or his or her parents, or any person who has  
16 reasonable cause to believe information concerning that person is  
17 included in the records of a juvenile justice or care agency may make  
18 a motion to the court challenging the accuracy of any information  
19 concerning the moving party in the record or challenging the continued  
20 possession of the record by the agency. If the court grants the  
21 motion, it shall order the record or information to be corrected or  
22 destroyed.

23 (7) The person making a motion under subsection (5) or (6) of this  
24 section shall give reasonable notice of the motion to all parties to  
25 the original action and to any agency whose records will be affected by  
26 the motion.

27 (8) The court may permit inspection of records by, or release of  
28 information to, any clinic, hospital, or agency which has the subject  
29 person under care or treatment. The court may also permit inspection  
30 by or release to individuals or agencies, including juvenile justice  
31 advisory committees of county law and justice councils, engaged in  
32 legitimate research for educational, scientific, or public purposes.  
33 ~~((The court shall release to the caseload forecast council records  
34 needed for its research and data gathering functions. Access to  
35 records or information for research purposes shall be permitted only if  
36 the anonymity of all persons mentioned in the records or information  
37 will be preserved.))~~ Each person granted permission to inspect

1 juvenile justice or care agency records for research purposes shall  
2 present a notarized statement to the court stating that the names of  
3 juveniles and parents will remain confidential.

4 (9) The court shall release to the caseload forecast council the  
5 records needed for its research and data-gathering functions. Access  
6 to caseload forecast data may be permitted by the council for research  
7 purposes only if the anonymity of all persons mentioned in the records  
8 or information will be preserved.

9 (10) Juvenile detention facilities shall release records to the  
10 caseload forecast council upon request. The commission shall not  
11 disclose the names of any juveniles or parents mentioned in the records  
12 without the named individual's written permission.

13 ((+10+)) (11) Requirements in this chapter relating to the court's  
14 authority to compel disclosure shall not apply to the legislative  
15 children's oversight committee or the office of the family and  
16 children's ombuds.

17 ((+11+)) (12) For the purpose of research only, the administrative  
18 office of the courts shall maintain an electronic research copy of all  
19 records in the judicial information system related to juveniles.  
20 Access to the research copy is restricted to the Washington state  
21 center for court research. The Washington state center for court  
22 research shall maintain the confidentiality of all confidential records  
23 and shall preserve the anonymity of all persons identified in the  
24 research copy. The research copy may not be subject to any records  
25 retention schedule and must include records destroyed or removed from  
26 the judicial information system pursuant to ((RCW 13.50.050 (17) and  
27 (+18+)) section 5 of this act and RCW 13.50.100(3).

28 ((+12+)) (13) The court shall release to the Washington state  
29 office of public defense records needed to implement the agency's  
30 oversight, technical assistance, and other functions as required by RCW  
31 2.70.020. Access to the records used as a basis for oversight,  
32 technical assistance, or other agency functions is restricted to the  
33 Washington state office of public defense. The Washington state office  
34 of public defense shall maintain the confidentiality of all  
35 confidential information included in the records.

36 **Sec. 3.** RCW 13.50.050 and 2012 c 177 s 2 are each amended to read  
37 as follows:

1 (1) This section and sections 4 and 5 of this act govern(~~(s)~~)  
2 records relating to the commission of juvenile offenses, including  
3 records relating to diversions.

4 (2) The official juvenile court file of any alleged or proven  
5 juvenile offender shall be open to public inspection, unless sealed  
6 pursuant to (~~(subsection (12) of this)~~) section 4 of this act.

7 (3) All records other than the official juvenile court file are  
8 confidential and may be released only as provided in this (~~(section)~~)  
9 chapter, RCW (~~(13.50.010,)~~) 13.40.215(~~(7)~~) and 4.24.550.

10 (4) Except as otherwise provided in this (~~(section and RCW~~  
11 ~~13.50.010)~~) chapter, records retained or produced by any juvenile  
12 justice or care agency may be released to other participants in the  
13 juvenile justice or care system only when an investigation or case  
14 involving the juvenile in question is being pursued by the other  
15 participant or when that other participant is assigned the  
16 responsibility for supervising the juvenile.

17 (5) Except as provided in RCW 4.24.550, information not in an  
18 official juvenile court file concerning a juvenile or a juvenile's  
19 family may be released to the public only when that information could  
20 not reasonably be expected to identify the juvenile or the juvenile's  
21 family.

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

28 (7) Upon the decision to arrest or the arrest, law enforcement and  
29 prosecuting attorneys may cooperate with schools in releasing  
30 information to a school pertaining to the investigation, diversion, and  
31 prosecution of a juvenile attending the school. Upon the decision to  
32 arrest or the arrest, incident reports may be released unless releasing  
33 the records would jeopardize the investigation or prosecution or  
34 endanger witnesses. If release of incident reports would jeopardize  
35 the investigation or prosecution or endanger witnesses, law enforcement  
36 and prosecuting attorneys may release information to the maximum extent  
37 possible to assist schools in protecting other students, staff, and  
38 school property.

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

12 (9) Upon request of the victim of a crime or the victim's immediate  
13 family, the identity of an alleged or proven juvenile offender alleged  
14 or found to have committed a crime against the victim and the identity  
15 of the alleged or proven juvenile offender's parent, guardian, or  
16 custodian and the circumstance of the alleged or proven crime shall be  
17 released to the victim of the crime or the victim's immediate family.

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

26 ~~(11) ((In any case in which an information has been filed pursuant~~  
27 ~~to RCW 13.40.100 or a complaint has been filed with the prosecutor and~~  
28 ~~referred for diversion pursuant to RCW 13.40.070, the person the~~  
29 ~~subject of the information or complaint may file a motion with the~~  
30 ~~court to have the court vacate its order and findings, if any, and,~~  
31 ~~subject to subsection (23) of this section, order the sealing of the~~  
32 ~~official juvenile court file, the social file, and records of the court~~  
33 ~~and of any other agency in the case.~~

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

37 ~~(i) Since the last date of release from confinement, including~~  
38 ~~full-time residential treatment, if any, or entry of disposition, the~~

1 ~~person has spent five consecutive years in the community without~~  
2 ~~committing any offense or crime that subsequently results in an~~  
3 ~~adjudication or conviction;~~

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

6 ~~(iii) No proceeding is pending seeking the formation of a diversion~~  
7 ~~agreement with that person;~~

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

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

14 ~~(vi) Full restitution has been paid.~~

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

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

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

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

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

30 ~~(v) Full restitution has been paid.~~

31 ~~(c) Notwithstanding the requirements in (a) or (b) of this~~  
32 ~~subsection, the court shall grant any motion to seal records of any~~  
33 ~~deferred disposition vacated under RCW 13.40.127(9) prior to June 7,~~  
34 ~~2012, if restitution has been paid and the person is eighteen years of~~  
35 ~~age or older at the time of the motion.~~

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

1       ~~(14)(a) If the court grants the motion to seal made pursuant to~~  
2 ~~subsection (11) of this section, it shall, subject to subsection (23)~~  
3 ~~of this section, order sealed the official juvenile court file, the~~  
4 ~~social file, and other records relating to the case as are named in the~~  
5 ~~order. Thereafter, the proceedings in the case shall be treated as if~~  
6 ~~they never occurred, and the subject of the records may reply~~  
7 ~~accordingly to any inquiry about the events, records of which are~~  
8 ~~sealed. Any agency shall reply to any inquiry concerning confidential~~  
9 ~~or sealed records that records are confidential, and no information can~~  
10 ~~be given about the existence or nonexistence of records concerning an~~  
11 ~~individual.~~

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

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

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

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



1       ~~(A) The person who is the subject of the information or complaint~~  
2 ~~is at least eighteen years of age;~~

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

5       ~~(C) Two years have elapsed since completion of the agreement or~~  
6 ~~counsel and release;~~

7       ~~(D) No proceeding is pending against the person seeking the~~  
8 ~~conviction of a criminal offense; and~~

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

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

18       ~~(iii) The state and local governments and their officers and~~  
19 ~~employees are not liable for civil damages for the failure to destroy~~  
20 ~~records pursuant to this section.~~

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

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

34       ~~(d) A person twenty three years of age or older whose criminal~~  
35 ~~history consists of only referrals for diversion may request that the~~  
36 ~~court order the records in those cases destroyed. The request shall be~~  
37 ~~granted, subject to subsection (23) of this section, if the court finds~~

1 ~~that all diversion agreements have been successfully completed and no~~  
2 ~~proceeding is pending against the person seeking the conviction of a~~  
3 ~~criminal offense.~~

4 ~~(18) If the court grants the motion to destroy records made~~  
5 ~~pursuant to subsection (17)(c) or (d) of this section, it shall,~~  
6 ~~subject to subsection (23) of this section, order the official juvenile~~  
7 ~~court file, the social file, and any other records named in the order~~  
8 ~~to be destroyed.~~

9 ~~(19) The person making the motion pursuant to subsection (17)(c)~~  
10 ~~or (d) of this section shall give reasonable notice of the motion to~~  
11 ~~the prosecuting attorney and to any agency whose records are sought to~~  
12 ~~be destroyed.~~

13 ~~(20)) Any juvenile to whom the provisions of this section or~~  
14 ~~section 4 or 5 of this act may apply shall be given written notice of~~  
15 ~~his or her rights under this section at the time of his or her~~  
16 ~~disposition hearing or during the diversion process.~~

17 ~~((21)) (12) Nothing in this section or section 4 or 5 of this act~~  
18 ~~may be construed to prevent a crime victim or a member of the victim's~~  
19 ~~family from divulging the identity of the alleged or proven juvenile~~  
20 ~~offender or his or her family when necessary in a civil proceeding.~~

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

25 ~~(a) Records may be routinely destroyed only when the person the~~  
26 ~~subject of the information or complaint has attained twenty three years~~  
27 ~~of age or older or pursuant to subsection (17)(a) of this section.~~

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

30 ~~(23)) (13) Except ((for subsection (17)(b) of this section)) as~~  
31 ~~provided in section 5(2) of this act, no identifying information held~~  
32 ~~by the Washington state patrol in accordance with chapter 43.43 RCW is~~  
33 ~~subject to destruction or sealing under this section. For the purposes~~  
34 ~~of this subsection, identifying information includes photographs,~~  
35 ~~fingerprints, palmprints, soleprints, toeprints and any other data that~~  
36 ~~identifies a person by physical characteristics, name, birthdate or~~  
37 ~~address, but does not include information regarding criminal activity,~~

1 arrest, charging, diversion, conviction or other information about a  
2 person's treatment by the criminal justice system or about the person's  
3 behavior.

4 ~~((+24+))~~ (14) Information identifying child victims under age  
5 eighteen who are victims of sexual assaults by juvenile offenders is  
6 confidential and not subject to release to the press or public without  
7 the permission of the child victim or the child's legal guardian.  
8 Identifying information includes the child victim's name, addresses,  
9 location, photographs, and in cases in which the child victim is a  
10 relative of the alleged perpetrator, identification of the relationship  
11 between the child and the alleged perpetrator. Information identifying  
12 a child victim of sexual assault may be released to law enforcement,  
13 prosecutors, judges, defense attorneys, or private or governmental  
14 agencies that provide services to the child victim of sexual assault.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 13.50 RCW  
16 to read as follows:

17 (1)(a) The court shall hold regular sealing hearings. During these  
18 regular sealing hearings, the court shall administratively seal an  
19 individual's juvenile court record pursuant to the requirements of this  
20 subsection unless the court receives an objection to sealing or the  
21 court notes a compelling reason not to seal, in which case, the court  
22 shall set a contested hearing to be conducted on the record to address  
23 sealing. The respondent and his or her attorney shall be given at  
24 least eighteen days' notice of any contested sealing hearing and the  
25 opportunity to respond to any objections, but the respondent's presence  
26 is not required at any sealing hearing pursuant to this subsection.

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

31 (i) The respondent's eighteenth birthday;

32 (ii) Anticipated completion of a respondent's probation, if  
33 ordered;

34 (iii) Anticipated release from confinement at the juvenile  
35 rehabilitation administration, or the completion of parole, if the  
36 respondent is transferred to the juvenile rehabilitation  
37 administration.

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

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

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

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

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

8 (ii) The respondent has completed the terms and conditions of  
9 disposition, including affirmative conditions and financial  
10 obligations.

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

15 (2) The court shall enter a written order immediately sealing the  
16 official juvenile court record upon the acquittal after a fact finding  
17 or upon dismissal of charges.

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

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

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

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

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

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

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

7 (vi) Full restitution has been paid.

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

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

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

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

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

23 (v) Full restitution has been paid.

24 (c) Notwithstanding the requirements in (a) or (b) of this  
25 subsection, the court shall grant any motion to seal records of any  
26 deferred disposition vacated under RCW 13.40.127(9) prior to June 7,  
27 2012, if restitution has been paid and the person is eighteen years of  
28 age or older at the time of the motion.

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

32 (6)(a) If the court enters a written order sealing the juvenile  
33 court record pursuant to this section, it shall, subject to RCW  
34 13.50.050(13), order sealed the official juvenile court record, the  
35 social file, and other records relating to the case as are named in the  
36 order. Thereafter, the proceedings in the case shall be treated as if  
37 they never occurred, and the subject of the records may reply  
38 accordingly to any inquiry about the events, records of which are

1 sealed. Any agency shall reply to any inquiry concerning confidential  
2 or sealed records that records are confidential, and no information can  
3 be given about the existence or nonexistence of records concerning an  
4 individual.

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

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

18 (8)(a) Any adjudication of a juvenile offense or a crime subsequent  
19 to sealing has the effect of nullifying a sealing order; however, the  
20 court may order the juvenile court record resealed upon disposition of  
21 the subsequent matter if the case meets the sealing criteria under this  
22 section and the court record has not previously been resealed.

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

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

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

35 NEW SECTION. **Sec. 5.** A new section is added to chapter 13.50 RCW  
36 to read as follows:

37 (1)(a) Subject to RCW 13.50.050(13), all records maintained by any

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

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

8 (ii) The person's criminal history consists entirely of one  
9 diversion agreement or counsel and release entered on or after June 12,  
10 2008;

11 (iii) Two years have elapsed since completion of the agreement or  
12 counsel and release;

13 (iv) No proceeding is pending against the person seeking the  
14 conviction of a criminal offense; and

15 (v) There is no restitution owing in the case.

16 (b) No less than quarterly, the administrative office of the courts  
17 shall provide a report to the juvenile courts of those individuals  
18 whose records may be eligible for destruction. The juvenile court  
19 shall verify eligibility and notify the Washington state patrol and the  
20 appropriate local law enforcement agency and prosecutor's office of the  
21 records to be destroyed. The requirement to destroy records under this  
22 subsection is not dependent on a court hearing or the issuance of a  
23 court order to destroy records.

24 (c) The state and local governments and their officers and  
25 employees are not liable for civil damages for the failure to destroy  
26 records pursuant to this section.

27 (2) All records maintained by any court or law enforcement agency,  
28 including the juvenile court, local law enforcement, the Washington  
29 state patrol, and the prosecutor's office, shall be automatically  
30 destroyed within thirty days of being notified by the governor's office  
31 that the subject of those records received a full and unconditional  
32 pardon by the governor.

33 (3)(a) A person may request that the court order the records in his  
34 or her case destroyed as follows:

35 (i) A person eighteen years of age or older whose criminal history  
36 consists entirely of one diversion agreement or counsel and release  
37 entered prior to June 12, 2008. The request shall be granted if the

1 court finds that two years have elapsed since completion of the  
2 agreement or counsel and release.

3 (ii) A person twenty-three years of age or older whose criminal  
4 history consists of only referrals for diversion. The request shall be  
5 granted if the court finds that all diversion agreements have been  
6 successfully completed and no proceeding is pending against the person  
7 seeking the conviction of a criminal offense.

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

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

15 (4) Any juvenile justice or care agency may, subject to the  
16 limitations in RCW 13.50.050(13) and this section, develop procedures  
17 for the routine destruction of records relating to juvenile offenses  
18 and diversions.

19 (a) Records may be routinely destroyed only when the person the  
20 subject of the information or complaint has attained twenty-three years  
21 of age or older or pursuant to subsection (1) of this section.

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

24 **Sec. 6.** RCW 13.40.127 and 2013 c 179 s 5 are each amended to read  
25 as follows:

26 (1) A juvenile is eligible for deferred disposition unless he or  
27 she:

- 28 (a) Is charged with a sex or violent offense;
- 29 (b) Has a criminal history which includes any felony;
- 30 (c) Has a prior deferred disposition or deferred adjudication; or
- 31 (d) Has two or more adjudications.

32 (2) The juvenile court may, upon motion at least fourteen days  
33 before commencement of trial and, after consulting the juvenile's  
34 custodial parent or parents or guardian and with the consent of the  
35 juvenile, continue the case for disposition for a period not to exceed  
36 one year from the date the juvenile is found guilty. The court shall  
37 consider whether the offender and the community will benefit from a



1 deferred disposition before deferring the disposition. The court may  
2 waive the fourteen-day period anytime before the commencement of trial  
3 for good cause.

4 (3) Any juvenile who agrees to a deferral of disposition shall:

5 (a) Stipulate to the admissibility of the facts contained in the  
6 written police report;

7 (b) Acknowledge that the report will be entered and used to support  
8 a finding of guilt and to impose a disposition if the juvenile fails to  
9 comply with terms of supervision;

10 (c) Waive the following rights to: (i) A speedy disposition; and  
11 (ii) call and confront witnesses; and

12 (d) Acknowledge the direct consequences of being found guilty and  
13 the direct consequences that will happen if an order of disposition is  
14 entered.

15 The adjudicatory hearing shall be limited to a reading of the  
16 court's record.

17 (4) Following the stipulation, acknowledgment, waiver, and entry of  
18 a finding or plea of guilt, the court shall defer entry of an order of  
19 disposition of the juvenile.

20 (5) Any juvenile granted a deferral of disposition under this  
21 section shall be placed under community supervision. The court may  
22 impose any conditions of supervision that it deems appropriate  
23 including posting a probation bond. Payment of restitution under RCW  
24 13.40.190 shall be a condition of community supervision under this  
25 section.

26 The court may require a juvenile offender convicted of animal  
27 cruelty in the first degree to submit to a mental health evaluation to  
28 determine if the offender would benefit from treatment and such  
29 intervention would promote the safety of the community. After  
30 consideration of the results of the evaluation, as a condition of  
31 community supervision, the court may order the offender to attend  
32 treatment to address issues pertinent to the offense.

33 The court may require the juvenile to undergo a mental health or  
34 substance abuse assessment, or both. If the assessment identifies a  
35 need for treatment, conditions of supervision may include treatment for  
36 the assessed need that has been demonstrated to improve behavioral  
37 health and reduce recidivism.

1 (6) A parent who signed for a probation bond has the right to  
2 notify the counselor if the juvenile fails to comply with the bond or  
3 conditions of supervision. The counselor shall notify the court and  
4 surety of any failure to comply. A surety shall notify the court of  
5 the juvenile's failure to comply with the probation bond. The state  
6 shall bear the burden to prove, by a preponderance of the evidence,  
7 that the juvenile has failed to comply with the terms of community  
8 supervision.

9 (7)(a) Anytime prior to the conclusion of the period of  
10 supervision, the prosecutor or the juvenile's juvenile court community  
11 supervision counselor may file a motion with the court requesting the  
12 court revoke the deferred disposition based on the juvenile's lack of  
13 compliance or treat the juvenile's lack of compliance as a violation  
14 pursuant to RCW 13.40.200.

15 (b) If the court finds the juvenile failed to comply with the terms  
16 of the deferred disposition, the court may:

17 (i) Revoke the deferred disposition and enter an order of  
18 disposition; or

19 (ii) Impose sanctions for the violation pursuant to RCW 13.40.200.

20 (8) At any time following deferral of disposition the court may,  
21 following a hearing, continue supervision for an additional one-year  
22 period for good cause.

23 (9)(a) At the conclusion of the period of supervision, the court  
24 shall determine whether the juvenile is entitled to dismissal of the  
25 deferred disposition only when the court finds:

26 (i) The deferred disposition has not been previously revoked;

27 (ii) The juvenile has completed the terms of supervision;

28 (iii) There are no pending motions concerning lack of compliance  
29 pursuant to subsection (7) of this section; and

30 (iv) The juvenile has either paid the full amount of restitution,  
31 or, made a good faith effort to pay the full amount of restitution  
32 during the period of supervision.

33 (b) If the court finds the juvenile is entitled to dismissal of the  
34 deferred disposition pursuant to (a) of this subsection, the juvenile's  
35 conviction shall be vacated and the court shall dismiss the case with  
36 prejudice, except that a conviction under RCW 16.52.205 shall not be  
37 vacated. Whenever a case is dismissed with restitution still owing,  
38 the court shall enter a restitution order pursuant to RCW 13.40.190 for

1 any unpaid restitution. Jurisdiction to enforce payment and modify  
2 terms of the restitution order shall be the same as those set forth in  
3 RCW 13.40.190.

4 (c) If the court finds the juvenile is not entitled to dismissal of  
5 the deferred disposition pursuant to (a) of this subsection, the court  
6 shall revoke the deferred disposition and enter an order of  
7 disposition. A deferred disposition shall remain a conviction unless  
8 the case is dismissed and the conviction is vacated pursuant to (b) of  
9 this subsection or sealed pursuant to (~~RCW 13.50.050~~) section 4 of  
10 this act.

11 (10)(a)(i) Any time the court vacates a conviction pursuant to  
12 subsection (9) of this section, if the juvenile is eighteen years of  
13 age or older and the full amount of restitution ordered has been paid,  
14 the court shall enter a written order sealing the case.

15 (ii) Any time the court vacates a conviction pursuant to subsection  
16 (9) of this section, if the juvenile is not eighteen years of age or  
17 older and full restitution ordered has been paid, the court shall  
18 schedule an administrative sealing hearing to take place no later than  
19 thirty days after the respondent's eighteenth birthday, at which time  
20 the court shall enter a written order sealing the case. The  
21 respondent's presence at the administrative sealing hearing is not  
22 required.

23 (iii) Any deferred disposition vacated prior to June 7, 2012, is  
24 not subject to sealing under this subsection.

25 (b) Nothing in this subsection shall preclude a juvenile from  
26 petitioning the court to have the records of his or her deferred  
27 dispositions sealed under (~~RCW 13.50.050 (11) and (12)~~) section 4 of  
28 this act.

29 (c) Records sealed under this provision shall have the same legal  
30 status as records sealed under (~~RCW 13.50.050~~) section 4 of this act.

31 **Sec. 7.** RCW 13.40.190 and 2010 c 134 s 1 are each amended to read  
32 as follows:

33 (1)(a) In its dispositional order, the court shall require the  
34 respondent to make restitution to any persons who have suffered loss or  
35 damage as a result of the offense committed by the respondent. In  
36 addition, restitution may be ordered for loss or damage if the offender  
37 pleads guilty to a lesser offense or fewer offenses and agrees with the

1 prosecutor's recommendation that the offender be required to pay  
2 restitution to a victim of an offense or offenses which, pursuant to a  
3 plea agreement, are not prosecuted.

4 (b) Restitution may include the costs of counseling reasonably  
5 related to the offense.

6 (c) The payment of restitution shall be in addition to any  
7 punishment which is imposed pursuant to the other provisions of this  
8 chapter.

9 (d) The court may determine the amount, terms, and conditions of  
10 the restitution including a payment plan extending up to ten years if  
11 the court determines that the respondent does not have the means to  
12 make full restitution over a shorter period. For the purposes of this  
13 section, the respondent shall remain under the court's jurisdiction for  
14 a maximum term of ten years after the respondent's eighteenth birthday  
15 and, during this period, the restitution portion of the dispositional  
16 order may be modified as to amount, terms, and conditions at any time.  
17 Prior to the expiration of the ten-year period, the juvenile court may  
18 extend the judgment for the payment of restitution for an additional  
19 ten years. If the court grants a respondent's petition pursuant to  
20 (~~RCW 13.50.050(11)~~) section 4 of this act, the court's jurisdiction  
21 under this subsection shall terminate.

22 (e) Nothing in this section shall prevent a respondent from  
23 petitioning the court pursuant to (~~RCW 13.50.050(11)~~) section 4 of  
24 this act if the respondent has paid the full restitution amount stated  
25 in the court's order and has met the statutory criteria.

26 (f) If the respondent participated in the crime with another person  
27 or other persons, all such participants shall be jointly and severally  
28 responsible for the payment of restitution.

29 (g) At any time, the court may determine that the respondent is not  
30 required to pay, or may relieve the respondent of the requirement to  
31 pay, full or partial restitution to any insurance provider authorized  
32 under Title 48 RCW if the respondent reasonably satisfies the court  
33 that he or she does not have the means to make full or partial  
34 restitution to the insurance provider and could not reasonably acquire  
35 the means to pay the insurance provider the restitution over a ten-year  
36 period.

37 (2) Regardless of the provisions of subsection (1) of this section,  
38 the court shall order restitution in all cases where the victim is

1 entitled to benefits under the crime victims' compensation act, chapter  
2 7.68 RCW. If the court does not order restitution and the victim of  
3 the crime has been determined to be entitled to benefits under the  
4 crime victims' compensation act, the department of labor and  
5 industries, as administrator of the crime victims' compensation  
6 program, may petition the court within one year of entry of the  
7 disposition order for entry of a restitution order. Upon receipt of a  
8 petition from the department of labor and industries, the court shall  
9 hold a restitution hearing and shall enter a restitution order.

10 (3) If an order includes restitution as one of the monetary  
11 assessments, the county clerk shall make disbursements to victims named  
12 in the order. The restitution to victims named in the order shall be  
13 paid prior to any payment for other penalties or monetary assessments.

14 (4) For purposes of this section, "victim" means any person who has  
15 sustained emotional, psychological, physical, or financial injury to  
16 person or property as a direct result of the offense charged. "Victim"  
17 may also include a known parent or guardian of a victim who is a minor  
18 child or is not a minor child but is incapacitated, incompetent,  
19 disabled, or deceased.

20 (5) A respondent under obligation to pay restitution may petition  
21 the court for modification of the restitution order.

22 **Sec. 8.** RCW 13.50.100 and 2013 c 23 s 7 are each amended to read  
23 as follows:

24 (1) This section governs records not covered by RCW 13.50.050 and  
25 sections 4 and 5 of this act.

26 (2) Records covered by this section shall be confidential and shall  
27 be released only pursuant to this section and RCW 13.50.010.

28 (3) Records retained or produced by any juvenile justice or care  
29 agency may be released to other participants in the juvenile justice or  
30 care system only when an investigation or case involving the juvenile  
31 in question is being pursued by the other participant or when that  
32 other participant is assigned the responsibility of supervising the  
33 juvenile. Records covered under this section and maintained by the  
34 juvenile courts which relate to the official actions of the agency may  
35 be entered in the statewide judicial information system. However,  
36 truancy records associated with a juvenile who has no other case  
37 history, and records of a juvenile's parents who have no other case

1 history, shall be removed from the judicial information system when the  
2 juvenile is no longer subject to the compulsory attendance laws in  
3 chapter 28A.225 RCW. A county clerk is not liable for unauthorized  
4 release of this data by persons or agencies not in his or her employ or  
5 otherwise subject to his or her control, nor is the county clerk liable  
6 for inaccurate or incomplete information collected from litigants or  
7 other persons required to provide identifying data pursuant to this  
8 section.

9 (4) Subject to (a) of this subsection, the department of social and  
10 health services may release information retained in the course of  
11 conducting child protective services investigations to a family or  
12 juvenile court hearing a petition for custody under chapter 26.10 RCW.

13 (a) Information that may be released shall be limited to  
14 information regarding investigations in which: (i) The juvenile was an  
15 alleged victim of abandonment or abuse or neglect; or (ii) the  
16 petitioner for custody of the juvenile, or any individual aged sixteen  
17 or older residing in the petitioner's household, is the subject of a  
18 founded or currently pending child protective services investigation  
19 made by the department subsequent to October 1, 1998.

20 (b) Additional information may only be released with the written  
21 consent of the subject of the investigation and the juvenile alleged to  
22 be the victim of abandonment or abuse and neglect, or the parent,  
23 custodian, guardian, or personal representative of the juvenile, or by  
24 court order obtained with notice to all interested parties.

25 (5) Any disclosure of records or information by the department of  
26 social and health services pursuant to this section shall not be deemed  
27 a waiver of any confidentiality or privilege attached to the records or  
28 information by operation of any state or federal statute or regulation,  
29 and any recipient of such records or information shall maintain it in  
30 such a manner as to comply with such state and federal statutes and  
31 regulations and to protect against unauthorized disclosure.

32 (6) A contracting agency or service provider of the department of  
33 social and health services that provides counseling, psychological,  
34 psychiatric, or medical services may release to the office of the  
35 family and children's ombuds information or records relating to  
36 services provided to a juvenile who is dependent under chapter 13.34  
37 RCW without the consent of the parent or guardian of the juvenile, or

1 of the juvenile if the juvenile is under the age of thirteen years,  
2 unless such release is otherwise specifically prohibited by law.

3 (7) A juvenile, his or her parents, the juvenile's attorney, and  
4 the juvenile's parent's attorney, shall, upon request, be given access  
5 to all records and information collected or retained by a juvenile  
6 justice or care agency which pertain to the juvenile except:

7 (a) If it is determined by the agency that release of this  
8 information is likely to cause severe psychological or physical harm to  
9 the juvenile or his or her parents the agency may withhold the  
10 information subject to other order of the court: PROVIDED, That if the  
11 court determines that limited release of the information is  
12 appropriate, the court may specify terms and conditions for the release  
13 of the information; or

14 (b) If the information or record has been obtained by a juvenile  
15 justice or care agency in connection with the provision of counseling,  
16 psychological, psychiatric, or medical services to the juvenile, when  
17 the services have been sought voluntarily by the juvenile, and the  
18 juvenile has a legal right to receive those services without the  
19 consent of any person or agency, then the information or record may not  
20 be disclosed to the juvenile's parents without the informed consent of  
21 the juvenile unless otherwise authorized by law; or

22 (c) That the department of social and health services may delete  
23 the name and identifying information regarding persons or organizations  
24 who have reported alleged child abuse or neglect.

25 (8) A juvenile or his or her parent denied access to any records  
26 following an agency determination under subsection (7) of this section  
27 may file a motion in juvenile court requesting access to the records.  
28 The court shall grant the motion unless it finds access may not be  
29 permitted according to the standards found in subsection (7)(a) and (b)  
30 of this section.

31 (9) The person making a motion under subsection (8) of this section  
32 shall give reasonable notice of the motion to all parties to the  
33 original action and to any agency whose records will be affected by the  
34 motion.

35 (10) Subject to the rules of discovery in civil cases, any party to  
36 a proceeding seeking a declaration of dependency or a termination of  
37 the parent-child relationship and any party's counsel and the guardian  
38 ad litem of any party, shall have access to the records of any natural

1 or adoptive child of the parent, subject to the limitations in  
2 subsection (7) of this section. A party denied access to records may  
3 request judicial review of the denial. If the party prevails, he or  
4 she shall be awarded attorneys' fees, costs, and an amount not less  
5 than five dollars and not more than one hundred dollars for each day  
6 the records were wrongfully denied.

7 (11) No unfounded allegation of child abuse or neglect as defined  
8 in RCW 26.44.020(1) may be disclosed to a child-placing agency, private  
9 adoption agency, or any other licensed provider.

--- END ---