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**SUBSTITUTE HOUSE BILL 2034**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** House Children, Youth & Families (originally sponsored by Representatives Frame, Harris-Talley, Berry, Fitzgibbon, Simmons, Ramel, Chase, and Macri)

1 AN ACT Relating to juvenile records; amending RCW 13.50.260 and  
2 13.50.270; adding new sections to chapter 13.50 RCW; and creating a  
3 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) Since the creation of Washington state's juvenile courts,  
7 youth adjudicated of juvenile offenses have received differing  
8 degrees of legal protections related to their juvenile records.

9 (2) As legal protections for juvenile records expanded and  
10 contracted under different Washington legislatures, juvenile records  
11 and information related to those records have been disseminated in  
12 ways that hinder individuals adjudicated of juvenile offenses from  
13 effective reintegration and harm those individuals whose protected  
14 information has been shared without recourse or accountability.

15 (3) To remedy barriers created by the release of juvenile records  
16 and information related to those records, the legislature intends to  
17 emphasize that former individuals adjudicated of juvenile offenses  
18 can seek relief for harm caused by violations of this chapter and  
19 grant individuals the right to monetary damages for violations of  
20 this chapter.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 13.50  
2    RCW to read as follows:

3        (1) (a)    Any corporation, business trust, estate, trust,  
4    partnership, association, joint venture, any other legal or  
5    commercial entity, government, governmental subdivision, agency,  
6    municipality, and other similar legal entities capable of being sued  
7    in courts of law who, directly or by means of an agent, disseminates  
8    sealed or destroyed records or links the subject of a sealed juvenile  
9    record to the commission of a juvenile offense in violation of this  
10   chapter shall be subject to legal action for damages, to be brought  
11   by the subject of those records, claiming that a violation of this  
12   chapter has occurred.

13        (b)    An individual alleging that the individual's records were  
14   disseminated in violation of this chapter may bring a civil action in  
15   any court of competent jurisdiction.

16        (c)    In a civil action under this section in which the plaintiff  
17   prevails, the court may award:

18        (i)    A per day penalty of \$100 a day for each day since the record  
19   is shared in violation of this section without corrective action  
20   taken by the entity illegally sharing the record or actual damages,  
21   whichever is greater; and

22        (ii)    Any other relief, including but not limited to an  
23   injunction, that the court deems appropriate.

24        (d)    Actual damages under this section includes mental pain and  
25   suffering endured by the subject of the records that were  
26   disseminated in violation of this chapter.

27        (e)    In addition to any relief awarded under (c) of this  
28   subsection, the court shall award reasonable attorneys' fees and  
29   costs to any prevailing plaintiff.

30        (2)    Nothing in this section shall be construed to limit other  
31   remedies available for violations of the provisions of this chapter.

32        (3)    Employees of governments, governmental subdivisions,  
33   agencies, and municipalities are not liable for civil damages under  
34   this section for actions taken as part of their work as such an  
35   employee.

36        (4)    Any corporation, business trust, estate, trust, partnership,  
37   association, joint venture, any other legal or commercial entity,  
38   government, governmental subdivision, agency, municipality, and other  
39   legal entities are not liable under this section for illegally  
40   sharing a sealed or destroyed juvenile record if the entity did not

1 have notice that a record is sealed under RCW 13.50.260 or destroyed  
2 under RCW 13.50.270.

3 **Sec. 3.** RCW 13.50.260 and 2020 c 184 s 1 are each amended to  
4 read as follows:

5 (1)(a) The court shall hold regular sealing hearings. During  
6 these regular sealing hearings, the court shall administratively seal  
7 an individual's juvenile record pursuant to the requirements of this  
8 subsection. Although the juvenile record shall be sealed, the social  
9 file may be available to any juvenile justice or care agency when an  
10 investigation or case involving the juvenile subject of the records  
11 is being prosecuted by the juvenile justice or care agency or when  
12 the juvenile justice or care agency is assigned the responsibility of  
13 supervising the juvenile. The juvenile respondent's presence is not  
14 required at any administrative sealing hearing.

15 (b) At ~~((the))~~ a juvenile disposition hearing ~~((of a juvenile~~  
16 ~~offender))~~, the court shall provide notice of the juvenile's  
17 eligibility for juvenile records sealing to the juvenile and victims  
18 of the offense and schedule an administrative sealing hearing to take  
19 place during the first regularly scheduled sealing hearing after the  
20 latest of the following events that apply:

21 (i) The respondent's ~~((eighteenth))~~ 18th birthday;

22 (ii) Anticipated end date of a respondent's probation, if  
23 ordered;

24 (iii) Anticipated release from confinement at the juvenile  
25 rehabilitation administration, or the completion of parole, if the  
26 respondent is transferred to the juvenile rehabilitation  
27 administration.

28 (c) The court shall not schedule an administrative sealing  
29 hearing at the disposition and no administrative sealing hearing  
30 shall occur if one of the offenses for which the court has entered a  
31 disposition is at the time of commission of the offense:

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

33 (ii) A sex offense under chapter 9A.44 RCW; or

34 (iii) A drug offense, as defined in RCW 9.94A.030.

35 (d) At the time of the scheduled administrative sealing hearing,  
36 the court shall enter a written order sealing the respondent's  
37 juvenile court record pursuant to this subsection if the court finds  
38 by a preponderance of the evidence that the respondent is no longer  
39 on supervision for the case being considered for sealing and has paid

1 the full amount of restitution owing to the individual victim named  
2 in the restitution order, excluding restitution owed to any public or  
3 private entity providing insurance coverage or health care coverage.  
4 In determining whether the respondent is on supervision or owes  
5 restitution, the court shall take judicial notice of court records,  
6 including records of the county clerk, and, if necessary, sworn  
7 testimony from a representative of the juvenile department.

8 (e) At the time of the administrative sealing hearing, if the  
9 court finds the respondent remains on supervision for the case being  
10 considered for sealing, then the court shall continue the  
11 administrative sealing hearing to a date within (~~thirty~~) 30 days  
12 following the anticipated end date of the respondent's supervision.  
13 At the next administrative sealing hearing, the court shall again  
14 determine the respondent's eligibility for sealing (~~his or her~~) the  
15 respondent's juvenile court record pursuant to (d) of this  
16 subsection, and, if necessary, continue the hearing again as provided  
17 in this subsection.

18 (f)(i) During the administrative sealing hearing, if the court  
19 finds the respondent is no longer on supervision for the case being  
20 considered for sealing, but the respondent has not paid the full  
21 amount of restitution owing to the individual victim named in the  
22 restitution order, excluding any public or private entity providing  
23 insurance coverage or health care coverage, the court shall deny  
24 sealing the juvenile court record in a written order that: (A)  
25 Specifies the amount of restitution that remains unpaid to the  
26 original victim, excluding any public or private entity providing  
27 insurance coverage or health care coverage; and (B) provides  
28 direction to the respondent on how to pursue the sealing of records  
29 associated with this cause of action.

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

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

1 any public or private entity providing insurance coverage or health  
2 care coverage, and request an administrative sealing hearing. Upon  
3 verification of the satisfaction of the restitution payment, the  
4 juvenile court department staff shall circulate for signature an  
5 order sealing the file, and file the signed order with the clerk's  
6 office, who shall seal the record.

7 (iv) The administrative office of the courts must ensure that  
8 sealed juvenile records remain private in case of an appeal and are  
9 either not posted or redacted from any clerks papers that are posted  
10 online with the appellate record, as well as taking any other prudent  
11 steps necessary to avoid exposing sealed juvenile records to the  
12 public.

13 (2) Except for dismissal of a deferred disposition under RCW  
14 13.40.127, the court shall enter a written order immediately sealing  
15 the official juvenile court record upon the acquittal after a fact  
16 finding or upon the dismissal of charges with prejudice, subject to  
17 the state's right, if any, to appeal the dismissal.

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

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

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

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

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

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

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

8 (vi) The person has paid the full amount of restitution owing to  
9 the individual victim named in the restitution order, excluding  
10 restitution owed to any public or private entity providing insurance  
11 coverage or health care coverage.

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

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

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

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

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

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

32 (c) Notwithstanding the requirements in (a) or (b) of this  
33 subsection, the court shall grant any motion to seal records of any  
34 deferred disposition vacated under RCW 13.40.127(9) prior to June 7,  
35 2012, if restitution has been paid and the person is (~~eighteen~~) 18  
36 years of age or older at the time of the motion.

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

1 (6) (a) If the court enters a written order sealing the juvenile  
2 court record pursuant to this section, it shall, subject to RCW  
3 13.50.050(13), order sealed the official juvenile court (~~record~~)  
4 file, the social file, and other records relating to the case as are  
5 named in the order. Thereafter, the adjudication and proceedings in  
6 the case shall be treated as if they never occurred(~~, and the~~). The  
7 subject of the sealed records may reply accordingly to any inquiry  
8 about (~~the events, records of which are sealed~~) the subject's  
9 commission of a juvenile offense, including an inquiry about whether  
10 the subject has a disqualifying arrest or adjudication, that the  
11 subject does not have a juvenile arrest or adjudication. Any agency  
12 shall reply to any inquiry concerning confidential or sealed records  
13 that any such records are confidential, and no information can be  
14 given about the existence or nonexistence of such records  
15 (~~concerning an individual~~).

16 (b) In the event the subject of the juvenile records receives a  
17 full and unconditional pardon, the proceedings in the matter upon  
18 which the pardon has been granted shall be treated as if they never  
19 occurred, and the subject of the records may reply accordingly to any  
20 inquiry about (~~the events upon which the pardon was received~~) the  
21 subject's commission of a juvenile offense, including an inquiry  
22 about whether the subject has a disqualifying adjudication, that the  
23 subject does not have such an adjudication. Any agency shall reply to  
24 any inquiry concerning the records pertaining to the events for which  
25 the subject received a pardon that any such records are confidential,  
26 and no information can be given about the existence or nonexistence  
27 of such records (~~concerning an individual~~).

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

32 (d) The court shall provide written notice to individuals whose  
33 juvenile records are sealed under this section that includes  
34 information about the meaning of having a sealed juvenile record. The  
35 written notice required under this subsection shall be in  
36 substantially the following form:

37 NOTICE

38 Your juvenile record is sealed. Under Washington law, if an  
39 employer asks about your sealed adjudication, you can respond that  
40 you have no prior juvenile arrest or adjudication. You might be

1 required to disclose the existence of a sealed adjudication under  
2 federal law. If you have a subsequent juvenile adjudication or are  
3 charged with an adult felony, your record will be unsealed.

4 (e) All Washington state government agencies that conduct state-  
5 based background checks for licensing or hiring determinations may  
6 not consider or use any information provided by an applicant related  
7 to the commission of a juvenile offense or information produced by a  
8 state source related to the commission of a juvenile offense unless  
9 the agency confirms that the official juvenile court record related  
10 to that offense remains open for public inspection.

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

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

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

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

27 (d) The Washington state patrol shall ensure that the Washington  
28 state identification system provides Washington state criminal  
29 justice agencies access to sealed juvenile records information.

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

38 (10) County clerks may interact or correspond with the  
39 respondent, (~~his or her~~) the respondent's parents, restitution  
40 recipients, and any holders of potential assets or wages of the



1 respondent for the purposes of collecting an outstanding legal  
2 financial obligation after juvenile court records have been sealed  
3 pursuant to this section.

4 (11) Persons and agencies that obtain sealed juvenile records  
5 information pursuant to this section may communicate about this  
6 information with the respondent, but may not disseminate or be  
7 compelled to release the information to any person or agency not  
8 specifically granted access to sealed juvenile records in this  
9 section.

10 (12) All criminal justice agencies must not disclose confidential  
11 information or sealed records accessed through the Washington state  
12 identification system or other means, and no information can be given  
13 to third parties other than Washington state criminal justice  
14 agencies about the existence or nonexistence of confidential or  
15 sealed records concerning an individual.

16 **Sec. 4.** RCW 13.50.270 and 2018 c 82 s 5 are each amended to read  
17 as follows:

18 (1)(a) Subject to RCW 13.50.050(13), all records maintained by  
19 any court or law enforcement agency, including the juvenile court,  
20 local law enforcement, the Washington state patrol, and the  
21 prosecutor's office, shall be automatically destroyed within  
22 (~~ninety~~) 90 days of becoming eligible for destruction. Juvenile  
23 records are eligible for destruction when:

24 (i) The person who is the subject of the information or complaint  
25 is at least (~~eighteen~~) 18 years of age;

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

29 (iii) There is no restitution owing in the case.

30 (b) Notwithstanding this subsection (1), records of successfully  
31 completed diversion agreements and counsel and release agreements  
32 remain subject to destruction under the terms set forth in  
33 subsections (2) through (4) of this section, as well as sealing under  
34 RCW 13.50.260.

35 (c) No less than quarterly, the administrative office of the  
36 courts shall provide a report to the juvenile courts of those  
37 individuals whose records may be eligible for destruction. The  
38 juvenile court shall verify eligibility and notify the Washington  
39 state patrol and the appropriate local law enforcement agency and

1 prosecutor's office of the records to be destroyed. The requirement  
2 to destroy records under this subsection is not dependent on a court  
3 hearing or the issuance of a court order to destroy records.

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

7 (2) All records maintained by any court or law enforcement  
8 agency, including the juvenile court, local law enforcement, the  
9 Washington state patrol, and the prosecutor's office, shall be  
10 automatically destroyed within ~~((thirty))~~ 30 days of being notified  
11 by the governor's office that the subject of those records received a  
12 full and unconditional pardon by the governor.

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

15 (i) A person ~~((eighteen))~~ 18 years of age or older whose criminal  
16 history consists entirely of one diversion agreement or counsel and  
17 release entered prior to June 12, 2008. The request shall be granted  
18 if the court finds that two years have elapsed since completion of  
19 the agreement or counsel and release.

20 (ii) A person ~~((twenty-three))~~ 23 years of age or older whose  
21 criminal history consists of only referrals for diversion. The  
22 request shall be granted if the court finds that all diversion  
23 agreements have been successfully completed and no proceeding is  
24 pending against the person seeking the conviction of a criminal  
25 offense.

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

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

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

37 (a) Records may be routinely destroyed only when the person the  
38 subject of the information or complaint has attained ~~((twenty-three))~~  
39 23 years of age or older or pursuant to subsection (1) of this  
40 section.

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

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

5 The department of children, youth, and families shall adopt rules  
6 governing the use of records sealed under RCW 13.50.260 related to  
7 the commission of a juvenile offense, and adopt rules creating an  
8 automatic sealing process governing the use of records that the  
9 agency holds arising from, relating to, or revealing the existence of  
10 a juvenile adjudication. These rules must specify the circumstances  
11 under which such records may be referred to, used, disclosed, or  
12 disseminated.

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