Juvenile Record Sealing

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TeamChild

Public availability of Juvenile Records

- In WA state, court records of juvenile arrests and dispositions are available to the public.

- Laws have changed over the past several years to mitigate the many negative impacts of having a juvenile record show up in background checks or a public search of court records

Expungement v. Sealing

- *Expungement* means that the record of an arrest, charge or conviction is *deleted*

- A *sealed record* still exists in a legal and physical sense, but *can not be viewed* by the public or court unless a condition triggers the unsealing of the record.

When can a juvenile record be EXPUNGED?

- **SUCCESSFUL DIVERSION** subject to conditions – RCW 13.50.270(1)

- Full and unconditional **PARDON** by Governor – RCW 13.50.270(2)

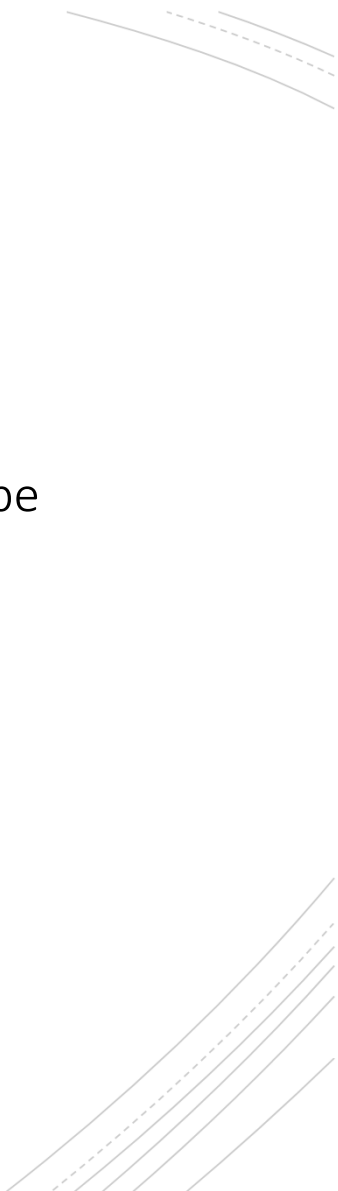- A **CATCH-ALL** from the 1970s – RCW 13.50.150

  Nothing in this chapter shall be construed to prevent the expungement of any juvenile record ordered expunged by a court to preserve the due process rights of its subject.

When can a juvenile record be SEALED?

- Immediately upon **ACQUITTAL** - RCW 13.50.260(2)

- After completion of **DIVERSION** with a motion to seal and reasonable notice – RCW 13.50.260(3)

- After a **DEFERRED DISPOSITIONS** vacated under RCW 13.40.127(9) prior to June 2012 assuming petitioner has paid restitution – RCW 13.50.260(4)(c)

- With **ADMINISTRATIVE SEALING –** RCW 13.50.260(1) – if criteria are met

- With a **MOTION to SEAL –** RCW 13.50.206(4) – if criteria are met

Motion to Seal Records

- A Motion to Seal a juvenile record can be made at anytime once the criteria for sealing are met.

Eligibility for Sealing

Class A Felony – RCW 13.50.260(4)(a)	
Time for application	At earliest, motion to seal can be made **FIVE YEARS** after release of confinement, residential treatment, or entry of disposition
Waiting Period	Petitioner must spend **FIVE YEARS** in community without new conviction; no charges pending at time of motion
Sex Crimes	Petitioner is no longer required to register
Restitution	Restitution has been paid, excluding insurance providers
LFOs	Not applicable

Eligibility for Sealing

Class B or C Felony, Gross Misdemeanors, Misdemeanor Offenses – RCW 13.50.260(4)(b)	
Time for application	At earliest, motion to seal can be made **TWO YEARS** after release of confinement, residential treatment, or entry of disposition
Waiting Period	Petitioner must spend **TWO YEARS** in community without new conviction; no charges pending at time of motion; no diversion agreement pending
Sex Crimes	Petitioner is no longer required to register
Restitution	Restitution has been paid, excluding insurance providers
LFOs	Not applicable

Administrative Sealing

- EVERY CASE/MATTER will be scheduled for administrative sealing based on the date of Disposition, REGARDLESS of eligibility for sealing

- Administrative sealing hearing date is set in DISPOSITION ORDER

- In general, the hearing date is LATEST of: 18th birthday, completion of probation, release from confinement

Eligibility Criteria for Administrative Sealing

1. Offense **CANNOT** be:

   ❑ Most serious offense, as defined in RCW 9.94A.030;

   ❑ Sex offense under chapter 9A.44 RCW; or

   ❑ Drug offense, as defined in RCW 9.94A.030;

2. Petitioner **MUST** have:

   ❑ Completed **ALL** terms and conditions of disposition

   ❑ Paid restitution to victims, excluding insurance companies

3. No one **OBJECTS**

Most Serious Offenses

- Class A felony
- Conspiracy to commit Class A felony
- Assault in the second degree;
- Assault of a child in the second degree;
- Child molestation in the second degree;
- Controlled substance homicide;
- Extortion in the first degree;
- Incest when committed against a child under age fourteen;
- Indecent liberties;
- Kidnapping in the second degree;
- Leading organized crime;
- Manslaughter in the first degree;
- Manslaughter in the second degree;
- Promoting prostitution in the first degree;

- Rape in the third degree;
- Robbery in the second degree;
- Sexual exploitation;
- Vehicular assault;
- Vehicular homicide;
- Class B felony offense with a finding of sexual motivation;
- Any felony with a deadly weapon verdict;
- Any felony offense in effect at any time prior to December 2, 1993;
- Indecent liberties in effect prior to 1988;
- Out-of-state felony with finding of sexual motivation and 10-year sentence

Sex Offenses

- Rape (1st, 2nd, 3rd degree)
- Rape of a child (1st, 2nd, 3rd degree)
- Child molestation (1st, 2nd, 3rd degree)
- Sexual misconduct with a minor (1st, 2nd degree)
- Indecent liberties
- Sexually violating human remains
- Voyeurism
- Failure to register
- Custodial sexual misconduct

(1st , 2nd degree)

- Criminal trespass against children

Drug Offenses

- Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

- Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

- Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense by chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403).

Issue	Traditional Sealing	Administrative Sealing
Who brings motion?	Person who is the subject of the record	No one – it is automatic
Who can object to sealing?	No one*	Everyone
Who is eligible for sealing?	Adult who has spent at least two – five years in community without new offense or charges pending and has paid restitution (excluding insurance companies)	Youth who has not committed ineligible offense, who has paid restitution (excluding insurance companies) and no one objects
Who does presumption favor?	Petitioner	Petitioner
Does petitioner have to pay LFOs?	No	No
Can juvenile sex offenses be sealed?	Yes, if petitioner has been relieved of obligation to register	No