

Washington State Partnership Council on Juvenile Justice

Andrew Keats, Juvenile Law Center
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Juvenile Fighting for the rights
and well-being of youth
Law Center

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Summary of Records Proposals:

2020 HB 2794 (Passed):

- Eliminates Contested hearings based on prosecutorial objection to make sealing automatic after hearing so long as supervision complete and restitution paid.
- Clarifies that Restitution does not include paying third parties/insurers.
- Clarifies limits on ability of third parties from accessing sealed records.
- Limits providing sealed records to only Washington State criminal justice agencies.

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2020 SB 6444:

- Eliminates provision that excluded drug offenses from sealing.
- Ensures Washington State Patrol removes all sealed records from identification system and eliminates requirement to provide sealed records to criminal justice agencies.
- Expands availability of expungement (currently only available for diversion cases, by petition, at age 23) to apply to all law enforcement, court, and prosecutor records that have previously been sealed, so long as person doesn't have subsequent felony offense and no case pending.

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2021 SB 5339

- Defines Expungement as destruction of documents and removal of all connection of individual to case, any findings are nonexistent and invalid.
- Eliminates provision that excluded drug offenses from sealing.
- Removal of all records sealed prior to 2015 from Washington State Patrol identification system.
- Expands availability of expungement to anyone with sealed records, and applies to records from all relevant agencies:
 - Immediately if only one offense.
 - After additional two years for two offenses.
 - Additional two years for each additional case.
- Provides that Washington State Patrol expunge all relevant record information from systems.

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2022 SB 2034

- New provision providing for right of civil action for dissemination of protected records information (\$100/day of violation, attorneys fees, injunction, additional relief as court deems appropriate). [Previously law expressly stated no right of civil action for violation of records laws.]
- Expands availability of expungement – by petition - to anyone with sealed records, and applies to records from all relevant agencies, once person reaches age 23 (so long as no restitution owing, no serious violent offense or registerable offense).
- Provides extensive criteria for court to consider for expungement of serious violent offense records, including age at offense, rehabilitation, extent of criminal culpability, time since offense.
- Defines Expungement as making records permanently irretrievable [consider whether this really means sealed]
- Create a Juvenile destruction docket with no identifying information, solely identifies case #, offense, date of destruction.
- The later substituted bill removed the expanded “expungement” provisions and replaced with improved notice provisions for sealing.

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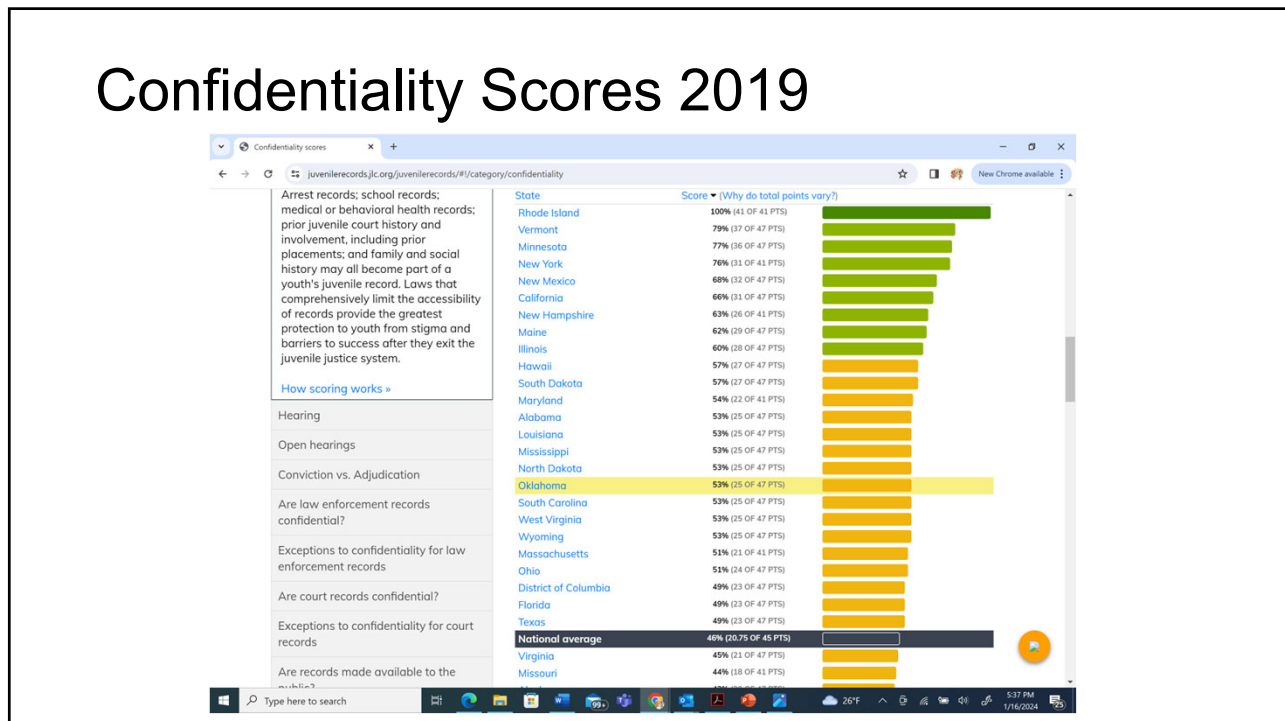
2023 SB 5644

- Makes all juvenile court files and record information with any source/agency automatically confidential.
- Provides right of civil action against any entity that violates records laws and disseminates/accesses sealed juvenile records/record information. (New Provision)
- Provides for notice of sealing eligibility at disposition hearing, and requires court notify individual of upcoming sealing hearing 6 months before hearing. Provides draft notice language that offers meaning and significance of sealing.
- Provides that any inquiry into sealed record can respond that they do not have a record.
- Provides right to counsel in connection with sealing (if necessary).

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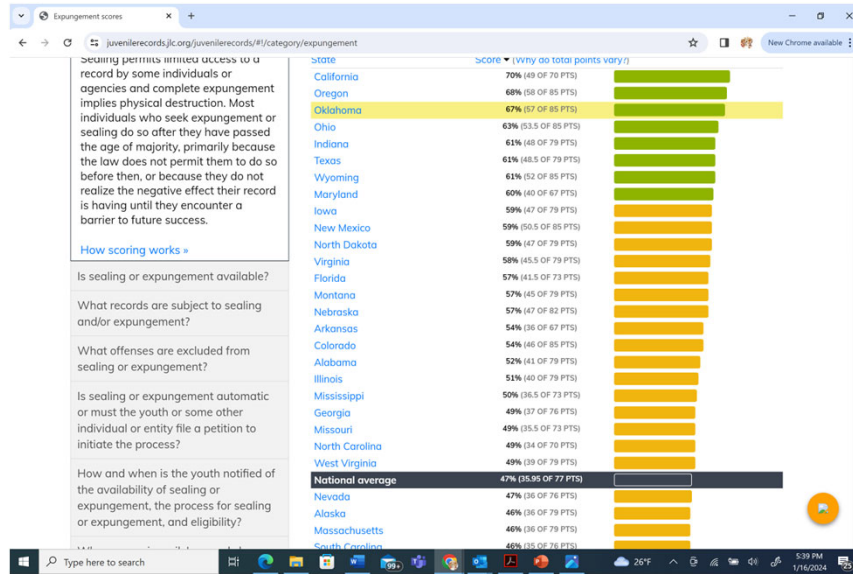
MAX TOTAL: 132/139 ADJUSTED TOTAL FOR [STATE]: 133	ACTUAL 2019 Official: 47/133 Percentile Against Adjusted (35%)	2020 HB 2794	2020 SB 6444	2021 SB 5339	2022 HB 2034	2023 SB 5644
Total: 47/133(35%) Confidential: 12/47 (26%) Seal/Expunge: 35/86 (44%)	Total: 47/133(35%) Confidential: 12/47 (26%) Seal/Expunge: 35/86 (44%) Score unimpacted despite modest improvements to sealing from 2019.	Total: 68/139 (49%) Confidential: 12/47 (26%) Seal/Expunge: 56/92 (61%) robust expungement	Total: 57/139 (42%) Confidential: 12/47 (26%) Seal/Expunge: 45/92 (49%) Includes limited expungement.	Total: 49/139 (35%) Confidential: 82/139 (59%)* Confidential: 12/47 (26%) Seal/Expunge: 43/92 (47%) if expungement process treated as sealing (permanently irretrievable = sealing) or 70/92 (76%) – if we were to count a non-destruction expungement policy as expungement.	Total: 79/139 (57%) Confidential: 32/47 (68%) Seal/Expunge: 47/92 (51%)	

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Expungement Scores 2019



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