



Juvenile Record Sealing

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Hillary Madsen, Attorney



Goals for Conversation

- Basics of juvenile record sealing: traditional and administrative sealing
- Eligibility for administrative sealing
- Access to sealed records
- Washington State Patrol
- What about the GUNS?
- Areas for improvement in administrative sealing statute
- Fines and fees post-YEAR Act

Expunging vs. Sealing

- A sealed record still “exists” in both a legal and physical sense, while expungement results in the deletion of any record that an arrest or criminal charge ever occurred.

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?

- 18th Birthday with **ADMINISTRATIVE SEALING** - RCW 13.50.260(1)
- 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)
- As an adult with a **MOTION TO SEAL** – RCW 13.50.206(4)
- 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)



Traditional Sealing

- Traditional sealing is available to **ANYONE** after their 18th birthday provided eligibility criteria are met

Class A Felony

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

All Other Classes of Offenses

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

- **EVERYONE** is scheduled for administrative sealing **REGARDLESS** of eligibility
- Administrative sealing hearing date is set forth in **DISPOSITION ORDER**
- Hearing date is **LATEST** of:
18th birthday, completion of probation, release from confinement, completion of parole

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](#)).

POP QUIZ!

- Who brings a traditional sealing motion?
- Who can object to traditional sealing motion?
- Is there a presumption in favor of sealing?
- Does the petitioner have to pay LFOs?
- Can juvenile sex offenses be sealed?

Traditional vs. Administrative Sealing

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



Access to Sealed Records

- **PROSECUTORS** through AOC
- **CRIMINAL JUSTICE AGENCIES** through Washington State Patrol database
- **COUNTY CLERKS** to collect debt
- **RESPONDENT** who is subject of the record with a court order
- **DEPARTMENT OF LICENSING**
- **RESEARCHERS** within court and judicial agencies and externally (with personal identifiers removed)

Disseminating Sealed Records – DOL

- Effective July 1, 2019, the department of licensing may release information related to records the court has ordered sealed only to the extent necessary to comply with federal law and regulation.

Disseminating Sealed Records – Everyone Else

- Persons and agencies that obtain sealed juvenile records information pursuant to this section **MAY** communicate about this information with the respondent, but **MAY NOT** disseminate or be compelled to release the information to any person or agency **NOT SPECIFICALLY GRANTED ACCESS** to sealed juvenile records in this section.

Washington State Patrol Database (WASIS)

- **Pre-2015:** whenever a Court ordered that a record be sealed, WASIS managers sealed the portion of the criminal record in WASIS and, prior to electronic storage, a hardcopy was saved in sealed envelope. No one in any law enforcement agency could access the sealed record absent court order.
- **Post-2015:** sealed juvenile court records are maintained electronically with annotation that causes record to be designated as “non-conviction information” rendering it invisible to anyone outside law enforcement agencies, but visible to agency employees with credentials.
- **Data dump:** State interpreted its obligation as requiring it to enter **ALL** sealed court records into WASIS

What about the GUNS?

Barr vs. Snohomish County Sheriff (2019)

- Federal law precludes people from possessing concealed pistol licenses whenever they have been adjudicated of certain offenses
- Law enforcement agencies have access to sealed juvenile court records in WASIS and the agencies have an affirmative duty to search WASIS prior to issuing a CPL
- Legislature “must have intended” for sealed juvenile court records to be considered when issuing a CPL
- Any sealed record that is **NOT** expunged, set aside, or for which a pardon or order restoring civil rights has been issued will preclude CPL



Areas for Improvement

- Mandatory hearings for youth with ineligible offenses
- Objections without merit
- Public insurance companies
- Number of ineligible offenses
- Access by criminal justice agencies
- Penalties for unauthorized dissemination
- Others?

Legal Financial Obligations

- Restitution has not been eliminated, but requirements have changed
- Almost every LFO has been eliminated
- Statute prospectively forbids creation of new LFOs without act of legislature

Restitution – RCW 13.40.190

- Joint and several restitution or equal division of restitution **ALLOWED**
- Community service **ALLOWED**
- Relief - partially or in full - from requirement to pay restitution to insurance company **ALLOWED**
- Modification at any time **ALLOWED**

LFOs – RCW 13.40.192

- Modification at any time is **ALLOWED** except for the following:
 - Victim Penalty Assessment
 - Crime Laboratory Analysis Fee

LFOs Eliminated

- fines for gross misdemeanors related to pet animals;
- fines for the crime of selling a pet animal to a research institution;
- penalties for cheating crimes;
- deferred prosecution or sentence fees;
- fees for the crime of commercial sexual abuse of a minor involving an Internet advertisement;
- general fines for felonies and misdemeanors;
- fines for interference with a health care facility;
- fines for the crime of unlawful issuance of a bank check;
- fines for the crime of theft of livestock;
- fines for the crimes of indecent exposure and prostitution;
- fines after impoundment of a vehicle upon arrest for prostitution-related and commercial sexual abuse of a minor crimes;
- appellate costs;
- interest on financial obligations;
- penalty assessments for crimes involving domestic violence;
- clerk's collection fees;
- conviction fees;
- sheriffs' fees;
- crime lab analysis fees;
- fees for crimes including driving under the influence, physical control of a vehicle under the influence, and vehicular homicide or assault;
- fees for crimes listed in the Uniform Controlled Substances Act;
- fines for the crime of intent to manufacture controlled substances;
- criminal wildlife penalty assessments for the crime of unlawful hunting of big game; and
- public defense costs.

LFOs in the Future – RCW 13.40.720

- Cities, towns, and counties may not impose any legal financial obligations, fees, fines, or costs associated with juvenile offenses unless there is express statutory authority for those legal financial obligations, fees, fines, or costs.

A dark blue, irregularly shaped graphic with a splatter effect, resembling a watercolor blot or a dark ink stain. The shape is roughly circular but has jagged, uneven edges. The color is a deep, rich blue. The background is white, and the blue shape has a soft, feathered edge that blends into the white background, with some smaller, darker blue spots scattered around it. In the center of the blue shape, the word "Questions?" is written in a clean, white, sans-serif font.

Questions?