

# WASHINGTON

An order of court adjudging a child a juvenile offender is not deemed a criminal conviction. WASH. REV. CODE § 13.04.240.

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## Juvenile Record Contents

Expungement applies to all records maintained by any court or law enforcement agency, including the juvenile court, local law enforcement, the Washington state patrol, and the prosecutor's office. WASH. REV. CODE § 13.50.050(17)(a) (i), (b). The Washington State Administrative Office (AOC) collects all civil, criminal, juvenile, probate, court records and even sells all court information (without distinguishing between adult and juvenile records) to all three major credit reporting bureaus. These companies have a contract with the state, which requires them to update their files each year (including purging newly-sealed records); however, the records may have already been disseminated to third parties, who are not limited by the same restrictions.

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## Confidentiality of Law Enforcement Records

The only distinction made between court records and law enforcement records pertains to law enforcement contacting school personnel. Upon the decision to arrest, law enforcement and prosecuting attorneys may release information to a school pertaining to the investigation, diversion, and prosecution of a juvenile attending the school, in order to assist schools in protecting other students, staff, and school property. WASH. REV. CODE § 13.50.050.

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## Confidentiality of Court Records

The official record of a juvenile court proceeding is available to the public without restriction unless and until the record is sealed by court order. WASH. REV. CODE § 13.50.050. Other juvenile court records are generally confidential.

**Exceptions:** The following people may see and make a copy of a child's court records (WASH. REV. CODE § 13.50.050):

- Any juvenile justice or care agency
- Court personnel
- Victim(s) of the crime(s)

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## Exceptions to Confidentiality

None, unless record is sealed by court order.

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## Availability of Records Online or in Commercial Background Reports

Portions of juvenile arrest information are available for free on-line. WASHINGTON STATE COURTS, *Search for a Case*, <http://dw.courts.wa.gov/>.

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## Consequences for Unlawfully Sharing Confidential Information

None.

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## Sealing or Expungement

**Sealing:** "[T]o seal means to protect from examination by the public and unauthorized court personnel. A motion or order to delete, purge, remove, excise, erase, or redact shall be treated as a motion or order to seal." WASH. REV. CODE § 13.50.050; Gen. R. 15.

**Expungement:** WASH. REV. CODE § 13.50.050(23)

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## Automatic (without application)

Sealing and Expungement occurs automatically for eligible individuals.

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## Excluded Offenses

Rape in the first degree, rape in the second degree, or indecent liberties that was actually committed with forcible compulsion, are never eligible for expungement. WASH. REV. CODE § 13.50.050(12)(v).

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## Eligibility

### Sealing:

- For Class A felony offenses: Petitioner must wait five years after the conviction or discharge, and must not have had any subsequent convictions or adjudications (or pending charges or pending diversion agreements).
- For Class B and C felonies, gross misdemeanors, and misdemeanors sealing will occur if: two years passed after the conviction or discharge, and Petitioner must not have had any subsequent convictions or adjudications (or pending charges or pending diversion agreements). WASH. REV. CODE § 13.50.050(12)(b).
- Juveniles who have been adjudicated of a sex offense and are required to register in the same way adults are may have their records sealed if the juvenile is under the custody of the juvenile rehabilitation administration and the end-of-sentence review committee and department of corrections review the juvenile's file and assign an initial risk classification; or if the juvenile is on probation at the county level or serving a sentence under a SSODA, the juvenile's initial risk classification is assigned to the county sheriff. *State v. Sanchez*, 279 P.3d 999, 1000 n.4 (Wash. Ct. App. 2012) (citing S.B. 5204, 62nd Leg., Reg. Sess. (Wash. 2011)).

**Expungement:** Expungement occurs automatically, 90 days after the person meets the following conditions:

- Person is at least 18 years old, his or her criminal history consists solely of one diversion agreement, two years have elapsed since the successful completion of the diversion, no criminal proceeding is pending, and restitution has been paid. WASH. REV. CODE §§ 13.50.050(17)(a)(i),(c).
- Person is at least 23 years old, his or her criminal history consists of only referrals for diversion, all diversion agreements have been completed, and no proceeding is pending. WASH. REV. CODE § 13.50.050(17)(d). The court will require a petition or order a hearing depending on when the diversion agreement was entered. WASH. REV. CODE § 13.50.050(17)(a)(ii); WASH. REV. CODE § 13.50.050(17)(c).

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## Notification

Any juvenile to whom the sealing/record destruction provisions may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process. WASH. REV. CODE § 13.50.050(20). No less than quarterly, the administrative office of the courts shall provide a report to the juvenile courts of those individuals whose records may be eligible for destruction. The juvenile court verifies eligibility and notifies appropriate local law enforcement agency and prosecutor's office of the records to be destroyed. Destruction is not dependent on a court hearing or the issuance of a court order to destroy records. WASH. REV. CODE § 13.50.050(17)(ii).

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## Petition/Application

**Sealing:** The official juvenile court file, the social file, and other records relating to the case as are named in the order can be sealed; any person may file a motion with the court to have the court vacate its order and finding and order the sealing. WASH. REV. CODE § 13.50.050. A juvenile who has been the subject of a charge by information or a complaint referred for diversion may move to have the court vacate the order and findings and to seal the official juvenile court file. WASH. REV. CODE §§ 13.50.050.

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## Hearing

**Sealing:** Under the General Rules, in a criminal case (or juvenile proceeding), the court, any party, or any interested person may request a hearing to seal or redact the court records. Gen. R. 15. Reasonable notice of a hearing to seal must be given to all parties in the case. In a criminal case, reasonable notice of a hearing to seal or redact must also be given to the victim, if ascertainable, and the person or agency having probationary, custodial, community placement, or community supervision over the affected adult or juvenile.

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## Court Process

After the hearing, the court may order the court files and records in the proceeding, or any part thereof, to be sealed or redacted if the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety concerns that outweigh the public interest in access to the court record. Gen. R. 15(c). While courts may destroy a record only if expressly permitted by statute, a court may order a criminal record sealed without express statutory authority if it finds that compelling circumstances require such action. The proponent of sealing must make some showing of the need for sealing, and the court must weigh the competing interests for sealing against the public's interest in open access to the files. *State v. C.R.H.*, 27 P.3d 660 (Wash. Ct. App. 2001); Gen. R. 15(c)(1)(A)-(B).

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## Effect

**Sealing:** Once a record is sealed, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events that have been sealed (however, prosecutors, judges, clerks, etc. can still see the sealed records). When the clerk receives a court order to seal the entire court file, the clerk shall seal the court file and secure it from public access. All court records filed thereafter shall also be sealed unless otherwise ordered. Sealed court records may be examined by the public only after the court records have been ordered unsealed. Inspection of a sealed juvenile court record is permitted only by order of the court upon motion made by the person who is the subject of the record. Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order, pursuant to WASH. REV. CODE § 13.50.050(16).

**Expungement:** Once the record has been expunged by court order, the juvenile proceedings are treated “as if they never occurred.”

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## Fee

None found.

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## Consequences for Sharing Expunged/Sealed Information

None.

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## Resources

Online database of juvenile records: requires the last name or docket number: WASHINGTON STATE DEPARTMENT OF CORRECTIONS, *Find an Offender*, <http://www.doc.wa.gov/offenderinfo/default.aspx>.