

Corey Fitzpatrick Model Lesson Plan 2005
Lesson: Juvenile Sealing
Time: 50 min.
Source: Columbia Legal Services Sealing manual

Goals:

- A. Provide students with accurate information regarding their “juvenile record” and sealing laws.**
- B. Encourage to be proactive/advocate for themselves and their friends in regards to sealing juvenile records.**
- C. Provide an opportunity for students to analyze and discuss the policy reasons behind sealing laws and the eligibility requirements.**

Objectives:

- A. Knowledge Objectives:** Students will know:
 - 1. There are specific eligibility rules for sealing records.
 - 2. They must be proactive to get records sealed, it does not happen automatically
 - 3. Where they can go to find further information and help with sealing records.
- B. Skills Objectives:** Students will be able to:
 - 1. Identify who is and who isn't a candidate for sealing.
 - 2. Identify and articulate what needs to happen for a currently ineligible person to become eligible for sealing.
 - 3. Articulate the policy reasons behind sealing and express their opinions in regards to that policy.
- C. Attitude Objectives:** Students will feel that,
 - 1. The law still treats juvenile crime differently than adult crime.
 - 2. There are long-term consequences to serious juvenile crimes (class A felonies)
 - 3. Even if they have a juvenile record, they can be their own advocate and turn their life around.

Classroom Methods:

- A. Introduce Topic
 - 1. Ask students what they think happens to juvenile criminal records when they turn eighteen.
 - a. Write their responses on the board.

2. Explain that there is a lot of bad information out there about what happens to juvenile records when a person turns eighteen.

a. Cross out incorrect student responses that are on the board.

Emphasize that:

i. They don't get an automatic clean slate when they turn 18.

ii. They don't automatically get excused from pending criminal charges/proceedings.

2. Explain that juvenile records do not automatically go away, and that they can cause serious hassles/setbacks throughout a person's life if they do not take the right steps to get them sealed.

3. **Brainstorm** on the board how juvenile records could negatively affect a person in adult life. Examples:

a. Housing applications, job applications, scholarships, school applications, etc.

b. Tell students that a person who successfully seals their juvenile records, and has no adult history, can answer "no criminal history" on applications.

c. Explain the difference between having records "sealed" and having them "expunged."

- **Sealed records** are protected from public examination, but they do not cease to exist. Records may be re-opened for public examination if you are convicted of a juvenile offense or adult crime, or if you are charged with a felony.

- **Expunged or destroyed records**, on the other hand, can never be re-opened. Your record may be destroyed if you only have referrals for diversion, and you meet other statutory requirements. Having your record destroyed involves a different process.

B. **Handout Sealing packet** (modified from Columbia Legal Services packet).

1. Explain **eligibility rules** for sealing.

a. Walk through the eligibility checklist (pg 2).

b. Give examples of class A, B, C felonies and highlight the differences between crimes.

i. Class A felonies are Murder, Assault 1, Arson 1, etc.

ii. Class B felonies are Assault 2, theft or possession of a firearm, burglary, etc.

iii. Class C felonies are lesser assaults, many drug charges, unlawful imprisonment, etc.

c. emphasize the different waiting periods for different crimes (2 or 5 years in community with no problems)

2. Discuss policy arguments.
 - a. Giving youth a fresh start v. protecting community from criminals. Others?
 - b. Why does our law distinguish between class A felonies and other crimes?
 - c. Why are there waiting periods?

C. Eligibility exercise

1. Hand out case scenarios (attached below).
2. Have students pair up and follow instructions on the handout.
3. Remind them to use the eligibility checklist from the sealing packet.
4. After groups complete handout, bring class back together to discuss findings. Make sure they caught the facts that disqualified some of the youth.

D. Paperwork

1. As a class, using Amy as the example, walk through the process of filling out the sealing paperwork.
2. Explain what giving notice means. Highlight who needs to be given notice. Explain how that is done.
3. Emphasize that after an order is given, they must follow up to make sure the sealing is done. Specifically, they must call Washington State Patrol and make sure their records were sealed.

E. Sealing Clinic at SU and other resources.

- a. Hand out flyer re: SU Sealing Clinic.
- b. Explain that the clinic provides free legal services for sealing cases.
- c. Point students to www.washingtonlawhelp.org for online information.

INTRODUCTION

In Washington, juvenile court records do not automatically disappear when an individual turns 18. In fact, almost all your juvenile records remain open for the public to view unless you ask a court to “seal” them. You must meet certain statutory requirements to be eligible to have your record sealed. Eligibility depends on a number of factors, including the seriousness of the juvenile offense, the amount of time that has passed since your most recent conviction, and the existence of any pending criminal matters. (See “Statutory Requirements” for details on eligibility.) If you are eligible, you must file a motion with the court to have your record sealed.

If you have been involved with the juvenile justice system, you have a juvenile court record. The juvenile court record has three components: the *official juvenile court file*, the *social file*, and *records of other juvenile justice or care agencies* involved in the case. The official juvenile court file contains petitions, motions, memoranda, briefs, findings of the court, and court orders. The social file contains the records and reports of probation counselors. The official juvenile court file is open for public inspection until sealed or expunged, but the other juvenile court records are confidential.

In addition to a juvenile court record, you have criminal history record information (CHRI) on file with the Washington State Patrol. CHRI includes information on arrests, detentions, indictments, and other formal criminal charges, as well as any disposition arising from them, such as sentences, correctional supervision, and release. It also includes identifying information, such as name, birth date, address, physical description, and fingerprints. An employer, creditor, or landlord requesting CHRI may only receive information on:

- Convictions;
- Arrests within the previous year which have not reached disposition; and
- Registered sex offenders or kidnappers.

In addition to CHRI, you may also have arrest and incident reports on file with a local law enforcement agency.

Sealed records are protected from public examination, but they do not cease to exist. Records may be re-opened for public examination if you are convicted of a juvenile offense or adult crime, or if you are charged with a felony. Expunged or destroyed records, on the other hand, can never be re-opened. Your record may be destroyed if you only have referrals for diversion, and you meet other statutory requirements. Having your record destroyed involves a different process.

PLEASE NOTE: This is not an easy process and can be frustrating. We urge you to be patient and know that even experienced attorneys can find this difficult.

STATUTORY REQUIREMENTS

To have a juvenile court record sealed, you must meet certain statutory requirements. You are eligible if you answer “no” to all of the following questions. The court may also consider other circumstances in determining whether to grant or deny your motion to seal.

	Yes	No
Are there currently any proceedings seeking a conviction against you for a juvenile offense or adult crime?		
Are there currently any proceedings seeking a diversion agreement against you?		
Have you ever been convicted of a class A felony?		
Have you ever been convicted of a sex offense?		
If you were ordered to pay restitution, do you still owe money? ¹		
If you are trying to seal records for a <i>class B felony</i> : a) Have fewer than 5 years passed since your release from confinement (which includes full-time residential treatment) or your disposition? b) Have you committed another offense or crime within those 5 years which resulted in conviction?		
If you are trying to seal records for a <i>class C felony</i> : a) Have fewer than 2 years passed since your release from confinement (which includes full-time residential treatment) or your disposition? b) Have you committed another offense or crime within those 2 years which resulted in conviction?		
If you are trying to seal records for a <i>gross misdemeanor or misdemeanor</i> : a) Have fewer than 2 years passed since your release from confinement (which includes full-time residential treatment) or your disposition? b) Have you committed another offense or crime within those 2 years which resulted in conviction?		
If you are trying to seal records for a <i>diversion agreement</i> : a) Have fewer than 2 years passed since your disposition? b) Have you committed another offense or crime within those 2 years which resulted in conviction?		

¹ If you still owe restitution to an insurance company, you may ask the court to waive all or part of the amount you owe by filing a motion in juvenile court. To get the amount reduced or waived, you must be able to show that you will not have the means to pay over the next ten years. See RCW 13.40.190(1).

SEALING INSTRUCTIONS

1. Get a copy of your criminal history or “rapsheet” by contacting the Washington State Patrol (<https://watch.wsp.wa.gov>) and a copy of your court records by contacting the juvenile or superior court clerk’s office in each county in which an offense or crime occurred.
2. Determine whether you are eligible to have your juvenile court record sealed. (See “Statutory Requirements.”)
3. If you are eligible, complete the following documents for *each* offense you are trying to seal:
 - (a) Motion and Declaration to Seal Records of Juvenile Offender Pursuant to RCW 13.50.050(11)
 - (b) Order on Motion to Seal Records of Juvenile Offender Pursuant to RCW 13.50.050(11)
 - (c) Notice of Respondent’s Motion to Seal Records of Juvenile Offender Pursuant to RCW 13.50.050(11)

One copy of each form is attached to these instructions. You may also find them at www.courts.wa.gov/forms.

4. Find out where to file your motion by calling the juvenile (or superior, if there is no juvenile court) court clerk’s office in the county in which the juvenile offense you are trying to seal occurred. Ask the office whether there is a filing fee and how much it is. Phone numbers can be found at www.courts.wa.gov/court_dir/.
5. Complete documents (a) and (b).
6. Call the appropriate clerk or hearing scheduler’s office to schedule a date, time, and judge for your hearing. The hearing will likely be set 2-4 weeks out. Complete document (c).
7. Explain to clerk that you are filing without an attorney and ask for help with the process.
8. The hearing will take place in front of the judge or commissioner who decides whether to grant or deny your motion. Someone from the prosecutor’s office or another agency may also be present. The judge or commissioner may ask you, or any of the parties, questions.
9. At the hearing,
Do:
 - Have copies of all your documents and certified mail receipts;
 - Have copies of the prosecutor’s agreed order with you, if applicable;
 - Dress nicely;
 - Arrive on time;
 - Remain courteous and polite;
 - Address the judge or commissioner as “your honor;” and
 - Answer questions directly and honestly.**Do not:**
 - Eat, drink, or chew gum;
 - Speak unless the judge asks you to; or
 - Interrupt the judge or other parties.
10. After the judge or commissioner signs the order, you need to make sure that any agency keeping records of your offense is aware that the court has ordered them sealed. Mail a letter advising each agency (the appropriate police department or sheriff’s office, the Washington State Patrol, Juvenile Rehabilitation Administration, etc.) to seal your records, along with a copy of the court order. (See “Sample Letter Advising Agency of Sealing Order.”)

SAMPLE LETTER ADVISING AGENCY OF SEALING ORDER

September 3, 2004

Washington State Patrol
Records Division
P.O. Box 42633
Olympia, WA 98504-2633

To Whom It May Concern:

The Superior Court of King County has ordered all Jane Smith's juvenile records related to cause number 00-0-00000-0 SEA sealed pursuant to RCW 13.50.050(11) and (12). A copy of the order is enclosed.

RCW 13.50.050(14) requires any agency in possession of sealed records keep the content of the records, as well as their existence or nonexistence, confidential.

Thank you for your cooperation in this matter.

Sincerely,

Jane Smith

Enclosure

ONCE YOUR RECORDS ARE SEALED

- Your offense and the proceedings in the case are treated as if they never occurred.
- You may say no to having committed the offense on any job, housing, or other application.
- Any agency receiving a request for your record must reply that the record is confidential, and the agency may not give out any information about its existence or nonexistence.
- Your fingerprints and any other identifying information kept by the Washington State Patrol are *not* sealed.
- Your record will be unsealed if you are subsequently convicted of a juvenile offense or adult crime, or if you are charged with an adult felony.

FORMS

- (a) Motion and Declaration to Seal Records of Juvenile Offender Pursuant to RCW 13.50.050(11)
- (b) Order on Motion to Seal Records of Juvenile Offender Pursuant to RCW 13.50.050(11)
- (c) Notice of Respondent's Motion to Seal Records of Juvenile Offender Pursuant to RCW 13.50.050(11)

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SUPERIOR COURT OF WASHINGTON
COUNTY OF _____
JUVENILE COURT

STATE OF WASHINGTON v.

D.O.B.: _____ Respondent.

NO:
**MOTION AND DECLARATION TO SEAL
RECORDS OF JUVENILE OFFENDER
PURSUANT TO RCW 13.50.050(11)
(MTAF)**

I. MOTION

RESPONDENT moves the court for an order sealing his or her juvenile court records. This motion is based on RCW 13.50.050(11) and (12) and the declaration of respondent.

Dated: _____
Pro Se Respondent (sign name)

Print name

II. DECLARATION OF RESPONDENT

I, _____, state as follows:

2.1. On _____ (date) I was found guilty of _____
_____ (name of offense).

2.2 Felony Conviction: Since my last date of release from confinement, including full-time residential treatment, or from the entry of disposition, I have spent _____ consecutive years in the community without committing any offense or crime that has resulted in conviction.

2.3 Misdemeanor and Gross Misdemeanor Conviction: Since my last date of release from confinement, including full-time residential treatment, or from the entry of disposition, I have spent _____ consecutive years in the community without committing any offense or crime that has resulted in conviction.

2.4 Diversion: Since completion of the Diversion Agreement, I have spent two consecutive years in the community without committing any offense or crime that subsequently resulted in conviction or diversion.

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2.5 There are no proceedings pending against me seeking the conviction of a juvenile or criminal offense.

2.6 There are no proceedings pending against me seeking the formation of a diversion agreement.

2.7 I have not been convicted of a class A felony or sex offense.

2.8 Full restitution has been paid.

2.9 I am eligible to have my records sealed under RCW 13.50.050(11) and (12) in that I have satisfied all the requirements of those statutes.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is, to the best of my knowledge, true and correct.

Signed on _____, at _____, Washington.

Signature

Print name

Address

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SUPERIOR COURT OF WASHINGTON	
	COUNTY OF _____
JUVENILE COURT	
STATE OF WASHINGTON v.	
	Respondent.
D.O.B.:	

NO:
**ORDER ON MOTION TO SEAL
RECORDS OF JUVENILE OFFENDER
PURSUANT TO RCW 13.50.050(11)
(ORSF)**

I. BASIS

THIS MATTER came on before the court on respondent's motion to seal records of juvenile offender pursuant to RCW 13.50.050(11) and (12). The court heard argument of counsel and considered the pleading submitted on the matter.

II. FINDINGS

- 2.1 Adequate notice was was not given to the appropriate parties and agencies.
- 2.2 Respondent _____ has has not satisfied the requirements of RCW 13.50.050(11) and (12).

III. ORDER

Based on the above findings, it is hereby ordered:

- The motion to seal records is denied.
- The motion to seal records is granted and it is further ordered as follows:
 1. That the order and findings in the above-entitled matter are vacated;
 2. That the official juvenile court file, the social file and all other juvenile records as specified in RCW 13.50.050(11) in the above-entitled matter are hereby sealed pursuant to RCW 13.50.050.
 3. That 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, records of which are sealed.
 4. That any agency in possession of such records sealed pursuant to this order that was given notice of the motion shall reply to any inquiry concerning such sealed records as follows:

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(a) that any record or social file is confidential and that no information can be given about the existence or nonexistence of records concerning an individual.

5. That inspection of any records sealed pursuant to this order shall only be permitted by further order of the court, except as otherwise provided in RCW 13.50.010(8) and 13.50.050(23).

6. That any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying this order. Any charges of an adult felony subsequent to the sealing, has the effect of nullifying the sealing order for the purposes of RCW 9.94A.

Dated: _____

JUDGE/COMMISSIONER

Submitted by:

Pro Se Respondent (sign name)

Print name

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**SUPERIOR COURT OF WASHINGTON
COUNTY OF _____
JUVENILE COURT**

STATE OF WASHINGTON v.

D.O.B.: _____ Respondent.

NO:
**NOTICE OF RESPONDENT'S MOTION
TO SEAL RECORDS OF JUVENILE
OFFENDER PURSUANT TO RCW
13.50.050(11)
(NT)**

- TO: _____ County Superior Court Clerk's Office
- TO: _____ County Prosecutor, Juvenile Division
- TO: _____ County Juvenile Court Administrator
- TO: _____ Police Department/Sheriff's Office
- TO: Washington State Patrol, Records Division
- TO: Juvenile Rehabilitation Administration (DSHS)
- TO: _____
- TO: _____

PLEASE TAKE NOTICE that on _____ at _____ a.m./p.m., at
_____ County Superior Court, Juvenile Division,
_____ will move for an order sealing the juvenile records on the above
entitled matter.

Dated: _____

Pro Se Respondent (sign name)

Print name

SEALING SCENARIOS: Do these people meet the requirements for sealing?

Jason Benson is 23. When he was 17 he was found guilty of second degree assault. Second degree assault is a class B felony. Jason spent some time in the juvenile detention facility, but since being released has worked hard to get his life back on track. He finished High School and is attending community college. He has not been in trouble with the law since. He still owes \$100 in restitution.

Can Jason file a motion to seal his juvenile records? Please explain why or why not.

Amy Cromack has never been convicted of a class A felony. She has several arrests and convictions as a juvenile and as an adult. These include an assault in 1997, arson in 1998, theft of a firearm in 2000, and possession of stolen property in 2002. All of her offenses are class C felonies. It is now 2005 and Amy is 22. She has paid off all restitution and has not been charged with any crime since the possession of stolen property crime.

How old was Amy when she committed each crime?

Can Amy file a motion to seal her juvenile records? Please explain why or why not.



**WANT TO SEAL YOUR JUVENILE RECORDS?
COME TO THE FREE
JUVENILE RECORDS SEALING CLINIC!
LAWYERS AND LAW STUDENTS WILL HELP YOU
SEAL YOUR JUVENILE RECORDS**

Where: Peterson Law Clinic
901 12th Avenue
Seattle, WA 98122-1090
(206) 398-4130
(on 12th and Columbia across from Starbucks)

When: The 3rd Tuesday of the Month:
December 21, 2004 6:00-8:00 pm
January 18, 2005 6:00-8:00 pm
February 15, 2005 6:00-8:00 pm
March 15, 2005 6:00-8:00 pm
April 19, 2005 6:00-8:00 pm
May 17, 2005 6:00-8:00 pm

For more information contact Kim Ambrose at (206) 623-4321

Are you eligible to seal your juvenile criminal history records?

- ✚ Has it been at least 2 years since you were released from confinement for a juvenile misdemeanor or Class C felony?
- ✚ Has it been at least 2 years since you completed a diversion?
- ✚ Has it been at least 5 years since you were released from confinement for a Class B felony?
- ✚ Have you remained crime free since your last juvenile conviction?
- ✚ Have you paid all your court-ordered fines and fees?

If the answer to these questions is YES, you may be eligible to seal your juvenile criminal history and you should come to the Free Juvenile Records Sealing Clinic!