

ONE HUNDRED FIFTH LEGISLATURE - SECOND SESSION - 2018
COMMITTEE STATEMENT
LB869

Hearing Date: Friday February 09, 2018
Committee On: Judiciary
Introducer: Pansing Brooks
One Liner: Change provisions relating to sealing of juvenile records

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Baker, Chambers, Ebke, Halloran, Hansen, Krist, Morfeld,
Pansing Brooks

Nay:

Absent:

Present Not Voting:

Verbal Testimony:

Proponents:

Senator Patty Pansing Brooks
Anne Hobbs
Scout Richters
Christine Henningsen
Juliet Summers

Representing:

Introducer
UNO Juvenile Justice Institute
ACLU of Nebraska
Nebraska Youth Advocates
Voices for Children

Opponents:

Shawn Renner
Shakil Malik

Representing:

Media of Nebraska, Inc.
Nebraska County Attorneys Association

Neutral:

Representing:

Summary of purpose and/or changes:

LB 869 would amend Nebraska's statutes allowing for the sealing of juvenile records. All changes made by LB 869 would be retroactive in their application.

The bill would first amend provisions to ensure that a juvenile's record may be sealed if a criminal complaint has been filed against a juvenile in a court or district court but was subsequently transferred to the juvenile court for ongoing jurisdiction.

Section 2 of the bill would require that the prosecuting attorney provide the juvenile with written notice by attaching it to the petition or complaint that outlines the record sealing process in developmentally appropriate language.

Section 3 of the bill would provide that a juvenile's records shall be sealed immediately if the juvenile has satisfactorily completed the diversion, mediation, probation, supervision, or other treatment or rehabilitation program or sentence ordered by the juvenile, county, or district court. Section 3 would further provide that if the juvenile's guardian may file a motion requesting the court seal the juvenile's records if the juvenile has reached the age of majority or if 6 months have passed since the case was closed.

In the event a motion is made to seal a juvenile's record, notice shall be served on the interested parties. A party notified may respond to the petition. If the response is an objection to the sealing of the record, the response must specify the specific statutory factors that form the basis of the objections and set forth facts supporting any argument that the juvenile has not been satisfactorily rehabilitated. If no objection is filed, the court must order the record sealed. After a hearing in response to an objection, the court shall order the record sealed if it finds by a preponderance of the evidence that the juvenile has been satisfactorily rehabilitated. The bill would eliminate from the factors to be considered in making this determination the age of the juvenile and the nature of the offense and the role of the juvenile in the offense.

Section 5 of the bill would require the court to inform the juvenile of the effect of an order sealing the record in developmentally appropriate language and would require contact information for each government agency subject to the order be included in the order. Section 5 would also strike provisions that allow the sealed record to be accessible by law enforcement, prosecutors, judges, attorneys, and the Inspector General of Nebraska Child Welfare, and would replace it with language allowing certain parties to only access the records within the first five years following the date the record is sealed. The records would only be made available after the expiration of five years by the individual who is the subject of the record, persons engaged in bona fide research, or the Inspector General of Nebraska Child Welfare.

Finally, the bill makes negligent, reckless, or knowing and intentional violation of the statute a Class V misdemeanor.

Explanation of amendments:

AM 1850 to LB 869 makes two minor adjustments to the bill as introduced. First, it strikes reference to the district court related to diversion since a juvenile is granted diversion by the county court. Second, it adds a reference to a diversion program offered by a county attorney or a city attorney in addition to a diversion program offered by a court.

Laura Ebke, Chairperson