

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)
COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1332

By: Larason

COMMITTEE SUBSTITUTE

An Act relating to children; amending 10 O.S. 1991, Section 1125.4, which relates to juvenile proceedings; providing for certain records to be sealed under certain conditions; authorizing courts to make certain orders for the sealing of certain records; authorizing certain persons access to certain records for certain purposes; making certain restrictions; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 10 O.S. 1991, Section 1125.4, is amended to read as follows:

Section 1125.4 A. No adjudication by the court upon the status of a child in a juvenile proceeding shall operate to impose any of the civil disabilities ordinarily resulting from conviction of a crime, nor shall a child be deemed a criminal by reason of such adjudication, nor shall any arrest or detention under this title or any adjudication in a juvenile proceeding be deemed a detention or an arrest or conviction for purposes of employment, civil rights, or any statute, regulation, license, questionnaire, application, or any other public or private purposes.

B. The court shall order the records of a person alleged or adjudicated to be delinquent to be sealed in accordance with the provisions of this section ~~under the following conditions:~~.

1. ~~One~~ When the person has been adjudicated to be delinquent, the record shall be sealed when:

a. one (1) year has elapsed from the later of:

~~a.~~ (1) dismissal or closure of the case by the court, ~~+~~

or

~~b.~~ (2) notice to the court by the Department of Human Services or a juvenile bureau of final discharge of such person from the supervision of the Department of Human Services or juvenile bureau~~†~~ and

~~2.~~ ~~The~~ b. the person has not been found guilty of or admitted to or not contested the commission of a subsequent criminal offense in either a juvenile or adult proceeding~~†~~ and

~~3.~~ ~~No~~ c. no juvenile or adult proceeding for a criminal offense is pending.

2. When a juvenile court intake has been completed and:

a. the case has been dismissed, or

b. no petition has been filed pending fulfillment of conditions of a voluntary probation, or

c. a petition has been filed but no adjudication has occurred pending the fulfillment of conditions of a preadjudicatory probation,

the records shall be sealed one (1) year after such dismissal or completion of the conditions of a voluntary or preadjudicatory probation.

C. The courts may establish a system for sealing records as required by subsection A of this section and order that said records be sealed in accordance with the procedures established pursuant to said system or may issue a specific order for the records for each case at the time the records are required to be sealed.

D. Upon the ~~entry of an order to seal~~ sealing of the records, or any part of the records, of a person alleged or adjudicated to be delinquent pursuant to this title, all sealed records and official actions subject to the order shall be deemed never to have occurred, and the person who is the subject of said records and all juvenile justice agencies may properly reply upon any inquiry in the matter that no such action ever occurred and no such record exists with respect to such person.

~~D.~~ E. Upon the entry of an order to seal the records of a juvenile:

1. The court clerk shall seal all juvenile court records pertaining to the person, except that a confidential index shall be maintained for the purpose of locating records subject to inspection or release pursuant to subsection ~~E~~ F of this section; ~~and.~~ and.

~~2.~~ a. All law enforcement and district attorney records pertaining to said person, except basic identification information, shall be sealed; ~~and~~ and

~~3.~~ b. Except where such documents are necessary to maintain state or federal funding, all juvenile court personnel records pertaining to said person shall be sealed.

2. Members of the judiciary, district attorneys and employees of juvenile bureaus and the Department of Human Services assigned juvenile court intake responsibilities may access records that have been sealed pursuant to this section without a court order for the purpose of determining whether to dismiss, seek a voluntary probation or file a petition in a case where the person who is the subject of the sealed record is alleged to have committed a delinquent act. Provided, records sealed pursuant to this section may be used in a subsequent prosecution of the case only after the issuance of a court order unsealing the records.

~~E.~~ F. A record of any child alleged or adjudicated to be delinquent pursuant to this title, or any evidence given in such cause, or any records sealed pursuant to this section, shall not in any civil, criminal or other cause or proceeding in any court be lawful or proper evidence against the child for any purpose whatever, except as provided by this subsection. Unsealed records of a person alleged or adjudicated to be delinquent may be inspected without a court order, and the court shall issue an order unsealing sealed records, for use for the following purposes:

1. In subsequent cases against the same child pursuant to this title;

2. In an adult criminal proceeding pursuant to Sections 1104.2 and 1112 of Title 10 of the Oklahoma Statutes;

3. Upon conviction of a criminal offense in an adult proceeding, in connection with the sentencing of such person;

4. If the person is placed in the custody or under the supervision of the Department of Corrections, by the Department of Corrections personnel for the treatment and classification of such person; or

5. In accordance with the guidelines adopted pursuant to the Serious and Habitual Juvenile Offender Act and Section 14 of this act, for maintaining juvenile justice and criminal justice statistical information.

~~F.~~ G. 1. Records of a delinquency proceeding may be used to show the bias, if any, should the person who is the subject of the records be a witness in a civil or criminal proceeding either while a child or after he becomes an adult. If the record has been sealed, the court may enter an order authorizing the inspection or release of said records upon the request of the district attorney or said person.

2. Subsequent to a record being sealed as provided by this section:

a. the district attorney, the arresting agency, and the Oklahoma State Bureau of Investigation may request the court to unseal the records for the purpose of a criminal investigation. When the court finds that there is a compelling reason and it is in the interest of justice to do so, the court may order the record unsealed.

b. any person or agency having a legitimate interest in a delinquency case or proceeding may petition the court for an order unsealing the record of the case. Upon the filing of a petition, the court shall set a date for a hearing and shall provide thirty (30) days' notice to all interested parties. The hearing may be closed at the court's discretion. If, after a hearing, the court determines that there is a

compelling reason and it is necessary for the protection of a legitimate public or private interest to unseal the records, the court may order all or a portion of the record unsealed.

~~G.~~ H. Any record ordered to be sealed pursuant to this section, if not unsealed within ten (10) years of the order, shall be obliterated or destroyed at the end of the ten-year period.

SECTION 2. This act shall become effective September 1, 1993.

44-1-6466

CLD