

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)
CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1053

By: Herbert of the Senate

and

Seikel, Deutshendorf and
Sadler of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to children; amending Section 177, Chapter 352, O.S.L. 1995 and 10 O.S. 1991, Sections 1125.3, as amended by Section 182, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 and 1125.4, as last amended by Section 183, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Sections 7307-1.1, 7307-1.6 and 7307-1.7), which relate to juvenile records and fingerprinting; modifying definitions; modifying references; eliminating exceptions for use of juvenile proceeding records; modifying procedures for sealing and unsealing juvenile records; amending Section 178, Chapter 352, O.S.L. 1995, Section 179, Chapter 352, O.S.L. 1995, Section 180, Chapter 352, O.S.L. 1995 and Section 181, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Sections 7307-1.2, 7307-1.3, 7307-1.4 and 7307-1.5), which relate to juvenile records; modifying exceptions to confidentiality requirements; modifying process for seeking disclosure of juvenile records; providing disclosure of confidential information shall be a misdemeanor; providing attorney considering representing a child may have access to certain records; eliminating exceptions; modifying references; establishing process for expungement of juvenile court records; establishing criteria for eligibility; providing for notice; providing for inspection after expungement; establishing process to be followed for unsealing records; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY Section 177, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7307-1.1), is amended to read as follows:

Section 7307-1.1 A. The court shall make and keep records of all cases brought before the court pursuant to the Oklahoma Juvenile Code, Section 7301-1.1 et seq. of this title. The court shall devise and cause to be printed such forms for social and legal records and such other papers as may be required.

B. As used in the Oklahoma Juvenile Code:

1. "Records" or "record" shall include but not be limited to written or printed documents, papers, logs, reports, files, case notes, films, photographs, audio or visual tape recordings pertaining to a juvenile proceeding or a child, and shall include information entered into and maintained in an automated or computerized information system;

2. "Juvenile court record" means legal and social records other than adoption records, including but not limited to agency, law enforcement and district attorney's records, filed with the court that are related to a child who is the subject of a court proceeding pursuant to the Oklahoma Juvenile Code;

3. "Agency record" means records prepared, obtained or maintained by a public or private agency with regard to a child who is or has been under its care, custody or supervision or with regard to a family member or other person living in the home of such child and shall include but not be limited to:

- a. any study, plan, recommendation, assessment or report made or authorized to be made by such agency for the purpose of determining or describing the history, diagnosis, custody, condition, care or treatment of such child, or
- b. any records made in the course of any investigation or inquiry conducted by an agency to determine whether a child is a delinquent child or a child in need of supervision;

4. "District attorney's records" means any records prepared or obtained by an office of a district attorney relating to a juvenile ~~cases~~ case and any records prepared or obtained for the prosecution of crimes against children that constitute a legal or social record of a child;

5. "Law enforcement records" means any contact, incident or similar reports, arrest records, disposition records, detention records, fingerprints, or photographs related to a child and shall include but not be limited to reports of investigations or inquiries conducted by a law enforcement agency to determine whether a child is or may be subject to the provisions of this chapter as a delinquent child or a child in need of supervision. Law enforcement records pertaining to juveniles shall be maintained separately from records pertaining to adults;

6. "Nondirectory education records" means any records maintained by a public or private school, including a vocational-technical school, regarding a child who is or has been a student at the school which are categorized as private or confidential records pursuant to the federal Family Educational Rights and Privacy Act of 1974 and any rules promulgated pursuant to ~~said~~ the act;

7. "Legal record" means any petition, docket, motion, finding, order, judgment, pleading, paper or other document, other than social records, filed with the court;

8. "Social record" means social studies and medical, psychological, clinical or other treatment reports or studies, educational records and agency records other than legal records filed with the court; and

9. "Participating agency" means any public or private agency that has entered into a contract or an interagency agreement under the Interlocal Cooperation Act in accordance with the rules and guidelines adopted pursuant to Section 620.6 of this title or the Serious and Habitual Juvenile Offender Act for the purpose of accessing and sharing information necessary for the care, treatment, and supervision of children and youth.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 1125.3, as amended by Section 182, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7307-1.6), is amended to read as follows:

Section 7307-1.6 ~~Except as provided by this section, the~~ The fingerprinting of persons under ~~the age of~~ eighteen (18) years of

age shall be as ~~otherwise provided~~ prescribed by law for the fingerprinting of adults, except as specified by the provisions of this section.

1. When a child is detained or arrested in the course of an investigation of a criminal offense and:

- a. a comparison of the fingerprints of the child with fingerprints found during the investigation of the offense is negative, or
- b. a court finds that the child did not commit the alleged offense,

all law enforcement records of the arrest and, if applicable, juvenile court and agency records shall be amended to reflect said facts immediately after the comparison or court finding;

2. Fingerprints obtained pursuant to this section shall be retained in a central state depository and in a local depository maintained by a duly constituted law enforcement agency;

3. Fingerprints obtained and maintained pursuant to this section may be used only by law enforcement officers for comparison purposes in connection with the investigation of a crime or to establish identity in instances of death, serious illness, runaways, or emergency; and

4. If a child is reported to a law enforcement agency as a missing child or a custodial parent, legal guardian or legal custodian of a child requests the issuance of a fingerprint card pursuant to the provisions of the Oklahoma Minor Identification Act, the provisions of the Oklahoma Minor Identification Act shall apply. With the voluntary and informed consent of the parent, legal guardian or legal custodian of the child, fingerprints obtained and maintained pursuant to the Oklahoma Minor Identification Act may be used by law enforcement officers as provided by paragraph 3 of this section.

SECTION 3. AMENDATORY 10 O.S. 1991, Section 1125.4, as last amended by Section 183, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7307-1.7), is amended to read as follows:

Section 7307-1.7 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 a juvenile adjudication, ~~nor shall any arrest or detention under the Oklahoma Juvenile Code 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~~ may order the records of a person alleged ~~or adjudicated~~ to be delinquent to be sealed ~~in accordance with the provisions of this section.~~ as follows:

1. When the person has been ~~adjudicated~~ alleged to be delinquent and:

- a. one (1) year has elapsed from the later of:
 - (1) dismissal or closure of the case by the court, or
 - (2) notice to the court by the Department of Juvenile Justice or a juvenile bureau of final discharge of such person from the supervision of the Department of Juvenile Justice or juvenile bureau, and
- 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
- 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;

3. When a juvenile participates in a court-approved alternative diversion program for first-time offenders and:

- a. the juvenile presents satisfactory evidence to the court that the juvenile has successfully completed the program, and
- b. the court dismisses the case at the conclusion of the deferral period; or

4. When a juvenile participates in a court-approved military mentor program and:

- a. the juvenile presents satisfactory evidence to the court that the juvenile has successfully completed the program, and
- b. the court dismisses the case at the conclusion of the deferral period, ~~the~~.

The records shall may be sealed one (1) year after such dismissal or completion of the conditions of a voluntary or preadjudicatory probation, alternative diversion program for first-time offenders, or military mentor program or upon the person attaining the age of eighteen (18) years in the discretion of the court.

C. The Administrative Office of the Courts shall establish on or before January 1, 1994, a system for sealing records as required by subsection B of this section and ~~order that said~~ records shall be sealed in accordance with the procedures established pursuant to said system.

D. Upon the sealing of ~~the records, or any part of the records,~~ record of a person alleged ~~or adjudicated~~ to be delinquent pursuant to this title, ~~all sealed records~~ the record and official actions subject to the order shall be deemed never to have occurred, and the person who is the subject of ~~said records~~ the record 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.

E. ~~1.~~ 1. Upon the entry of an order to seal ~~the records of a~~ juvenile: ~~1. The court record, the~~ court clerk shall seal ~~all~~ the juvenile court records pertaining to the person record indicated in the court's order, except that a confidential index shall be maintained for the purpose of locating records subject to inspection or release pursuant to subsection ~~F~~ G of this section.

~~a.~~ 2. When notified by the court clerk of a court order sealing a juvenile court record, the law enforcement agency having records pertaining to said the person shall seal the records as ordered, except basic identification information, shall be ~~sealed,~~ and maintained.

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

~~2.~~ F. Members of the judiciary, district attorneys, the defendant, the defendant's counsel and employees of juvenile bureaus ~~and,~~ the Department of Juvenile Justice assigned juvenile court intake responsibilities, and the Department of Corrections may access records that have been sealed pursuant to this section without a court order for the purpose of determining whether to dismiss an action, seek a voluntary probation ~~or,~~ file a petition, or for purposes of sentencing or placement in a case where the person who is the subject of the sealed record is alleged to have committed a subsequent juvenile delinquent act or any adult criminal offense. Provided, ~~records~~ any record sealed pursuant to this section may be used in a subsequent juvenile delinquent or adult prosecution ~~of the case~~ only after the issuance of a court order unsealing the ~~records~~ record.

~~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 G. The court shall may

issue an order unsealing sealed juvenile court 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 Section 7303-4.3 or 7306-1.1 of ~~Title 10 of the Oklahoma Statutes~~ this title;

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 620.6 of this title, for maintaining juvenile justice and criminal justice statistical information-i

~~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~~

6. For the purpose of a criminal investigation-i or

7. 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~~ H. Any person or agency having a legitimate interest in a delinquency case or proceeding may petition the court for an order unsealing ~~the~~ a juvenile court record ~~of the case~~. Upon the filing of a petition to unseal any juvenile court record, 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~~ any reason enumerated in subsection G of this section and it is necessary for the protection of a legitimate public or private interest to unseal the records, the court ~~may~~ shall order ~~all or a portion of~~ the record unsealed.

~~H.~~ I. 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 4. AMENDATORY Section 178, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7307-1.2), is amended to read as follows:

Section 7307-1.2 A. Except as provided by this section ~~and~~ ~~except~~ or as otherwise specifically provided by state ~~and~~ or federal laws, the following juvenile records are confidential and shall not be open to the general public ~~or~~ inspected, or their contents disclosed:

1. Juvenile court records;
2. Agency records;
3. District attorney's records;
4. Law enforcement records;
5. Nondirectory education records; and
6. Social records.

B. The confidentiality limitation of subsection A of this section shall not apply to statistical information ~~and~~ or information of a general nature obtained pursuant to the provisions of the Oklahoma Juvenile Code.

C. 1. The confidentiality ~~restrictions required by~~ requirements of subsection A of this section for juvenile court records and law enforcement records shall not apply:

- a. upon the certification of a juvenile as an adult pursuant to Section 7303-4.3 of ~~Title 10 of the Oklahoma Statutes~~ this title,

- b. upon the charging of an individual pursuant to Section 7306-1.1 of ~~Title 10 of the Oklahoma Statutes~~ this title,
- c. to a violation, ~~by a child fourteen (14) or more years of age,~~ of any ~~provision~~ traffic regulation or motor vehicle regulation of Title 47 of the Oklahoma Statutes, or to a violation of any city ordinance or county resolution which relates to the regulation of traffic on the roads, highways or streets, or to the operation of self-propelled or nonself-propelled vehicles of any kind in this state,
- d. to a juvenile who is fourteen (14) years of age or older and who has been ~~previously~~ adjudicated delinquent and who ~~is~~ subsequently ~~adjudicated delinquent~~ comes before the juvenile court on a new delinquency matter after July 1, 1995, or
- e. to a juvenile adjudicated a delinquent for committing a delinquent act which, if committed by an adult, would be a felony offense that is a crime against the person or a felony offense involving a dangerous weapon.

~~2.~~ D. Following the first adjudication as a delinquent, the court having jurisdiction shall note on the juvenile court record of ~~such juvenile offenders~~ the person that said any subsequent juvenile court records are no longer shall not be confidential; provided, the child is at least fourteen (14) years of age or older. Any juvenile court record which becomes an open juvenile record as provided in this subsection may be expunged as provided in Section 8 of this act.

~~3.~~ The provisions of this subsection shall only apply to the juvenile court records and law enforcement records of juvenile offenders certified, charged or adjudicated on and after July 1, 1995.

~~D.~~ E. When a delinquent child has escaped or run away from a training school or other institutional placement for delinquents, the name and description of the child may be released to the

public by the agency having custody of the child as necessary and appropriate for the protection of the public and the apprehension of the delinquent child whether or not the juvenile record is confidential or open.

~~E. F.~~ Except as ~~authorized otherwise required~~ by state or federal law, the confidential records listed in subsection A of this section ~~shall be confidential and shall~~ may only be inspected, released, disclosed, corrected or expunged ~~only~~ pursuant to an order of the court. Except as otherwise provided in Section 601.6 of ~~Title 10 of the Oklahoma Statutes~~ this title or any provision of this article chapter, no subpoena or subpoena duces tecum purporting to compel disclosure of ~~such~~ confidential information or any confidential juvenile record shall be valid.

~~F. G.~~ An order of the court authorizing the inspection, release, disclosure, correction or expungement of confidential records shall be entered by the court only after a review of the records by the court and a determination by the court, with due regard for the confidentiality of the records and the privacy of persons identified in the records, that a compelling reason exists and such inspection, release or disclosure is necessary for the protection of a legitimate public or private interest.

~~1.~~ Except for district attorney records, any court order authorizing the disclosure, release or inspection of ~~said records~~ a confidential juvenile record ~~pursuant to this subsection~~ may be conditioned on such terms and restrictions as the court deems necessary and appropriate.

~~2.~~ ~~H.~~ Upon the filing of a petition for ~~an order of the court pursuant to this section~~ inspection, release, disclosure, or correction of a juvenile record, the court shall set a date for a hearing and shall provide ~~for reasonable~~ a thirty-day notice to ~~the agency holding the records and~~ all interested parties, the person who is the subject of the record if ~~said~~ the person is eighteen (18) years of age or older, or to the parents of a child if the child is less than age eighteen (18) who is the subject of the record years of age, and to the attorneys of record, if any, ~~of such person, child or parents and any other interested party as~~

~~ordered by the court.~~ The hearing may be closed at the discretion of the court.

~~G. I.~~ Any agency or person may seek an order from the juvenile court prohibiting the release of confidential information subject to disclosure without an order of the court pursuant to ~~Sections~~ Section 620.6 of Title 10 of the Oklahoma Statutes and this title or any provision of this article chapter. The court may, for good cause shown, prohibit the release of such information or authorize release of the information upon such conditions as the court deems necessary and appropriate.

~~H. J.~~ In accordance with the provisions of the Serious and Habitual Juvenile Offender Act and Section 620.6 of ~~Title 10 of the Oklahoma Statutes~~ this title:

1. Information included in the records listed in subsection A of this section may be entered in and maintained in the Juvenile Justice Information System and other automated information systems related to services to children and youth whether or not the record is confidential or open; and

2. ~~Said~~ The information systems may be accessed by participating agencies as defined by this ~~article chapter~~ or as otherwise provided by ~~this section~~ law.

~~I. K.~~ The court may authorize a designated person to review juvenile court confidential reports and records and collect statistical information and other abstract information for research purposes. Such authorization shall be in writing and shall state specifically the type of information which may be reviewed and reported.

Each person granted permission to inspect confidential reports and records for research purposes shall present a notarized statement to the court stating that the names of juveniles, parents and ~~such~~ other persons as may be required by the court to be confidential will remain confidential.

~~J. L.~~ Nothing contained in the provisions of Section 620.6 of Title 10 of the Oklahoma Statutes this title or any provision of this article chapter shall be construed as:

1. Authorizing the inspection of records or the disclosure of information contained in records relating to the provision of benefits or services funded, in whole or in part, with federal funds, except in accord with federal statutes and regulations governing the receipt or use of such funds;

2. Authorizing the disclosure of information required to be kept confidential by ~~Sections~~ Section 55.1, 57, 60.17 or 60.29 of ~~Title 10 of the Oklahoma Statutes~~ this title or disclosure of any other confidential record pursuant to the provisions of this chapter;

3. Abrogating any privilege, including the attorney-client privilege, or affecting any limitation on such privilege found in any other statutes;

4. Limiting or otherwise affecting access of parties to a juvenile proceeding to any records filed with or submitted to the court;

5. Limiting or otherwise affecting access of agencies to information subject to disclosure, review or inspection by contract or as a condition for the receipt of public funds or participation in any program administered by the agency;

6. Prohibiting the Department of Juvenile Justice from summarizing the outcome of an investigation to the person who reported a known or suspected instance of child abuse or neglect; ~~and~~ or

7. Prohibiting the person or agency conducting a preliminary inquiry relating to an alleged delinquent act from providing information, as to the disposition of the matter by the district attorney, to the person or agency which referred the matter, including but not limited to whether a petition was filed or an alternative action taken, and the basis for such action and the terms of any agreement entered into by the child for payment of restitution, and including but not limited to provisions for community services.

SECTION 5. AMENDATORY Section 179, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7307-1.3), is amended to read as follows:

Section 7307-1.3 A. In accordance with the rules adopted ~~for~~ ~~such purpose~~ pursuant to the Serious and Habitual Juvenile Offender Act and Section 620.6 of ~~Title 10 of the Oklahoma Statutes~~ this title, the confidential records listed in subsection A of Section 7307-1.2 of ~~Title 10 of the Oklahoma Statutes~~ this title may be inspected and their contents disclosed without a court order to:

1. Participating agencies;

2. The following, provided that the inspection of records and disclosure authorized by this paragraph may be limited to summaries or to information directly necessary for the purpose of such inspection or disclosure:

- a. pursuant to the provisions of this title, a person, agency, hospital or clinic authorized or directed by the court or by the Department of Juvenile Justice to care for, treat, examine, evaluate or supervise a child or to treat, examine or evaluate the parent, legal guardian or other adult person living in the home of the child,
- b. a legally recognized school that is not a participating agency in which the child who is the subject of the record is currently enrolled, and
- c. individuals or agencies engaged in legitimate research for educational, scientific or public purposes or for the purpose of an audit authorized by law. No information identifying the subjects of the records shall be made available or disclosed unless it is essential to the research or audit purpose.

B. Records and their contents disclosed without an order of the court as provided by this section shall remain confidential. The use of ~~such~~ any information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful ~~and a misdemeanor~~ for any person to furnish any confidential record or disclose any confidential information contained ~~therein~~ in any juvenile record for commercial, political or any other

unauthorized purpose. Any person violating the provisions of this subsection shall, upon conviction, be guilty of a misdemeanor.

SECTION 6. AMENDATORY Section 180, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7307-1.4), is amended to read as follows:

Section 7307-1.4 A. Juvenile court records which are confidential may be inspected, and their contents shall be disclosed, without a court order to the following persons upon showing of proper credentials and pursuant to ~~their~~ lawful duties:

1. The judge having the child currently before the court in any proceeding pursuant to the Oklahoma Juvenile Code, or any judge of the district court or tribal court to which such proceedings may be transferred, ~~employees;~~

2. Employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court;

~~2.~~ 3. Members of review boards established pursuant to Sections 1116.2 and 1116.6 of ~~Title 10 of the Oklahoma Statutes~~ this title. In addition to juvenile court records, ~~members~~ any member of such review boards may inspect, without a court order, information including but not be limited to:

- a. psychological and medical records,
- b. placement history and information, including the names and addresses of foster parents,
- c. family assessments,
- d. treatment or service plans, and
- e. school records;

~~3.~~ 4. A district attorney and the employees of an office of a district attorney in the course of their official duties ~~pursuant to this chapter;~~

~~4.~~ 5. The attorney representing a child who is the subject of a juvenile proceeding pursuant to the provisions of this chapter. ~~Said~~ The attorney representing a child or considering representing a child in a juvenile proceeding may also access other records listed in subsection A of Section 7307-1.2 of ~~Title 10 of the~~

~~Oklahoma Statutes~~ this title for use in the legal representation of the child;

~~5.~~ 6. Employees of juvenile bureaus in the course of their official duties ~~and employees;~~

7. Employees of the Department of Juvenile Justice in the course of their official duties;

~~6.~~ 8. Employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under eighteen (18) years of age. Records or information disclosed pursuant to this paragraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation; ~~provided, records pertaining to any alleged or adjudicated abuse or neglect of the person shall not be inspected or disclosed;~~

~~7.~~ 9. The Oklahoma Commission on Children and Youth;

~~8.~~ 10. The Department of Juvenile Justice or other public or private agency or any individual having court-ordered custody or custody pursuant to Department of Juvenile Justice placement of the child who is the subject of the record;

~~9.~~ 11. The Department of Human Services;

~~10.~~ 12. The child who is the subject of the record and the parents, legal guardian, legal custodian or foster parent of said child; ~~and~~

~~11.~~ A 13. Any federally recognized Indian tribe in which the child who is the subject of the record is a member, or is eligible to become a member of the tribe and is due to the child being the biological child of a member of an Indian tribe pursuant to the Federal Indian Child Welfare Act, P.L. 95-608, and the Oklahoma Indian Child Welfare Act; provided such Indian tribe member, in the course of ~~its~~ official duties, ~~is:~~

- a. is investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody, or

- b. is providing services to or for the benefit of a child including but not limited to protective, emergency, social and medical services, ~~or;~~
- ~~e.~~ 14. Any federally recognized Indian tribe in which the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

The records that are to be provided to Indian tribes ~~under~~ pursuant to the provisions of this subsection shall include all case records, reports and documents as defined in this ~~article~~ chapter;

~~12.~~ 15. The Governor or to any person the Governor designates, in writing, ~~and any;~~

16. Any federal official of the United States Department of Health and Human Services; and

~~13.~~ 17. The chairman of any standing or special committee of the Legislature where a subpoena, authorized by law, has been issued by the committee requesting the records.

B. Records and their contents disclosed without an order of the court as provided by the provisions of this section shall remain confidential. The use of ~~such~~ any information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful ~~and a misdemeanor~~ for any person to furnish any confidential record or disclose any confidential information contained ~~therein~~ in any juvenile record for commercial, political or any other unauthorized purpose. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor.

SECTION 7. AMENDATORY Section 181, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7307-1.5), is amended to read as follows:

Section 7307-1.5 A. Department of Juvenile Justice agency records pertaining to a child which are confidential may be

inspected and their contents disclosed without a court order to the following persons upon showing of proper credentials:

1. The ~~court~~ judge having the child currently before ~~it~~ the court in any proceeding pursuant to ~~Title 10 of the Oklahoma Statutes~~ this title, any judge of the district court or tribal court to which ~~such~~ any proceedings may be transferred, ~~employees;~~

2. Employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, and members of review boards established pursuant to the Oklahoma Children's Code;

~~2.~~ 3. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to ~~Title 10 of the Oklahoma Statutes~~ this title or the prosecution of crimes against children;

~~3.~~ 4. The attorney representing a child who is the subject of a juvenile proceeding pursuant to the provisions of ~~Title 10 of the Oklahoma Statutes~~ this title. The attorney ~~also~~ representing a child or an attorney considering representing a child in a juvenile proceeding may access other confidential records listed in subsection A of Section 7307-1.2 of ~~Title 10 of the Oklahoma Statutes~~ this title for use in the legal representation of the child;

~~4.~~ 5. Employees of juvenile bureaus in the course of their official duties;

~~5.~~ 6. Employees of a law enforcement agency of this or another state and employees of a child protective service of another state or any federally recognized Indian tribe member in the course of their official duties pertaining to investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

~~6.~~ 7. Employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under eighteen (18) years of age. Records or information disclosed pursuant to this subparagraph may consist of summaries or may be

limited to the information or records necessary for the purpose of the investigation; ~~provided, records pertaining to any alleged or adjudicated abuse or neglect of the person shall not be inspected or disclosed;~~

~~7.~~ 8. The Oklahoma Commission on Children and Youth;

~~8.~~ 9. The Department of Human Services;

~~9.~~ 10. Any public or private agency or person authorized by the Department of Juvenile Justice to diagnose, or provide care, treatment, supervision or other services to a child who is the subject of a report or record of delinquency, child abuse or neglect, or other adjudicatory category, provided the Department may limit ~~such~~ the disclosure to summaries or to information directly necessary for the purpose of ~~such~~ the disclosure;

~~10.~~ 11. Any federally recognized Indian tribe or state or county child protective services or child welfare agency providing for or supervising the diagnosis, care, treatment, supervision or other services provided such child;

~~11.~~ 12. The parents of the child who is the subject of ~~such~~ any records;

~~12.~~ 13. Any person or agency for research purposes, if all of the following conditions are met:

- a. the person or agency conducting ~~such~~ the research is employed by the State of Oklahoma or is under contract with this state and is authorized by the Department of Human Services to conduct ~~such~~ the research, and
- b. the person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to ~~such~~ any documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed; ~~and~~

~~13.~~ 14. The Governor or to any person the Governor designates, in writing~~7;~~ and ~~any~~

15. Any federal official of the United States Department of Health and Human Services.

B. Records and their contents disclosed without an order of the court as provided by the provisions of this section shall remain confidential. The use of ~~such~~ any information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful ~~and a misdemeanor~~ for any person to furnish any confidential record or disclose any confidential information contained ~~therein~~ in any juvenile record for commercial, political or any other unauthorized purpose. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7307-1.8 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. A person who is the subject of an open juvenile court record may petition the district court in which the juvenile court record is located for an order to expunge all or any part of the record pertaining to the person, except basic identification information; provided:

1. The person has attained twenty-one (21) years of age or older;

2. The person has not been arrested for any adult criminal offense and no charge, indictment, or information has been filed or is pending against the person at the time of the petition for an expungement;

3. The person has not been subject to any deferred prosecution or deferred sentence, and has not been convicted of any criminal offense; and

4. All court costs, restitution, fines and other court-ordered requirements have been completed for all juvenile proceedings.

B. Upon the filing of a petition for expungement of a juvenile court record, the court shall set a date for a hearing,

which hearing may be closed at the court's discretion, and shall provide a thirty (30) days' notice of the hearing to the district attorney, the Department of Juvenile Justice, the Oklahoma State Bureau of Investigation, and any other person or agency whom the court has reason to believe may have relevant information related to the expungement of any record.

C. Upon a finding that the harm to privacy of the person in interest or dangers of unwarranted adverse consequences outweigh the public interest in retaining the records, the court may order the records, or any part thereof except basic identification information, to be expunged. If the court finds that neither expungement of the records nor maintaining of the records unsealed by the agency would serve the ends of justice, the court may enter an appropriate order limiting access to the records. Any order entered pursuant to the provisions of this subsection shall specify those agencies to which the court order shall apply.

D. Upon the entry of an order to expunge any juvenile court record, or any part thereof, the subject official actions shall be deemed never to have occurred, and the person in interest and all juvenile and criminal justice agencies may properly reply, upon any inquiry in the matter, that no such action ever occurred and that no such record exists with respect to the person.

E. Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person in interest who is the subject of the records, the Attorney General, or by the district attorney and only to those persons and for such purposes named in the petition.

F. Employers, educational institutions, state and local government agencies, officials, and employees shall not, in any application or interview or otherwise, require an applicant to disclose any information contained in any expunged juvenile records. An applicant need not, in answer to any question concerning arrest, juvenile and criminal records provide information that has been expunged, including any reference to or information concerning expungement and may state that no such action has ever occurred. Such an application may not be denied

solely because of the applicant's refusal to disclose information that has been expunged.

G. Nothing in this section shall be construed to authorize the physical destruction of any juvenile records.

H. For the purposes of this section, expunged materials which are recorded in the same document as unsealed material may be recorded in a separate document, and sealed, then obliterated in the original document.

I. For the purposes of this act, district court index reference of sealed material shall be destroyed, removed or obliterated.

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

K. Subsequent to records being sealed as provided herein, the district attorney, the Department of Juvenile Justice, the Oklahoma State Bureau of Investigation, or other interested person or agency may petition the court for an order unsealing any records. Upon filing of a petition, the court shall set a date for hearing, which hearing may be closed at the court's discretion, and shall provide thirty (30) days' notice to all interested parties. If, upon hearing, the court determines there has been a change of conditions or that there is a compelling reason to unseal the records, the court may order all or a portion of the records unsealed.

L. Nothing herein shall prohibit the introduction of evidence regarding actions sealed pursuant to the provisions of this section at any hearing or trial for purposes of impeaching the credibility of a witness or as evidence of character testimony pursuant to Section 2608 of Title 12 of the Oklahoma Statutes.

SECTION 9. This act shall become effective November 1, 1996.