STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2656 By: Voskuhl

AS INTRODUCED

An Act relating to the Oklahoma Juvenile Code; amending Section 178, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7307-1.2), which relates to juvenile records; making arrest records of juveniles arrested for felony offense public record; and providing an effective date.

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

SECTION 1. 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 as otherwise specifically provided by state and federal laws, the following 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 limitation of subsection A of this section shall not apply to statistical information and information of a general nature obtained pursuant to the provisions of the Oklahoma Juvenile Code.

C. 1. The confidentiality restrictions required by 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 of Title 47 of the Oklahoma Statutes or of any city ordinance or county resolution which relates to the regulation of traffic on the roads, highways or streets or the operation of self-propelled or nonself-propelled vehicles of any kind in this state,

d. to a juvenile who has been previously adjudicated delinquent and who is subsequently adjudicated delinquent 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, or

f. to arrest records of a juvenile arrested for committing an act, which if committed by an adult, would be a felony offense.

2. The court having jurisdiction shall note on the juvenile court record of such juvenile offenders that said records are no longer confidential.

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. 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 child.

E. Except as authorized by state or federal law, the records listed in subsection A of this section shall be confidential and shall 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 in this article, no subpoena or subpoena duces tecum purporting to compel disclosure of such information or record shall be valid.

F. 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 order authorizing the disclosure, release or inspection of said records pursuant to this subsection may be conditioned on such terms and restrictions as the court deems necessary and appropriate.

2. Upon the filing of a petition for an order of the court pursuant to this section, the court shall set a date for a hearing and shall provide for reasonable notice to the agency holding the records and the person who is the subject of the record if said person is eighteen (18) years of age or older or to the parents of a child less than age eighteen (18) who is the subject of the record, to the attorneys, 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. Any agency or person may seek an order from the juvenile court prohibiting the release of information subject to disclosure without an order of the court pursuant to ~~Sections~~ Section 620.6 of ~~Title 10 of the Oklahoma Statutes~~ this title and this article. 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. 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; and

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

I. 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 state specifically the type of information which may be reviewed.

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 required by the court to be confidential will remain confidential.

J. Nothing in Section 620.6 of ~~Title 10 of the Oklahoma Statutes~~ this title or in this article 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;

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 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

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 and the terms of any agreement entered into by the child for payment of restitution, including but not limited to community services.

SECTION 2. This act shall become effective November 1, 1996.

45-2-7799 SD