

THE HOUSE OF REPRESENTATIVES
Wednesday, February 27, 2008

House Bill No. 2811

HOUSE BILL NO. 2811 - By: PETERSON (PAM) AND PITTMAN of the House and _____ of the Senate.

An Act relating to children; amending 10 O.S. 2001, Section 7307-1.2, as last amended by Section 1, Chapter 86, O.S.L. 2004 (10 O.S. Supp. 2007, Section 7307-1.2), which relates to the Oklahoma Juvenile Code; authorizing school districts to access certain confidential records; and providing an effective date.

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

1 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7307-1.2, as last amended
2 by Section 1, Chapter 86, O.S.L. 2004 (10 O.S. Supp. 2007, Section 7307-1.2), is amended
3 to read as follows:

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

- 7 1. Juvenile court records;
- 8 2. Agency records;
- 9 3. District attorney's records;
- 10 4. Law enforcement records;
- 11 5. Nondirectory education records; and
- 12 6. Social records.

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

4 C. The confidentiality requirements of subsection A of this section for juvenile court
5 records and law enforcement records shall not apply:

6 1. Upon the certification of a juvenile as an adult pursuant to Section 7303-4.3 of
7 this title;

8 2. Upon the charging of an individual pursuant to Section 7306-1.1 of this title;

9 3. To a violation of any traffic regulation or motor vehicle regulation of Title 47 of
10 the Oklahoma Statutes, or to a violation of any city ordinance or county resolution which
11 relates to the regulation of traffic on the roads, highways or streets, or to the operation of
12 self-propelled or nonself-propelled vehicles of any kind in this state;

13 4. To a juvenile who is fourteen (14) years of age or older and who has been
14 adjudicated delinquent and who subsequently comes before the juvenile court on a new
15 delinquency matter after July 1, 1995;

16 5. To a juvenile adjudicated a delinquent for committing a delinquent act which, if
17 committed by an adult, would be a felony offense that is a crime against the person or a
18 felony offense involving a dangerous weapon;

19 6. To arrest records of a juvenile arrested for committing an act, which if committed
20 by an adult, would be a felony offense;

21 7. To a violation of the Prevention of Youth Access to Tobacco Act; or

1 8. Whenever a juvenile is accepted for placement or treatment in a facility or
2 private treatment facility within this state as a result of or following a conviction or
3 adjudication for an out-of-state offense that would qualify the juvenile as a youthful
4 offender, as defined in Section 7306-2.2 of this title, had the crime occurred within this
5 state. The facility shall provide any law enforcement agency or peace officer all prior
6 criminal offense, conviction, and adjudication information. If a juvenile flees or is
7 otherwise absent from the facility without permission, the facility shall provide any law
8 enforcement agency or peace officer all prior criminal offense, conviction, and
9 adjudication information. Any law enforcement agency or peace officer shall have the
10 authority to review or copy any records concerning the juvenile, including prior criminal
11 offense, conviction, or adjudication information.

12 D. Following the first adjudication as a delinquent, the court having jurisdiction
13 shall note on the juvenile court record of the person that any subsequent juvenile court
14 records shall not be confidential; provided, the child is at least fourteen (14) years of age
15 or older. Any juvenile court record which becomes an open juvenile record as provided in
16 this subsection may be expunged as provided in Section 7307-1.8 of this title.

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

20 E. When a delinquent child has escaped or run away from a training school or other
21 institutional placement for delinquents, the name and description of the child may be
22 released to the public by the agency having custody of the child as necessary and

1 appropriate for the protection of the public and the apprehension of the delinquent child
2 whether or not the juvenile record is confidential or open.

3 F. Except as otherwise required by state or federal law, the confidential records
4 listed in subsection A of this section may only be inspected, released, disclosed, corrected
5 or expunged pursuant to an order of the court. Except as otherwise provided in Section
6 601.6 of this title or any provision of this chapter, no subpoena or subpoena duces tecum
7 purporting to compel disclosure of confidential information or any confidential juvenile
8 record shall be valid.

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

15 Except for district attorney records, any court order authorizing the disclosure,
16 release or inspection of a confidential juvenile record may be conditioned on such terms
17 and restrictions as the court deems necessary and appropriate.

18 H. Upon receiving a written request for inspection, release, disclosure, or correction
19 of a juvenile record, the court shall determine whether the record of a juvenile falls under
20 one of the exceptions listed in subsection C of this section. If the record falls under one of
21 the exceptions in subsection C of this section, the court shall issue an order authorizing
22 inspection, release, disclosure or correction of the juvenile record. If the release of a

1 juvenile record is authorized by the court, the Office of Juvenile Affairs shall provide
2 information to the requestor regarding the location of the juvenile record to be released.

3 I. Any agency or person may seek an order from the juvenile court prohibiting the
4 release of confidential information subject to disclosure without an order of the court
5 pursuant to Section 620.6 of this title or any provision of this chapter. The court may, for
6 good cause shown, prohibit the release of such information or authorize release of the
7 information upon such conditions as the court deems necessary and appropriate.

8 J. In accordance with the provisions of the Serious and Habitual Juvenile Offender
9 Act and Section 620.6 of this title:

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

14 2. The information systems may be accessed by participating agencies as defined by
15 this chapter or as otherwise provided by law.

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

20 Each person granted permission to inspect confidential reports and records for
21 research purposes shall present a notarized statement to the court stating that the

1 names of juveniles, parents and other persons as may be required by the court to be
2 confidential will remain confidential.

3 L. Nothing contained in the provisions of Section 620.6 of this title or any provision
4 of this chapter shall be construed as:

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

9 2. Authorizing the disclosure of information required to be kept confidential by
10 Section 7505-1.1, 7506-1.1 or 7510-1.5 of this title, the Oklahoma Adoption Code or
11 disclosure of any other confidential record pursuant to the provisions of this chapter;

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

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

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

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

7 M. The confidential records listed in subsection A of this section may be inspected
8 and their contents disclosed without a court order to a school district in which the child
9 who is the subject of the record is currently enrolled or intends to enroll. The inspection
10 of records and disclosure authorized by this subsection may be limited to summaries or to
11 information directly necessary for the purpose of such inspection or disclosure. ~~Upon~~
12 ~~request by the school district, the agency in possession of the records shall provide the~~
13 ~~requested information to~~ In accordance with the provisions of the Serious and Habitual
14 Juvenile Offender Act and rules promulgated by the Board of Juvenile Affairs, the school
15 district may access such records entered and maintained in the Juvenile Justice
16 Information System. Any records disclosed as provided by this subsection shall remain
17 confidential. The use of any information shall be limited to the purposes for which
18 disclosure is authorized.

19 SECTION 2. This act shall become effective November 1, 2008.

20 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 02-26-08 -
21 DO PASS, As Coauthored.