

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1905

By: Wilcoxson

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5
6 AS INTRODUCED

7 An Act relating to children; amending 10 O.S. 2001,
8 Section 7307-1.2, as last amended by Section 1,
9 Chapter 86, O.S.L. 2004 (10 O.S. Supp. 2007, Section
10 7307-1.2), which relates to confidential juvenile
11 records; expanding certain authority to inspect
12 specified confidential records; modifying language;
13 requiring certain agency to provide specified
14 confidential records; and providing an effective
15 date.

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

17 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7307-1.2, as
18 last amended by Section 1, Chapter 86, O.S.L. 2004 (10 O.S. Supp.
19 2007, Section 7307-1.2), is amended to read as follows:

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

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1. Juvenile court records;
 2. Agency records;
 3. District attorney's records;

- 1 4. Law enforcement records;
- 2 5. Nondirectory education records; and
- 3 6. Social records.

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

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

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

13 2. Upon the charging of an individual pursuant to Section 7306-
14 1.1 of this title;

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

21 4. To a juvenile who is fourteen (14) years of age or older and
22 who has been adjudicated delinquent and who subsequently comes
23 before the juvenile court on a new delinquency matter after July 1,
24 1995;

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

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

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

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

23 D. Following the first adjudication as a delinquent, the court
24 having jurisdiction shall note on the juvenile court record of the

1 person that any subsequent juvenile court records shall not be
2 confidential; provided, the child is at least fourteen (14) years of
3 age or older. Any juvenile court record which becomes an open
4 juvenile record as provided in this subsection may be expunged as
5 provided in Section 7307-1.8 of this title.

6 The provisions of this subsection shall only apply to the
7 juvenile court records and law enforcement records of juvenile
8 offenders certified, charged or adjudicated on and after July 1,
9 1995.

10 E. When a delinquent child has escaped or run away from a
11 training school or other institutional placement for delinquents,
12 the name and description of the child may be released to the public
13 by the agency having custody of the child as necessary and
14 appropriate for the protection of the public and the apprehension of
15 the delinquent child whether or not the juvenile record is
16 confidential or open.

17 F. Except as otherwise required by state or federal law, the
18 confidential records listed in subsection A of this section may only
19 be inspected, released, disclosed, corrected or expunged pursuant to
20 an order of the court. Except as otherwise provided in Section
21 601.6 of this title or any provision of this chapter, no subpoena or
22 subpoena duces tecum purporting to compel disclosure of confidential
23 information or any confidential juvenile record shall be valid.

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

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

13 H. Upon receiving a written request for inspection, release,
14 disclosure, or correction of a juvenile record, the court shall
15 determine whether the record of a juvenile falls under one of the
16 exceptions listed in subsection C of this section. If the record
17 falls under one of the exceptions in subsection C of this section,
18 the court shall issue an order authorizing inspection, release,
19 disclosure or correction of the juvenile record. If the release of
20 a juvenile record is authorized by the court, the Office of Juvenile
21 Affairs shall provide information to the requestor regarding the
22 location of the juvenile record to be released.

23 I. Any agency or person may seek an order from the juvenile
24 court prohibiting the release of confidential information subject to

1 disclosure without an order of the court pursuant to Section 620.6
2 of this title or any provision of this chapter. The court may, for
3 good cause shown, prohibit the release of such information or
4 authorize release of the information upon such conditions as the
5 court deems necessary and appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

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

13 M. The confidential records listed in subsection A of this
14 section may be inspected and their contents disclosed without a
15 court order to a school district in which the child who is the
16 subject of the record is currently enrolled or has presented himself
17 or herself for enrollment. ~~The inspection of records and disclosure~~
18 ~~authorized by this subsection may be limited to summaries or to~~
19 ~~information directly necessary for the purpose of such inspection or~~
20 ~~disclosure. Upon request by the school district, If the school~~
21 district is not already in possession of such records, the agency in
22 possession of the records shall provide the ~~requested information~~
23 records to the school district:

1 1. Prior to or at the time the student presents himself or
2 herself for enrollment; and

3 2. Upon the effective date of this act, for all students who
4 are currently enrolled in the school district.

5 The inspection of records and disclosure authorized by this
6 subsection may be limited to summaries or to information directly
7 necessary for the purpose of such inspection or disclosure. Any
8 records disclosed as provided by this subsection shall remain
9 confidential. The use of any information shall be limited to the
10 purposes for which disclosure is authorized.

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

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