



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4294

Introduced 1/28/2020, by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

705 ILCS 405/1-8

from Ch. 37, par. 801-8

Amends the Juvenile Court Act of 1987. Provides that juvenile court records and files in the reviewing courts that have not been expunged are sealed and may never be disclosed to the general public or otherwise made widely available. Provides that sealed juvenile court records may be obtained when their use is needed for good cause and with an order from the reviewing court. Provides that in cases where the records concern an appeal of a juvenile court case, the requesting party seeking to inspect the juvenile court records shall provide actual notice to the attorney or guardian ad litem of the minor whose records are sought.

LRB101 14523 RLC 63420 b

1 AN ACT concerning courts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Section 1-8 as follows:

6 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

7 Sec. 1-8. Confidentiality and accessibility of juvenile
8 court records.

9 (A) A juvenile adjudication shall never be considered a
10 conviction nor shall an adjudicated individual be considered a
11 criminal. Unless expressly allowed by law, a juvenile
12 adjudication shall not operate to impose upon the individual
13 any of the civil disabilities ordinarily imposed by or
14 resulting from conviction. Unless expressly allowed by law,
15 adjudications shall not prejudice or disqualify the individual
16 in any civil service application or appointment, from holding
17 public office, or from receiving any license granted by public
18 authority. All juvenile court records, including records and
19 files in the reviewing courts, which have not been expunged are
20 sealed and may never be disclosed to the general public or
21 otherwise made widely available. Sealed juvenile court records
22 may be obtained only under this Section and Section 1-7 and
23 Part 9 of Article V of this Act, when their use is needed for

1 good cause and with an order from the juvenile court or
2 reviewing court. Inspection and copying of juvenile court
3 records relating to a minor who is the subject of a proceeding
4 under this Act shall be restricted to the following:

5 (1) The minor who is the subject of record, his or her
6 parents, guardian, and counsel.

7 (2) Law enforcement officers and law enforcement
8 agencies when such information is essential to executing an
9 arrest or search warrant or other compulsory process, or to
10 conducting an ongoing investigation or relating to a minor
11 who has been adjudicated delinquent and there has been a
12 previous finding that the act which constitutes the
13 previous offense was committed in furtherance of criminal
14 activities by a criminal street gang.

15 Before July 1, 1994, for the purposes of this Section,
16 "criminal street gang" means any ongoing organization,
17 association, or group of 3 or more persons, whether formal
18 or informal, having as one of its primary activities the
19 commission of one or more criminal acts and that has a
20 common name or common identifying sign, symbol or specific
21 color apparel displayed, and whose members individually or
22 collectively engage in or have engaged in a pattern of
23 criminal activity.

24 Beginning July 1, 1994, for purposes of this Section,
25 "criminal street gang" has the meaning ascribed to it in
26 Section 10 of the Illinois Streetgang Terrorism Omnibus

1 Prevention Act.

2 (3) Judges, hearing officers, prosecutors, public
3 defenders, probation officers, social workers, or other
4 individuals assigned by the court to conduct a
5 pre-adjudication or pre-disposition investigation, and
6 individuals responsible for supervising or providing
7 temporary or permanent care and custody for minors under
8 the order of the juvenile court when essential to
9 performing their responsibilities.

10 (4) Judges, federal, State, and local prosecutors,
11 public defenders, probation officers, and designated
12 staff:

13 (a) in the course of a trial when institution of
14 criminal proceedings has been permitted or required
15 under Section 5-805;

16 (b) when criminal proceedings have been permitted
17 or required under Section 5-805 and a minor is the
18 subject of a proceeding to determine the amount of
19 bail;

20 (c) when criminal proceedings have been permitted
21 or required under Section 5-805 and a minor is the
22 subject of a pre-trial investigation, pre-sentence
23 investigation or fitness hearing, or proceedings on an
24 application for probation; or

25 (d) when a minor becomes 18 years of age or older,
26 and is the subject of criminal proceedings, including a

1 hearing to determine the amount of bail, a pre-trial
2 investigation, a pre-sentence investigation, a fitness
3 hearing, or proceedings on an application for
4 probation.

5 (5) Adult and Juvenile Prisoner Review Boards.

6 (6) Authorized military personnel.

7 (6.5) Employees of the federal government authorized
8 by law.

9 (7) Victims, their subrogees and legal
10 representatives; however, such persons shall have access
11 only to the name and address of the minor and information
12 pertaining to the disposition or alternative adjustment
13 plan of the juvenile court.

14 (8) Persons engaged in bona fide research, with the
15 permission of the presiding judge of the juvenile court and
16 the chief executive of the agency that prepared the
17 particular records; provided that publication of such
18 research results in no disclosure of a minor's identity and
19 protects the confidentiality of the record.

20 (9) The Secretary of State to whom the Clerk of the
21 Court shall report the disposition of all cases, as
22 required in Section 6-204 of the Illinois Vehicle Code.
23 However, information reported relative to these offenses
24 shall be privileged and available only to the Secretary of
25 State, courts, and police officers.

26 (10) The administrator of a bonafide substance abuse

1 student assistance program with the permission of the
2 presiding judge of the juvenile court.

3 (11) Mental health professionals on behalf of the
4 Department of Corrections or the Department of Human
5 Services or prosecutors who are evaluating, prosecuting,
6 or investigating a potential or actual petition brought
7 under the Sexually Violent Persons Commitment Act relating
8 to a person who is the subject of juvenile court records or
9 the respondent to a petition brought under the Sexually
10 Violent Persons Commitment Act, who is the subject of
11 juvenile court records sought. Any records and any
12 information obtained from those records under this
13 paragraph (11) may be used only in sexually violent persons
14 commitment proceedings.

15 (12) Collection agencies, contracted or otherwise
16 engaged by a governmental entity, to collect any debts due
17 and owing to the governmental entity.

18 (A-1) Findings and exclusions of paternity entered in
19 proceedings occurring under Article II of this Act shall be
20 disclosed, in a manner and form approved by the Presiding Judge
21 of the Juvenile Court, to the Department of Healthcare and
22 Family Services when necessary to discharge the duties of the
23 Department of Healthcare and Family Services under Article X of
24 the Illinois Public Aid Code.

25 (B) A minor who is the victim in a juvenile proceeding
26 shall be provided the same confidentiality regarding

1 disclosure of identity as the minor who is the subject of
2 record.

3 (C)(0.1) In cases where the records concern a pending
4 juvenile court case or appeal, the requesting party seeking to
5 inspect the juvenile court records shall provide actual notice
6 to the attorney or guardian ad litem of the minor whose records
7 are sought.

8 (0.2) In cases where the juvenile court records concern a
9 juvenile court case that is no longer pending, the requesting
10 party seeking to inspect the juvenile court records shall
11 provide actual notice to the minor or the minor's parent or
12 legal guardian, and the matter shall be referred to the chief
13 judge presiding over matters pursuant to this Act.

14 (0.3) In determining whether juvenile court records should
15 be made available for inspection and whether inspection should
16 be limited to certain parts of the file, the court shall
17 consider the minor's interest in confidentiality and
18 rehabilitation over the requesting party's interest in
19 obtaining the information. The State's Attorney, the minor, and
20 the minor's parents, guardian, and counsel shall at all times
21 have the right to examine court files and records.

22 (0.4) Any records obtained in violation of this Section
23 shall not be admissible in any criminal or civil proceeding, or
24 operate to disqualify a minor from subsequently holding public
25 office, or operate as a forfeiture of any public benefit,
26 right, privilege, or right to receive any license granted by

1 public authority.

2 (D) Pending or following any adjudication of delinquency
3 for any offense defined in Sections 11-1.20 through 11-1.60 or
4 12-13 through 12-16 of the Criminal Code of 1961 or the
5 Criminal Code of 2012, the victim of any such offense shall
6 receive the rights set out in Sections 4 and 6 of the Bill of
7 Rights for Victims and Witnesses of Violent Crime Act; and the
8 juvenile who is the subject of the adjudication,
9 notwithstanding any other provision of this Act, shall be
10 treated as an adult for the purpose of affording such rights to
11 the victim.

12 (E) Nothing in this Section shall affect the right of a
13 Civil Service Commission or appointing authority of the federal
14 government, or any state, county, or municipality examining the
15 character and fitness of an applicant for employment with a law
16 enforcement agency, correctional institution, or fire
17 department to ascertain whether that applicant was ever
18 adjudicated to be a delinquent minor and, if so, to examine the
19 records of disposition or evidence which were made in
20 proceedings under this Act.

21 (F) Following any adjudication of delinquency for a crime
22 which would be a felony if committed by an adult, or following
23 any adjudication of delinquency for a violation of Section
24 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961 or the
25 Criminal Code of 2012, the State's Attorney shall ascertain
26 whether the minor respondent is enrolled in school and, if so,

1 shall provide a copy of the dispositional order to the
2 principal or chief administrative officer of the school. Access
3 to the dispositional order shall be limited to the principal or
4 chief administrative officer of the school and any guidance
5 counselor designated by him or her.

6 (G) Nothing contained in this Act prevents the sharing or
7 disclosure of information or records relating or pertaining to
8 juveniles subject to the provisions of the Serious Habitual
9 Offender Comprehensive Action Program when that information is
10 used to assist in the early identification and treatment of
11 habitual juvenile offenders.

12 (H) When a court hearing a proceeding under Article II of
13 this Act becomes aware that an earlier proceeding under Article
14 II had been heard in a different county, that court shall
15 request, and the court in which the earlier proceedings were
16 initiated shall transmit, an authenticated copy of the juvenile
17 court record, including all documents, petitions, and orders
18 filed and the minute orders, transcript of proceedings, and
19 docket entries of the court.

20 (I) The Clerk of the Circuit Court shall report to the
21 Department of State Police, in the form and manner required by
22 the Department of State Police, the final disposition of each
23 minor who has been arrested or taken into custody before his or
24 her 18th birthday for those offenses required to be reported
25 under Section 5 of the Criminal Identification Act. Information
26 reported to the Department under this Section may be maintained

1 with records that the Department files under Section 2.1 of the
2 Criminal Identification Act.

3 (J) The changes made to this Section by Public Act 98-61
4 apply to juvenile law enforcement records of a minor who has
5 been arrested or taken into custody on or after January 1, 2014
6 (the effective date of Public Act 98-61).

7 (K) Willful violation of this Section is a Class C
8 misdemeanor and each violation is subject to a fine of \$1,000.
9 This subsection (K) shall not apply to the person who is the
10 subject of the record.

11 (L) A person convicted of violating this Section is liable
12 for damages in the amount of \$1,000 or actual damages,
13 whichever is greater.

14 (Source: P.A. 100-285, eff. 1-1-18; 100-720, eff. 8-3-18;
15 100-1162, eff. 12-20-18.)