

House File 2651 - Enrolled

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HOUSE FILE 2651

AN ACT

RELATING TO JUVENILE COURT RECORDS AND RESTITUTION ORDERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 232.147, subsection 2, Code Supplement 2005, is amended to read as follows:

2. Official juvenile court records in cases alleging delinquency, including complaints under section 232.28, shall be public records, subject to ~~sealing under section 232.150~~ the following restrictions:

a. ~~Official juvenile court records containing a petition or complaint alleging delinquency filed prior to January 1, 2007, shall be public records subject to a confidentiality order under section 232.149A or sealing under section 232.150.~~

b. ~~Official juvenile court records containing a petition or complaint alleging delinquency filed on or after January 1, 2007, shall be public records subject to a confidentiality order under section 232.149A or sealing under section 232.150.~~

~~However, the official records shall not be available to the public through the internet or in an electronic customized data report unless the child has been adjudicated delinquent.~~

c. If the court has excluded the public from a hearing under division II of this chapter, the transcript of the proceedings shall not be deemed a public record and inspection and disclosure of the contents of the transcript shall not be permitted except pursuant to court order or unless otherwise provided in this chapter.

d. Complaints under section 232.28 shall be released in accordance with section 915.25. Other official juvenile court records may be released under this section by a juvenile court officer.

Sec. 2. NEW SECTION. 232.149A CONFIDENTIALITY ORDERS.

1. Notwithstanding any other provision of the Code to the contrary, upon application of a person who was taken into custody for a delinquent act or was the subject of a complaint alleging delinquency or was the subject of a delinquency petition, or upon the court's own motion, the court after hearing, shall order official juvenile court records in the case to be kept confidential and no longer public records under sections 232.147 and 232.149, if the court finds both of the following apply:

a. The case has been dismissed and the person is no longer subject to the jurisdiction of the juvenile court.

b. Making the records confidential is in the best interests of the person and the public.

2. The records subject to a confidentiality order may be sealed at a later date if section 232.150 applies.

3. Official juvenile court records subject to a confidentiality order may be inspected and their contents shall be disclosed to the following without court order:

a. The judge and professional court staff, including juvenile court officers.

b. The child and the child's counsel.

c. The child's parent, guardian or custodian, court appointed special advocate, and guardian ad litem, and the members of the child advocacy board created in section 237.16 or a local citizen foster care review board created in accordance with section 237.19 who are assigning or reviewing the child's case.

d. The county attorney and the county attorney's assistants.

e. An agency, association, facility, or institution which has custody of the child, or is legally responsible for the care, treatment, or supervision of the child, including but not limited to the department of human services.

f. A court, court professional staff, and adult probation officers in connection with the preparation of a presentence report concerning a person who had been the subject of a juvenile court proceeding.

g. The child's foster parent or an individual providing

3 4 preadoptive care to the child.

3 5 h. A state or local law enforcement agency.

3 6 4. If the child has been discharged from the jurisdiction
3 7 of the juvenile court due to reaching the age of eighteen and
3 8 restitution remains unpaid, the name of the court, the title
3 9 of the action, and the court's file number shall not be kept
3 10 confidential, and the restitution amount shall be a judgment
3 11 and lien as provided in sections 910.7A, 910.8, 910.10, and
3 12 915.28 until the restitution is paid.

3 13 5. Pursuant to court order, official juvenile court
3 14 records subject to a confidentiality order may be inspected by
3 15 and their contents may be disclosed to:

3 16 a. A person conducting bona fide research for research
3 17 purposes under whatever conditions the court may deem proper,
3 18 provided that no personal identifying data shall be disclosed
3 19 to such a person.

3 20 b. Persons who have a direct interest in a proceeding or
3 21 in the work of the court.

3 22 Sec. 3. Section 232.150, subsection 1, Code 2005, is
3 23 amended to read as follows:

3 24 1. a. Upon application of a person who was taken into
3 25 custody for a delinquent act or was the subject of a complaint
3 26 alleging delinquency or was the subject of a delinquency
3 27 petition, or upon the court's own motion, the court, after
3 28 hearing, shall order the official juvenile court records in
3 29 the case including those specified in sections 232.147 and
3 30 232.149 sealed if the court finds all of the following:

3 31 ~~a- (1) Two The person is eighteen years of age or older~~
3 32 ~~and two years have elapsed since the final discharge of the~~
3 33 ~~person or since the last official action in the person's case~~
3 34 ~~if there was no adjudication and disposition.~~

3 35 ~~b- (2) The person has not been subsequently convicted of~~
4 1 ~~a felony or an aggravated or serious misdemeanor or~~
4 2 ~~adjudicated a delinquent child for an act which if committed~~
4 3 ~~by an adult would be a felony, an aggravated misdemeanor or a~~
4 4 ~~serious misdemeanor and no proceeding is pending seeking such~~
4 5 ~~conviction or adjudication.~~

4 6 ~~c- (3) The person was not placed on youthful offender~~
4 7 ~~status, transferred back to district court after the youthful~~
4 8 ~~offender's eighteenth birthday, and sentenced for the offense~~
4 9 ~~which precipitated the youthful offender placement.~~

4 10 ~~b. However, if If~~ the person was adjudicated delinquent
4 11 for an offense which if committed by an adult would be an
4 12 aggravated misdemeanor or a felony, the court shall not order
4 13 the records in the case sealed unless, upon application of the
4 14 person or upon the court's own motion and after hearing, the
4 15 court finds that paragraphs "a" and "b" subparagraphs (1) and
4 16 (2) apply and that the sealing is in the best interests of the
4 17 person and the public.

4 18 c. If the person is required to pay monetary restitution
4 19 to a victim due to a delinquent act and the restitution is
4 20 unpaid, the records in the case may be sealed, but the name of
4 21 the court, the title of the action, and the court's file
4 22 number shall remain unsealed as provided in section 910.10 and
4 23 the restitution amount shall be a judgment and lien as
4 24 provided in sections 910.7A, 910.8, 910.10, and 915.28 until
4 25 the restitution is paid in full.

4 26 Sec. 4. Section 910.10, subsection 2, Code 2005, is
4 27 amended by adding the following new paragraph:

4 28 NEW PARAGRAPH. cc. If applicable, any juvenile
4 29 delinquency proceeding pursuant to which the lien is filed,
4 30 including only the name of the court, the title of the action,
4 31 and the court's file number.

4 32 Sec. 5. Section 910.10, subsection 3, Code 2005, is
4 33 amended by adding the following new paragraph:

4 34 NEW PARAGRAPH. c. A victim in a juvenile delinquency
4 35 proceeding after restitution has been determined and ordered
5 1 by the juvenile court and the juvenile offender has been
5 2 discharged from the jurisdiction of the juvenile court due to
5 3 reaching the age of eighteen years.

5 4 Sec. 6. Section 915.28, Code 2005, is amended by adding
5 5 the following new subsection:

5 6 NEW SUBSECTION. 4. Upon final discharge from the
5 7 jurisdiction of juvenile court due to the juvenile reaching
5 8 the age of eighteen years, any restitution order consisting of
5 9 monetary payment to the victim due to a delinquent act shall
5 10 constitute a judgment and lien against all property of the
5 11 person liable for the amount the person was obligated to pay
5 12 under the order of the juvenile court, and may be recorded and
5 13 enforced as provided in sections 910.7A, 910.8, and 910.10.

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CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 2651, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2006

THOMAS J. VILSACK
Governor