

Senate File 2288 - Enrolled

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AN ACT

RELATING TO THE CONFIDENTIALITY OF JUVENILE COURT RECORDS IN
DELINQUENCY PROCEEDINGS.

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

Section 1. Section 232.11, subsection 1, unnumbered paragraph 1, Code 2016, is amended to read as follows:

A child shall have the right to be represented by counsel at the following stages of the proceedings within the jurisdiction of the juvenile court under division II or division VIII:

Sec. 2. Section 232.11, subsection 1, Code 2016, is amended by adding the following new paragraph:

NEW PARAGRAPH. *g.* A hearing on a confidentiality order under section 232.149A or a public records order under section 232.149B.

Sec. 3. Section 232.19, subsection 4, Code 2016, is amended to read as follows:

4. Information pertaining to a child who is at least ten years of age and who is taken into custody for a delinquent act which would be a ~~public offense~~ forcible felony offense if committed by an adult is a public record and is not confidential under section 232.147, subject to the provisions of section 232.149.

Sec. 4. Section 232.147, subsections 2 and 6, Code 2016, are amended by striking the subsections.

Sec. 5. Section 232.147, subsection 3, unnumbered paragraph 1, Code 2016, is amended to read as follows:

Official juvenile court records in all cases except those alleging ~~delinquency~~ the commission of a delinquent act that would be a forcible felony if committed by an adult shall be confidential and are not public records ~~but~~. Unless an order sealing such confidential records in a delinquency proceeding has been entered pursuant to section 232.150, confidential records may be inspected and their contents shall be disclosed to the following without court order, provided that a person or entity who inspects or receives a confidential record under this section shall not disclose the confidential record or its contents unless required by law:

Sec. 6. Section 232.147, subsection 3, paragraphs e and f, Code 2016, are amended to read as follows:

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 prior thereto had been the subject of a juvenile court delinquency proceeding.

Sec. 7. Section 232.147, subsection 3, Code 2016, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *i.* The department of corrections.

NEW PARAGRAPH. *j.* A judicial district department of correctional services.

NEW PARAGRAPH. *k.* The board of parole.

NEW PARAGRAPH. *l.* The superintendent or the superintendent's designee of the school district for the school attended by the child or the authorities in charge of an accredited nonpublic school attended by the child.

NEW PARAGRAPH. *m.* A member of the armed forces of the United States who is conducting a background investigation of an individual pursuant to federal law.

NEW PARAGRAPH. *n.* The statistical analysis center for the purposes stated in section 216A.136.

NEW PARAGRAPH. *o.* A state or local law enforcement agency.

NEW PARAGRAPH. *p.* The alleged victim of the delinquent act.

Sec. 8. Section 232.147, Code 2016, is amended by adding the

following new subsections:

NEW SUBSECTION. 3A. Official juvenile court records containing a petition or complaint alleging the commission of a delinquent act that would be a forcible felony if committed by an adult shall be public records subject to a confidentiality order under section 232.149A or sealing under section 232.150. However, such official records shall not be available to the public or any governmental agency through the internet or in an electronic customized data report unless the child has been adjudicated delinquent in the matter. However, such official juvenile court records shall be disclosed through the internet or in an electronic customized data report prior to the child being adjudicated delinquent to the following without court order:

- a.* The judge and professional court staff, including juvenile court officers.
- b.* The child's counsel or guardian ad litem.
- c.* The county attorney and the county attorney's assistants.
- d.* A court, court professional staff, and adult probation officers in connection with the preparation of a presentence report concerning a person who prior thereto had been the subject of a juvenile court proceeding.
- e.* A state or local law enforcement agency.
- f.* The state public defender.
- g.* The statistical analysis center for the purposes stated in section 216A.136.
- h.* The department of human services.
- i.* The department of corrections.
- j.* A judicial district department of correctional services.
- k.* The board of parole.

NEW SUBSECTION. 3B. If the court has excluded the public from a hearing pursuant to section 232.39 or 232.92, 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 a court order or unless otherwise provided in this chapter.

NEW SUBSECTION. 3C. Delinquency complaints under section 232.28 shall be released in accordance with section 915.25. Other official juvenile court records in a delinquency

proceeding that are public records under this section and that have not been made confidential pursuant to section 232.149A or sealed pursuant to section 232.150 may be released under this section by a juvenile court officer.

NEW SUBSECTION. 12. Notwithstanding any provision of this section or a confidentiality order entered pursuant to section 232.149A, the juvenile court shall notify the department of transportation as required by sections 321.213 and 321.213A.

NEW SUBSECTION. 13. The confidentiality of a final adjudication of delinquency under this section or pursuant to section 232.149A shall not prohibit the state from pleading or proving the adjudication at a subsequent criminal or delinquency proceeding for the purpose of penalty enhancement when a provision of the Code specifically deems the delinquency adjudication to constitute a final conviction.

NEW SUBSECTION. 14. A provision in this section or section 232.149A or 232.150 shall not be construed to limit or restrict the production, use, or introduction of official juvenile court records in any juvenile or adult criminal proceeding, where such records are relevant and deemed admissible under any other provision of the law.

NEW SUBSECTION. 15. A provision in this section or section 232.149A shall not limit or prohibit individuals from performing any duties or responsibilities as required by section 124.415, 232.47, or 232.49.

NEW SUBSECTION. 16. Notwithstanding any provision of this section or section 232.149A to the contrary, if the child has been discharged from the jurisdiction of the juvenile court in a delinquency proceeding due to reaching the age of eighteen and restitution remains unpaid, the name of the court, the title of the action, and the court's file number shall not be kept confidential, and the restitution amount shall be a judgment and lien as provided in sections 910.7A, 910.8, 910.10, and 915.28 until the restitution is paid.

NEW SUBSECTION. 17. Notwithstanding any other provision of law, a public record which is confidential under the provisions of this chapter shall only be subject to release upon order of a court in a proceeding under this chapter.

Sec. 9. Section 232.147, subsection 5, unnumbered paragraph

1, Code 2016, is amended to read as follows:

Pursuant to court order, official juvenile court records may be inspected by and their contents may be disclosed to:

Sec. 10. Section 232.149, Code 2016, is amended to read as follows:

232.149 Records of criminal or juvenile justice agencies, intake officers, and juvenile court officers.

1. The taking of a child into custody under the provisions of [section 232.19](#) shall not be considered an arrest.

2. Records and files of a criminal or juvenile justice agency, an intake officer, or a juvenile court officer concerning a child involved in a delinquent act are ~~public records, except that release of criminal history data, intelligence data, and law enforcement investigatory files is subject to the provisions of [section 22.7](#) and [chapter 692](#), and juvenile court social records, as defined in section 232.2, subsection 31, shall be deemed confidential criminal identification files under section 22.7, subsection 9~~ confidential. The records are subject to sealing under section 232.150 unless the juvenile court waives its jurisdiction over the child so that the child may be prosecuted as an adult for a public offense.

3. Records and files of a criminal or juvenile justice agency, an intake officer, or a juvenile court officer concerning a defendant transferred under [section 803.6](#) to the juvenile court for the alleged commission of a public offense are public records, except that release of criminal history data, intelligence data, and law enforcement investigatory files is subject to the provisions of [section 22.7](#) and [chapter 692](#), and juvenile court social records shall be deemed confidential criminal identification files under section 22.7, subsection 9. The records are subject to sealing under section 232.150.

4. Notwithstanding [subsection 2](#), if a juvenile who has been placed in detention under [section 232.22](#) escapes from the facility, the criminal or juvenile justice agency may release the name of the juvenile, the facts surrounding the escape, and the offense or alleged offense which resulted in the placement of the juvenile in the facility.

5. Records of an intake officer or juvenile court officer containing a dismissal of a complaint or an informal adjustment of a complaint if no petition is filed relating to the complaint, shall not be available to the public and may only be inspected by or disclosed to the following:

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

b. The child's counsel or guardian ad litem.

c. The county attorney and county attorney's assistants.

d. The superintendent or the superintendent's designee of the school district for the school attended by the child or the authorities in charge of an accredited nonpublic school attended by the child.

e. A member of the armed forces of the United States who is conducting a background investigation of an individual pursuant to federal law.

f. The statistical analysis center for the purposes stated in section 216A.136.

g. The state public defender.

h. The department of human services.

i. The alleged victim of the delinquent act.

Sec. 11. Section 232.149A, subsections 1 and 3, Code 2016, are amended to read as follows:

1. Notwithstanding any other provision of the Code to the contrary, upon the court's own motion or 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, alleging the commission of a delinquent act that would be a forcible felony if committed by an adult, the court after hearing, shall order official juvenile court records in the case to be kept confidential and no longer public records under sections 232.19, 232.147, and 232.149 915.25, if the court finds both of the following apply:

a. The case has been dismissed without any adjudication of delinquency and the person is no longer subject to the jurisdiction of the juvenile court in the matter.

b. Making the records confidential is in the best interests of the person and the public. The child's interest in making the

records confidential outweighs the public's interest in the records remaining public records.

3. Official Unless an order sealing the records has been entered pursuant to section 232.150, 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 preadoptive care to the child.
- h. A state or local law enforcement agency.
- i. The state public defender.
- j. The department of corrections.
- k. A judicial district department of correctional services.
- l. The board of parole.
- m. The statistical analysis center for the purposes stated in section 216A.136.
- n. The alleged victim of the delinquent act.
- o. A member of the armed forces of the United States who is conducting a background investigation of an individual pursuant to federal law.

Sec. 12. Section 232.149A, subsection 4, Code 2016, is

amended by striking the subsection.

Sec. 13. NEW SECTION. **232.149B Public records orders.**

1. A rebuttable presumption exists that official juvenile court records in delinquency proceedings that do not involve an allegation of delinquency that would be a forcible felony offense if committed by an adult shall remain confidential as provided by section 232.147.

2. Upon application of any person or upon the court's own motion at any time prior to the termination of juvenile court jurisdiction over the charged juvenile, and after hearing, the court shall order the official juvenile court records in such a delinquency proceeding to be public records if any of the following apply:

a. The public's interest in making the records public outweighs the juvenile's interest in maintaining the confidentiality of the records.

b. The juvenile has been placed on youthful offender status pursuant to section 232.45, subsection 7, and section 907.3A, subsection 1, and will be transferred back to the district court for sentencing prior to the child's eighteenth birthday.

3. Upon application of any person or upon the court's own motion at any time prior to the termination of juvenile court jurisdiction over the charged juvenile, and after hearing, the court may order the official juvenile court records in such a delinquency proceeding to be public records if the juvenile has been subsequently adjudicated delinquent for a public offense that would be a serious misdemeanor, aggravated misdemeanor, or felony offense if committed by an adult, or another delinquency proceeding is pending seeking such an adjudication.

4. Records subject to a public records order may be sealed at a later date pursuant to section 232.150.

Sec. 14. Section 232.150, subsection 1, paragraph a, unnumbered paragraph 1, Code 2016, is amended to read as follows:

In the case of an adjudication of delinquency, the court, ~~shall~~ upon its own motion, ~~shall~~ schedule a sealing of records hearing to be held two years after the date of the last official action, or the date the child becomes eighteen years of age, whichever is later, ~~or~~. The court shall also schedule

a sealing of records hearing 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 alleging delinquency that did not result in an adjudication. The court, after hearing, shall order the official juvenile court records in the case including those specified in sections 232.147, and 232.149, 232.149A, 232.149B, and 915.25, sealed if the court finds all of the following:

Sec. 15. Section 232.150, subsection 1, paragraph a, Code 2016, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) The person was not adjudicated delinquent on an offense involving a violation of section 321J.2.

Sec. 16. Section 915.25, Code 2016, is amended to read as follows:

915.25 Right to review complaint against juvenile.

1. A complaint filed with the court or its designee pursuant to chapter 232 which alleges that a child who is at least ten years of age has committed a delinquent act, which if committed by an adult would be a public offense forcible felony, is a public record and shall not be confidential under section 232.147. The court, the court's designee, or law enforcement officials may release the complaint, including the identity of the child named in the complaint.

2. ~~The court, its designee, or law enforcement officials are authorized to release the complaint, including the identity of the child named in the complaint.~~ All other complaints filed with the court or the court's designee pursuant to chapter 232 that allege a child has committed a delinquent act are confidential under section 232.147 and are not public records, subject to entry of a public records order pursuant to section 232.149B. However, if the child named in a complaint is at large, state and local law enforcement officials are authorized to release the complaint, including the identity of the child named in the complaint, if deemed necessary for the protection of the public or the safety of the child.

3. Notwithstanding the provisions of sections 232.147, 232.149, and 232.149A, an intake or juvenile court officer

shall disclose to the alleged victim of a delinquent act, upon the request of the victim, the complaint, the name and address of the child who allegedly committed the delinquent act, and the disposition of the complaint. If the alleged delinquent act would be a forcible felony if committed by an adult, the intake or juvenile court officer shall provide notification to the victim of the delinquent act as required by section 915.24.

Sec. 17. APPLICABILITY. This Act applies to juvenile delinquency proceedings which are pending or arise on or after July 1, 2016.

PAM JOCHUM
President of the Senate

LINDA UPMEYER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2288, Eighty-sixth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2016

TERRY E. BRANSTAD
Governor