

House File 2443 - Enrolled

House File 2443

AN ACT

RELATING TO THE DELINQUENCY JURISDICTION OF THE JUVENILE COURT
AND THE CONFIDENTIALITY AND DISCLOSURE OF CERTAIN JUVENILE
COURT RECORDS.

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

Section 1. Section 232.2, subsection 12, Code 2018, is amended by adding the following new paragraph:

NEW PARAGRAPH. *d.* The violation of sections 716.7 and 716.8, which is committed by a child.

Sec. 2. Section 232.2, Code 2018, is amended by adding the following new subsection:

NEW SUBSECTION. 32A. "*Juvenile diversion program*" means an organized effort to coordinate services for a child who is alleged to have committed a delinquent act, when the organized effort results in the dismissal of a complaint alleging the commission of the delinquent act or results in informally proceeding without a complaint being filed against the child, and which does not result in an informal adjustment agreement involving juvenile court services or the filing of a delinquency petition.

Sec. 3. Section 232.8, subsection 2, Code 2018, is amended to read as follows:

2. a. A case involving a person charged in a court other than the juvenile court with the commission of a public offense not exempted by law from the jurisdiction of the juvenile court and who is within the provisions of [subsection 1](#) of this section shall immediately be transferred to the juvenile court. The transferring court shall order a transfer and shall forward the transfer order together with all papers, documents and a transcript of all testimony filed or admitted into evidence in connection with the case to the clerk of the juvenile court. The jurisdiction of the juvenile court shall attach immediately upon the signing of an order of transfer. From the time of transfer, the custody, shelter care and detention of the person alleged to have committed a delinquent act shall be in accordance with the provisions of [this chapter](#) and the case shall be processed in accordance with the provisions of this chapter.

b. Upon completion of the transfer to juvenile court, the court shall file an order dismissing the charge in the transferring court and directing the clerk of court to seal all records of the charge initiated in the transferring court.

Sec. 4. Section 232.44, subsection 1, paragraph a, Code 2018, is amended to read as follows:

a. A hearing shall be held within ~~forty-eight hours,~~ excluding Saturdays, Sundays, and legal holidays, two working days of the time of the child's admission to a shelter care facility, and within ~~twenty-four hours, excluding Saturdays,~~

~~Sundays, and legal holidays,~~ one working day of the time of a child's admission to a detention facility. If the hearing is not held within the time specified in this paragraph, except for good cause shown, the child shall be released from shelter care or detention.

Sec. 5. Section 232.147, Code 2018, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Official juvenile court records in all cases except those alleging delinquency shall be confidential and are not public records. 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 subsection shall not disclose the confidential record or its contents unless required by law:

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, the county attorney's assistants, or the attorney representing the state in absence of the county attorney.

e. An agency, individual, association, facility, or institution responsible for the care, treatment, or supervision of the child pursuant to a court order or voluntary placement agreement with the department of human services, juvenile officer, or intake officer.

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 proceeding.

g. The child's foster parent or an individual providing preadoptive care to the child.

h. The state public defender.

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

j. The department of human services.

Sec. 6. Section 232.147, subsections 2 and 3, Code 2018, are amended to read as follows:

2. Official juvenile court records in all cases alleging the commission of a delinquent act except those alleging 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. 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~~ subsection shall not disclose the confidential record or its contents unless required by law:

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, or the attorney representing the state in absence of the county attorney.

e. An agency, individual, 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~~ pursuant to a court order or voluntary placement agreement with the department of human services, juvenile court officer, or intake officer.

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.

~~g. The child's foster parent or an individual providing preadoptive care to the child.~~

~~h.~~ g. The state public defender.

h. The department of human services.

i. The department of corrections.

j. A judicial district department of correctional services.

k. The board of parole.

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.

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

n. The statistical analysis center for the purposes stated in [section 216A.136](#).

o. A state or local law enforcement agency.

p. The alleged victim of the delinquent act.

q. An individual involved in the operation of a juvenile diversion program, who may also receive from a state or local law enforcement agency police reports and related information that assist in the operation of the juvenile diversion program.

3. 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 and the child's counsel or guardian ad litem.

c. The child's parent, guardian or custodian,

court-appointed special advocate, 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.

~~e.~~ d. The county attorney, ~~and the county attorney's assistants, or the attorney representing the state in absence of the county attorney.~~

~~d.~~ e. 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.

f. An agency, individual, association, facility, or institution responsible for the care, treatment, or supervision of the child pursuant to a court order or voluntary placement agreement with the department of human services, juvenile court officer, or intake officer.

~~e.~~ g. A state or local law enforcement agency.

~~f.~~ h. The state public defender.

~~g.~~ i. The statistical analysis center for the purposes stated in [section 216A.136](#).

~~h.~~ j. The department of human services.

~~i.~~ k. The department of corrections.

~~j.~~ l. A judicial district department of correctional services.

~~k.~~ m. The board of parole.

n. 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.

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

p. The alleged victim of the delinquent act.

q. An individual involved in the operation of a juvenile diversion program, who may also receive from a state or local law enforcement agency police reports and related information that assist in the operation of the juvenile diversion program.

Sec. 7. Section 232.147, subsection 16, Code 2018, is

amended to read as follows:

16. 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 123.47B](#), [124.415](#), [232.47](#), ~~or 232.49~~, or [321J.2B](#).

Sec. 8. Section 232.149, subsection 2, Code 2018, is amended to read as follows:

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 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. A criminal or juvenile justice agency may disclose to individuals involved in the operation of a juvenile diversion program police reports and related information that assist in the operation of the juvenile diversion program.

Sec. 9. Section 232.149, Code 2018, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Notwithstanding subsections 2 and 5, information from such records and files may be disclosed by a juvenile justice agency, intake officer, or juvenile court officer, when making referrals for placement of the child, to an agency, individual, association, facility, or institution that will have physical custody of the child, or will become responsible for the care, treatment, or supervision of the child upon placement.

Sec. 10. Section 232.150, subsection 4, paragraph a, Code 2018, is amended to read as follows:

a. All agencies and persons having custody of records which are named therein, shall send such records to the court issuing the order. Maintenance or destruction of these records shall be prescribed by the state court administrator.

Sec. 11. Section 232.151, Code 2018, is amended to read as follows:

232.151 Criminal penalties.

1. Any person who knowingly discloses, receives, or makes use or permits the use of information derived directly or indirectly from the records concerning a child referred to in

sections 232.147 through 232.150, except as provided by those sections or [section 13B.4B, subsection 2](#), paragraph "c", shall be guilty of a serious misdemeanor.

2. This section does not apply to a person or entity authorized to receive or inspect the contents of confidential official juvenile court records, or the confidential records of a criminal or juvenile justice agency, juvenile court officer, or juvenile intake officer, when such person or entity discloses such information to another person or entity also authorized to receive or inspect the confidential information, or discloses to a witness or other interested person the date, time, and nature of a court proceeding concerning the child in order to secure the appearance of the witness or other interested person at the proceeding.

Sec. 12. Section 692.2, subsection 1, paragraph b, Code 2018, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) Absent an order determining official juvenile court records to be public records entered pursuant to section 232.149B, adjudication and custody data that are deemed or ordered to be confidential pursuant to section 232.147, 232.149, or 232.149A, or that are sealed by court order pursuant to section 232.150, shall not be provided by the department, except as necessary for the purpose of administering chapter 692A.

Sec. 13. Section 803.1, Code 2018, is amended by adding the following new subsection:

NEW SUBSECTION. 5. If it is determined that charges were erroneously filed in district court against an individual under the age of eighteen and the juvenile court holds exclusive jurisdiction, the court shall file an order dismissing the charge in district court and directing the clerk of court to seal all records of the charge initiated in district court.

Sec. 14. Section 803.6, subsection 4, Code 2018, is amended to read as follows:

4. If after the hearing the court transfers jurisdiction over the defendant to the juvenile court for the alleged commission of the public offense, the court shall forward the transfer order together with all papers, documents, and a transcript of all testimony filed or admitted into evidence in

connection with the case to the clerk of the juvenile court in the same manner as provided in [section 232.8, subsection 2](#), and the clerk shall seal all records initiated in district court.

LINDA UPMEYER
Speaker of the House

CHARLES SCHNEIDER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2443, Eighty-seventh General Assembly.

CARMINE BOAL
Chief Clerk of the House

Approved _____, 2018

KIM REYNOLDS
Governor