

House File 2232 - Introduced

HOUSE FILE 2232

BY KAUFMANN and JACOBY

A BILL FOR

1 An Act relating to the confidentiality of juvenile court
2 records in delinquency proceedings.

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

1 Section 1. Section 232.19, subsection 4, Code 2016, is
2 amended by striking the subsection.

3 Sec. 2. Section 232.147, subsection 2, Code 2016, is amended
4 by striking the subsection.

5 Sec. 3. Section 232.147, subsection 3, unnumbered paragraph
6 1, Code 2016, is amended to read as follows:

7 Official juvenile court records in all cases ~~except those~~
8 ~~alleging delinquency~~ shall be confidential and are not public
9 records but may be inspected and their contents shall be
10 disclosed to the following without court order:

11 Sec. 4. Section 232.149, subsection 2, Code 2016, is amended
12 to read as follows:

13 2. Records and files of a criminal or juvenile justice
14 agency concerning a child involved in a delinquent act are
15 ~~public records, except that release of criminal history data,~~
16 ~~intelligence data, and law enforcement investigatory files is~~
17 ~~subject to the provisions of [section 22.7](#) and [chapter 692](#),~~
18 ~~and juvenile court social records, as defined in section~~
19 ~~232.2, subsection 31, shall be deemed confidential criminal~~
20 ~~identification files under section 22.7, subsection 9~~
21 confidential. The records are subject to sealing under section
22 232.150 unless the juvenile court waives its jurisdiction over
23 the child so that the child may be prosecuted as an adult for
24 a public offense.

25 Sec. 5. Section 232.149A, Code 2016, is amended to read as
26 follows:

27 **232.149A Confidentiality Public records orders.**

28 1. ~~Notwithstanding any other provision of the Code to~~
29 ~~the contrary~~ A rebuttable presumption exists that official
30 juvenile court records in delinquency proceedings shall remain
31 confidential. However, upon application of a any person who
32 ~~was taken into custody for a delinquent act or was the subject~~
33 ~~of a complaint alleging delinquency or was the subject of a~~
34 ~~delinquency petition, or upon the court's own motion, the court~~
35 after a hearing held prior to disposition, shall order official

1 juvenile court records in ~~the case~~ delinquency proceedings to
2 be ~~kept confidential and no longer~~ made public records under
3 sections 232.147 and 232.149, if the court finds ~~both of the~~
4 ~~following apply:~~

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

7 ~~b. Making that making~~ the records ~~confidential~~ public is in
8 the best interests of the ~~person~~ child and the public.

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

11 3. Official juvenile court records ~~subject to a~~
12 ~~confidentiality order~~ which are confidential under section
13 232.147 may be inspected and their contents shall be disclosed
14 to the following without court order:

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

17 b. The child and the child's counsel.

18 c. The child's parent, guardian, or custodian, court
19 appointed special advocate, and guardian ad litem, and
20 the members of the child advocacy board created in section
21 237.16 or a local citizen foster care review board created in
22 accordance with section 237.19 who are assigning or reviewing
23 the child's case.

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

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

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

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

35 h. A state or local law enforcement agency.

1 *i.* The state public defender.

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

9 5. Pursuant to court order, official juvenile court records
10 ~~subject to a confidentiality order~~ which are confidential under
11 section 232.147 may be inspected by and their contents may be
12 disclosed to:

13 *a.* A person conducting bona fide research for research
14 purposes under whatever conditions the court may deem proper,
15 provided that no personal identifying data shall be disclosed
16 to such a person.

17 *b.* Persons who have a direct interest in a proceeding or in
18 the work of the court.

19 6. Notwithstanding any other provision of this section,
20 upon application of any person and order of the court at any
21 time prior to the termination of juvenile court jurisdiction
22 over the child, the court, after a hearing, may order the
23 official juvenile court records in delinquency proceedings to
24 be public records if any of the following apply:

25 *a.* The child has been subsequently convicted of a felony
26 or an aggravated or serious misdemeanor or adjudicated a
27 delinquent child for an act which if committed by an adult
28 would be a felony or an aggravated or serious misdemeanor.

29 *b.* The child was placed on youthful offender status,
30 transferred back to the district court after the youthful
31 offender's eighteenth birthday, and sentenced for the offense
32 which precipitated the youthful offender placement.

33 Sec. 6. REPEAL. Section 915.25, Code 2016, is repealed.

34 Sec. 7. APPLICABILITY. The sections of this Act amending
35 or repealing sections 232.19, 232.147, 232.149, 232.149A, and

1 915.25 apply to juvenile delinquency proceedings which are
2 pending or arise on or after July 1, 2016.

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

6 This bill relates to the confidentiality of juvenile court
7 records in delinquency proceedings.

8 Under current law, juvenile court records in cases alleging
9 delinquency are public records unless a judge grants a request
10 to make the records confidential or seals the records.

11 The bill amends current law and provides that juvenile
12 court records in cases alleging delinquency are confidential
13 unless a judge grants a request to make the juvenile court
14 records public if the court finds, after a hearing held prior
15 to disposition, that making the records public is in the
16 best interests of the juvenile and the public. A rebuttable
17 presumption exists that the juvenile court delinquency records
18 shall remain confidential. Even if a child's juvenile court
19 delinquency records are confidential, a court may, after a
20 hearing, order such records to be made public records if the
21 child is subsequently convicted of a felony or an aggravated
22 or serious misdemeanor or adjudicated a delinquent child for
23 an act which if committed by an adult would be a felony or
24 an aggravated or serious misdemeanor, or if the child was
25 placed on youthful offender status, transferred back to the
26 district court after the youthful offender's 18th birthday,
27 and sentenced for the offense which precipitated the youthful
28 offender placement. If a judge orders such records to be
29 public, the records may still be sealed at a later date
30 pursuant to Code section 232.150.

31 The bill provides that juvenile court records in cases
32 alleging delinquency may be, without a court order, inspected
33 by and disclosed to the judge and professional court staff, the
34 child and the child's counsel, the child's parent, guardian, or
35 custodian, court-appointed special advocate, and guardian ad

1 litem, and the members of the child advocacy board created in
2 Code section 237.16 or a local citizen foster care review board
3 created in accordance with Code section 237.19, the county
4 attorney and the county attorney's assistants, an agency,
5 association, facility, or institution which has custody of the
6 child, or is legally responsible for the care, treatment, or
7 supervision of the child, a court, court professional staff,
8 and adult probation officers in connection with the preparation
9 of a presentence report concerning a person who prior thereto
10 had been the subject of a juvenile court proceeding, the
11 child's foster parent or an individual providing preadoptive
12 care to the child, a law enforcement agency, and the state
13 public defender.

14 Under current law, records and files of a criminal or
15 juvenile justice agency concerning a child involved in
16 a delinquent act are public records, subject to certain
17 exemptions. The bill provides that such records and files are
18 confidential.

19 Under current law, a complaint which alleges that a child
20 who is at least 10 years of age has committed a delinquent
21 act, which if committed by an adult would be a public offense,
22 is a public record and is not confidential under Code section
23 232.147. The bill repeals Code section 915.25 and provides
24 that such a complaint is subject to Code section 232.147, and
25 therefore is confidential.

26 The bill retains certain existing exemptions to
27 confidentiality of juvenile court records. Pursuant to Code
28 section 692A.121(8), records concerning sex offense convictions
29 which are committed by minors may be released in the same
30 manner as records of convictions of adults. Pursuant to Code
31 section 915.10A, information concerning a juvenile charged
32 with a felony offense may be released pursuant to an automated
33 victim notification system. Under the bill, these exemptions
34 to confidentiality are not amended and therefore still apply to
35 juvenile court records.

H.F. 2232

1 The bill applies to juvenile delinquency proceedings which
2 are pending or arise on or after July 1, 2016.