

1 SB398
2 158609-1
3 By Senator Dial
4 RFD: Judiciary
5 First Read: 20-FEB-14

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8 SYNOPSIS: Under existing law, certain records,
9 reports, and information acquired or generated in
10 juvenile courts concerning children are
11 confidential and may not be released to any person,
12 department, agency, or entity.

13 This bill would allow district attorneys,
14 assistant district attorneys, the Attorney General,
15 and assistant and deputy attorneys general to
16 access these records, reports, and information at
17 all times.

18 Under existing law, fingerprints and
19 photographs of a person adjudged to be a youthful
20 offender are not open for public inspection.

21 This bill would provide that district
22 attorneys, assistant district attorneys, the
23 Attorney General, and assistant and deputy
24 attorneys general may access all fingerprints,
25 photographs, and other records of a person adjudged
26 a youthful offender at all times.

1 This bill would also specify that the
2 district attorney may access all court records,
3 without limitation and at no charge.

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5 A BILL
6 TO BE ENTITLED
7 AN ACT

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9 To amend Section 12-15-133, Code of Alabama 1975, to
10 allow district attorneys, assistant district attorneys, the
11 Attorney General, and assistant and deputy attorneys general
12 to access certain records, reports, and information in
13 juvenile courts concerning children; to amend Section
14 12-19-180, Code of Alabama 1975, to specify that district
15 attorneys may access all court records at no cost and without
16 limitation; and to amend Section 15-19-7, Code of Alabama
17 1975, to allow district attorneys, assistant district
18 attorneys, the Attorney General, and assistant and deputy
19 attorneys general to access all fingerprints, photographs, and
20 other records of a person adjudged a youthful offender.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Sections 12-15-133, 12-19-180, and
23 15-19-7, Code of Alabama 1975, are amended to read as follows:

24 "§12-15-133.

25 "(a) ~~The~~ Except as provided in subsections (c) and
26 (d), the following records, reports, and information acquired
27 or generated in juvenile courts concerning children shall be

1 confidential and shall not be released to any person,
2 department, agency, or entity, except as provided elsewhere in
3 this section:

4 "(1) Juvenile legal files (including formal
5 documents as petitions, notices, motions, legal memoranda,
6 orders, and decrees).

7 "(2) Social records, including but not limited to:

8 "a. Records of juvenile probation officers.

9 "b. Records of the Department of Human Resources.

10 "c. Records of the Department of Youth Services.

11 "d. Medical records.

12 "e. Psychiatric or psychological records.

13 "f. Reports of preliminary inquiries and
14 predisposition studies.

15 "g. Supervision records.

16 "h. Birth certificates.

17 "i. Individualized service plans.

18 "j. Education records, including, but not limited
19 to, individualized education plans.

20 "k. Detention records.

21 "l. Demographic information that identifies a child
22 or the family of a child.

23 "(3) State Criminal Justice Information System
24 records.

25 "(4) Juvenile criminal sex offender notification
26 records.

1 "(b) The records, reports, and information described
2 in subsection (a) shall be filed separately from other files
3 and records of the court. The juvenile legal files described
4 in subdivision (1) of subsection (a) shall be maintained in a
5 separate file from all other juvenile records, reports, and
6 information.

7 "(c) Subject to applicable federal law, the records,
8 reports, and information described in subsection (a) shall be
9 open to inspection and copying only by the following, under
10 the specified circumstances:

11 "(1) The judge, juvenile probation officers, and
12 professional staff assigned to serve or contracted for service
13 to the juvenile court.

14 "(2) Representatives of a public or private agency
15 or department providing supervision or having legal custody of
16 the child.

17 "(3) The parent (except when parental rights have
18 been terminated), the legal guardian of the child, and the
19 legal custodian of the child.

20 "(4) The subject of the proceedings and his or her
21 counsel and guardian ad litem. As used in this section, the
22 term counsel means a child's attorney and an attorney for a
23 criminal defendant who was formerly a child subject to
24 proceedings in juvenile court.

25 "(5) The judge, probation, and other professional
26 staff serving a court handling criminal cases for
27 investigating or considering youthful offender applications

1 for an individual, who, prior thereto, had been the subject of
2 proceedings in juvenile court.

3 "(6) The judge, probation, and other professional
4 staff, including the prosecutor and the attorney for the
5 defendant, serving a court handling criminal cases for
6 completing sentencing standards worksheets and considering the
7 sentence upon a person charged with a criminal offense who,
8 prior thereto, had been the subject of proceedings in juvenile
9 court.

10 "(7) The principal of the school in which the child
11 is enrolled, or the representative of the principal, upon
12 written petition to the juvenile court setting forth the
13 reasons why the safety or welfare, or both, of the school, its
14 students, or personnel, necessitate production of the
15 information and without which the safety and welfare of the
16 school, its students, and personnel, would be threatened;
17 provided, however, certain information concerning children
18 adjudicated delinquent of certain offenses shall be provided
19 as set forth in Section 12-15-217.

20 "(8) The Alabama Sentencing Commission, as set forth
21 in Section 12-25-11.

22 "(d) Notwithstanding subsection (a) or (c), district
23 attorneys and assistant and deputy district attorneys and the
24 Attorney General and assistant or deputy attorneys general
25 shall have access at all times to all juvenile records,
26 reports, and information acquired or generated in juvenile

1 courts concerning children, including those items listed in
2 subsection (a).

3 "~~(d)~~ (e) Upon determining a legitimate need for
4 access, and subject to applicable federal law, the juvenile
5 court may also grant access to specific records, reports, and
6 information to another person, department, entity, or agency.
7 The determination of legitimate need by the juvenile court
8 shall be based upon a written request filed with the juvenile
9 court stating the following:

10 "(1) The reason the person, department, entity, or
11 agency is requesting the information.

12 "(2) The use to be made of the information.

13 "(3) The names of those persons or entities that
14 will have access to the information.

15 "~~(e)~~ (f) Petitions, motions, juvenile court notices,
16 or dispositions shall be open to inspection and copying by the
17 victim.

18 "~~(f)~~ (g) Subject to applicable confidentiality
19 disclosure and case restrictions imposed by federal or state
20 law, confidential juvenile legal files, as described in
21 subdivision (1) of subsection (a), may be placed on an
22 automated information sharing system to be shared by those
23 persons, departments, agencies, or entities who are entitled
24 to access pursuant to this section.

25 "~~(g)~~ (h) Except for the purposes permitted and in the
26 manner provided by this section, whoever discloses or makes
27 use of or knowingly permits the use of information identifying

1 a child , or the family of a child, who is or was under the
2 jurisdiction of the juvenile court, where this information is
3 directly or indirectly derived from the records of the
4 juvenile court or acquired in the course of official duties,
5 upon conviction thereof, shall be guilty of a Class A
6 misdemeanor under the jurisdiction of the juvenile court and
7 also may be subject to civil sanctions. Provided, however,
8 that nothing in this section shall be construed to prohibit or
9 otherwise limit counsel from disclosing confidential
10 information obtained from the juvenile court file of the child
11 as needed to investigate the case of the client or prepare a
12 defense for that client, provided that the disclosure is in
13 furtherance of counsel's representation of the party.

14 ~~"(h)~~ (i) Anytime that a child commits a violent
15 offense and is adjudicated delinquent, if that child as an
16 adult commits the same or a similar offense, the court records
17 pertaining to the juvenile offense may be used in the
18 prosecution of the adult offense.

19 "§12-19-180.

20 "(a) In addition to all other costs, fees, or fines
21 prescribed by law, each person convicted of a crime in a
22 municipal, district, or circuit court, except traffic cases
23 which do not involve driving under the influence of alcohol or
24 controlled substances as set out in Section 32-5A-191, and
25 conservation cases and juvenile cases, shall be assessed a
26 criminal history processing fee of thirty dollars (\$30). The

1 assessment shall be automatically assessed by the clerk of the
2 court upon conviction.

3 "(b) There is created in the State Treasury a fund
4 to be designated as the Public Safety Automated Fingerprint
5 Identification System Fund, a fund to be designated as the
6 Court Automation Fund, and a fund to be designated as the
7 Criminal Justice Information System Automation Fund. Ten
8 dollars (\$10) of each additional fee collected pursuant to
9 this section shall be deposited into the State Treasury to the
10 credit of the Public Safety Automated Fingerprint
11 Identification System Fund, five dollars (\$5) to the Court
12 Automation Fund, ten dollars (\$10) to the Criminal Justice
13 Information System Automation Fund, and five dollars (\$5) to
14 the Department of Forensic Sciences Forensic Services Fund.
15 All money deposited in the State Treasury to the credit of the
16 Public Safety Automated Fingerprint Identification System Fund
17 shall be expended for operations and maintenance of the
18 Automated Fingerprint Identification System. All money
19 deposited in the State Treasury to the credit of the Court
20 Automation Fund shall be expended for equipment, operations,
21 supplies, maintenance, and training related to court
22 automation, court cost collection and the timely and efficient
23 processing of court cases, and for the other purposes
24 enumerated in this section. All money deposited in the State
25 Treasury to the credit of the Criminal Justice Information
26 System Automation Fund shall be expended for equipment,
27 operations, supplies, maintenance, and training related to the

1 Criminal Justice Information System. All money deposited in
2 the State Treasury to the credit of the Forensic Services Fund
3 from the criminal history processing fee shall be expended for
4 any purposes for which the Department of Forensic Sciences is
5 authorized to expend funds appropriated to that department. No
6 money shall be withdrawn or expended from these funds for any
7 purpose unless the money has been allotted and budgeted in
8 accordance with Article 4 (commencing with Section 41-4-80) of
9 Chapter 4 of Title 41, and only in the amounts and for the
10 purposes provided by the Legislature in the general
11 appropriations bill or other appropriation bills.

12 "(c) All data collected and maintained in the State
13 Judicial Information System from the automated management
14 systems operated by the Administrative Office of Courts and
15 all manuals, forms, brochures, and publications developed by
16 the Administrative Office of Courts shall be used to assist
17 with the administrative and management needs of court
18 officials and employees within the Unified Judicial System.
19 The authority for control and dissemination of data from the
20 system or distribution of judicial forms, manuals, and
21 publications to any individuals, corporations, partnerships,
22 or governmental associations outside the Unified Judicial
23 System is vested in the Administrative Director of Courts.

24 "(d) The Administrative Director of Courts shall
25 promulgate policies and procedures, in conformity with rules
26 adopted by the Supreme Court of Alabama, for the handling of
27 applications for information from the State Judicial

1 Information System and applications for court forms, manuals,
2 and publications from all persons or entities outside the
3 Unified Judicial System. The Administrative Director of
4 Courts may establish in the policies and procedures,
5 subscription, rental, or user fees, and other charges
6 applicable to non-judicial system entities to be used to
7 offset the costs involved in transferring or providing any
8 information requested. However, district attorneys, assistant
9 and deputy district attorneys, including employees of the
10 office of the district attorney, shall be provided complete
11 statewide access to all court records, including, but not
12 limited to, juvenile and youthful offender records, at no
13 cost, fee, or charge and without limitation.

14 "(e) All monies received by the Administrative
15 Office of Courts from applications, user fees, service
16 charges, subscriptions, donations, grants, leases, rentals,
17 bequests, loans, or any other sources, either public or
18 private, relating to the operation and administration of the
19 State Judicial Information System or the publication and
20 distribution of court forms and informational material shall
21 be deposited in the Court Automation Fund. The fund shall be
22 used to help defray the costs of maintenance, acquisition and
23 operation of the computer system and the research,
24 preparation, printing, and distribution of forms and manuals,
25 which shall include, but not be limited to, equipment,
26 supplies, line charges, printing, salaries for employees, and
27 other incidental expenses required for the operation or

1 expansion of the system or associated with developing and
2 distributing informational materials.

3 "(f) Nothing contained in this section shall be
4 construed to prevent, prohibit, or otherwise limit or restrict
5 public access to individual court records from the official
6 custodians thereof, if the records are otherwise subject to
7 public disclosure by law or court rule, nor shall anything in
8 this section be construed to allow access to any court records
9 which are not otherwise subject to public disclosure by law or
10 court rule.

11 "(g) No money deposited to the Court Automation Fund
12 may be transferred for use by any other program or purpose
13 within the Unified Judicial System.

14 "§15-19-7.

15 "(a) No determination made under the provisions of
16 this chapter shall disqualify any youth for public office or
17 public employment, operate as a forfeiture of any right or
18 privilege or make ~~him~~ the youth ineligible to receive any
19 license granted by public authority, and such determination
20 shall not be deemed a conviction of crime; provided, however,
21 that if ~~he~~ the youth is subsequently convicted of a crime, the
22 prior adjudication as a youthful offender shall be considered.

23 "(b) ~~The~~ Except as provided in subsection (c),
24 fingerprints and photographs and other records of a person
25 adjudged a youthful offender shall not be open to public
26 inspection; provided, however, that the court may, in its
27 discretion, permit the inspection of papers or records.

1 "(c) Notwithstanding subsection (b), district
2 attorneys and their assistant and deputy district attorneys
3 and the Attorney General and assistant or deputy attorneys
4 general shall have access to all fingerprints, photographs,
5 and other records of a person adjudged a youthful offender at
6 all times."

7 Section 2. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.