

1 SB398
2 160614-4
3 By Senator Dial
4 RFD: Judiciary
5 First Read: 20-FEB-14

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Section 12-15-133, Code of Alabama 1975, to
12 allow prosecutors representing this state to access certain
13 records, reports, and information in juvenile courts
14 concerning children; and to amend Section 15-19-7, Code of
15 Alabama 1975, to allow prosecutors representing this state to
16 access all fingerprints, photographs, and other records of a
17 person adjudged a youthful offender.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

21 "§12-15-133.

22 "(a) The following records, reports, and information
23 acquired or generated in juvenile courts concerning children
24 shall be confidential and shall not be released to any person,
25 department, agency, or entity, except as provided elsewhere in
26 this section:

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

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

5 "a. Records of juvenile probation officers.

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

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

8 "d. Medical records.

9 "e. Psychiatric or psychological records.

10 "f. Reports of preliminary inquiries and
11 predisposition studies.

12 "g. Supervision records.

13 "h. Birth certificates.

14 "i. Individualized service plans.

15 "j. Education records, including, but not limited
16 to, individualized education plans.

17 "k. Detention records.

18 "l. Demographic information that identifies a child
19 or the family of a child.

20 "(3) State Criminal Justice Information System
21 records.

22 "(4) Juvenile criminal sex offender notification
23 records.

24 "(b) The records, reports, and information described
25 in subsection (a) shall be filed separately from other files
26 and records of the court. The juvenile legal files described
27 in subdivision (1) of subsection (a) shall be maintained in a

1 separate file from all other juvenile records, reports, and
2 information.

3 "(c) Subject to applicable federal law, the records,
4 reports, and information described in subsection (a) shall be
5 open to inspection and copying only by the following, under
6 the specified circumstances:

7 "(1) The judge, juvenile probation officers, and
8 professional staff assigned to serve or contracted for service
9 to the juvenile court.

10 "(2) Representatives of a public or private agency
11 or department providing supervision or having legal custody of
12 the child.

13 "(3) The parent (except when parental rights have
14 been terminated), the legal guardian of the child, and the
15 legal custodian of the child.

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

21 "(5) The judge, probation, prosecutor, and other
22 professional staff serving a court handling criminal cases for
23 investigating or considering youthful offender applications
24 for an individual, who, prior thereto, had been the subject of
25 proceedings in juvenile court.

26 "(6) The judge, probation, and other professional
27 staff, including the prosecutor and the attorney for the

1 defendant, serving a court handling criminal cases for
2 completing sentencing standards worksheets and considering the
3 sentence upon a person charged with a criminal offense who,
4 prior thereto, had been the subject of proceedings in juvenile
5 court.

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

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

18 "(9) In any criminal proceeding, including a
19 criminal proceeding in which a person is adjudicated a
20 youthful offender, as well as any juvenile proceeding pursuant
21 to Section 12-15-105, the prosecutor representing the State of
22 Alabama shall have access to all juvenile legal files
23 specified in subdivision (a)(1) on that person regardless of
24 the jurisdiction from which the files originate.

25 "(d) Upon determining a legitimate need for access,
26 and subject to applicable federal law, the juvenile court may
27 also grant access to specific records, reports, and

1 information to a prosecutor representing the State of Alabama,
2 ~~another person,~~ department, entity, or agency. The
3 determination of legitimate need by the juvenile court shall
4 be based upon a written request filed with the juvenile court
5 stating the following:

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

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

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

11 "(e) Petitions, motions, juvenile court notices, or
12 dispositions shall be open to inspection and copying by the
13 victim.

14 "(f) Subject to applicable confidentiality
15 disclosure and case restrictions imposed by federal or state
16 law, confidential juvenile legal files, as described in
17 subdivision (1) of subsection (a), may be placed on an
18 automated information sharing system to be shared ~~by those~~
19 ~~persons,~~ with the child's counsel and guardian ad litem,
20 prosecutors, departments, agencies, or entities who are
21 entitled to access pursuant to this section.

22 "(g) Except for the purposes permitted and in the
23 manner provided by this section, whoever discloses or makes
24 use of or knowingly permits the use of information identifying
25 a child , or the family of a child, who is or was under the
26 jurisdiction of the juvenile court, where this information is
27 directly or indirectly derived from the records of the

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

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

16 "§15-19-7.

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

25 "(b) ~~The~~ Except as provided in subsection (c),
26 fingerprints and photographs and other records of a person
27 adjudged a youthful offender shall not be open to public

1 inspection; provided, however, that the court may, in its
2 discretion, permit the inspection of papers or records.

3 "(c) Prosecutors representing the State of Alabama
4 shall have access to fingerprints, photographs, and other
5 records of a person adjudged a youthful offender contained in
6 the court file regardless of the jurisdiction from which the
7 file originates."

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

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Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 20-FEB-14

Read for the second time and placed on the calen-
dar..... 05-MAR-14

Read for the third time and passed as amended 20-MAR-14

Yeas 27
Nays 1

Patrick Harris
Secretary