

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

1 SB398

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4 ENROLLED, An Act,

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

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

15 "§12-15-133.

16 "(a) The following records, reports, and information  
17 acquired or generated in juvenile courts concerning children  
18 shall be confidential and shall not be released to any person,  
19 department, agency, or entity, except as provided elsewhere in  
20 this section:

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

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

25 "a. Records of juvenile probation officers.

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

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

3 "d. Medical records.

4 "e. Psychiatric or psychological records.

5 "f. Reports of preliminary inquiries and

6 predisposition studies.

7 "g. Supervision records.

8 "h. Birth certificates.

9 "i. Individualized service plans.

10 "j. Education records, including, but not limited

11 to, individualized education plans.

12 "k. Detention records.

13 "l. Demographic information that identifies a child

14 or the family of a child.

15 "(3) State Criminal Justice Information System

16 records.

17 "(4) Juvenile criminal sex offender notification

18 records.

19 "(b) The records, reports, and information described

20 in subsection (a) shall be filed separately from other files

21 and records of the court. The juvenile legal files described

22 in subdivision (1) of subsection (a) shall be maintained in a

23 separate file from all other juvenile records, reports, and

24 information.

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

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

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

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

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

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

24           "(6) The judge, probation, and other professional  
25 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.

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

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

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

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

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

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

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

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

22           "§15-19-7.

23           "(a) No determination made under the provisions of  
24 this chapter shall disqualify any youth for public office or  
25 public employment, operate as a forfeiture of any right or

1 privilege or make ~~him~~ the youth ineligible to receive any  
2 license granted by public authority, and such determination  
3 shall not be deemed a conviction of crime; provided, however,  
4 that if ~~he~~ the youth is subsequently convicted of a crime, the  
5 prior adjudication as a youthful offender shall be considered.

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

11 "(c) Prosecutors representing the State of Alabama  
12 shall have access to fingerprints, photographs, and other  
13 records of a person adjudged a youthful offender contained in  
14 the court file regardless of the jurisdiction from which the  
15 file originates."

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



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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB398

Senate 20-MAR-14

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris  
Secretary

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House of Representatives  
Passed: 03-APR-14

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By: Senator Dial