

1 HB598
2 160149-2
3 By Representative Hill
4 RFD: Public Safety and Homeland Security
5 First Read: 11-MAR-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 following records, reports, and information
26 acquired or generated in juvenile courts concerning children
27 shall be confidential and shall not be released to any person,

1 department, agency, or entity, except as provided elsewhere in
2 this section:

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

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

7 "a. Records of juvenile probation officers.

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

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

10 "d. Medical records.

11 "e. Psychiatric or psychological records.

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

14 "g. Supervision records.

15 "h. Birth certificates.

16 "i. Individualized service plans.

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

19 "k. Detention records.

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

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

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

26 "(b) The records, reports, and information described
27 in subsection (a) shall be filed separately from other files

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

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

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

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

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

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

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

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

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

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

20 "(9) District attorneys, assistant and deputy
21 district attorneys, the Attorney General and assistant or
22 deputy attorneys general shall have statewide access at all
23 times.

24 "(d) Upon determining a legitimate need for access,
25 and subject to applicable federal law, the juvenile court may
26 also grant access to specific records, reports, and
27 information to another person, department, entity, or agency.

1 The determination of legitimate need by the juvenile court
2 shall be based upon a written request filed with the juvenile
3 court stating the following:

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

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

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

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

12 "(f) Subject to applicable confidentiality
13 disclosure and case restrictions imposed by federal or state
14 law, confidential juvenile legal files, as described in
15 subdivision (1) of subsection (a), may be placed on an
16 automated information sharing system to be shared by those
17 persons, departments, agencies, or entities who are entitled
18 to access pursuant to this section.

19 "(g) Except for the purposes permitted and in the
20 manner provided by this section, whoever discloses or makes
21 use of or knowingly permits the use of information identifying
22 a child , or the family of a child, who is or was under the
23 jurisdiction of the juvenile court, where this information is
24 directly or indirectly derived from the records of the
25 juvenile court or acquired in the course of official duties,
26 upon conviction thereof, shall be guilty of a Class A
27 misdemeanor under the jurisdiction of the juvenile court and

1 also may be subject to civil sanctions. Provided, however,
2 that nothing in this section shall be construed to prohibit or
3 otherwise limit counsel from disclosing confidential
4 information obtained from the juvenile court file of the child
5 as needed to investigate the case of the client or prepare a
6 defense for that client, provided that the disclosure is in
7 furtherance of counsel's representation of the party.

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

13 "§12-19-180.

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

23 "(b) There is created in the State Treasury a fund
24 to be designated as the Public Safety Automated Fingerprint
25 Identification System Fund, a fund to be designated as the
26 Court Automation Fund, and a fund to be designated as the
27 Criminal Justice Information System Automation Fund. Ten

1 dollars (\$10) of each additional fee collected pursuant to
2 this section shall be deposited into the State Treasury to the
3 credit of the Public Safety Automated Fingerprint
4 Identification System Fund, five dollars (\$5) to the Court
5 Automation Fund, ten dollars (\$10) to the Criminal Justice
6 Information System Automation Fund, and five dollars (\$5) to
7 the Department of Forensic Sciences Forensic Services Fund.
8 All money deposited in the State Treasury to the credit of the
9 Public Safety Automated Fingerprint Identification System Fund
10 shall be expended for operations and maintenance of the
11 Automated Fingerprint Identification System. All money
12 deposited in the State Treasury to the credit of the Court
13 Automation Fund shall be expended for equipment, operations,
14 supplies, maintenance, and training related to court
15 automation, court cost collection and the timely and efficient
16 processing of court cases, and for the other purposes
17 enumerated in this section. All money deposited in the State
18 Treasury to the credit of the Criminal Justice Information
19 System Automation Fund shall be expended for equipment,
20 operations, supplies, maintenance, and training related to the
21 Criminal Justice Information System. All money deposited in
22 the State Treasury to the credit of the Forensic Services Fund
23 from the criminal history processing fee shall be expended for
24 any purposes for which the Department of Forensic Sciences is
25 authorized to expend funds appropriated to that department. No
26 money shall be withdrawn or expended from these funds for any
27 purpose unless the money has been allotted and budgeted in

1 accordance with Article 4 (commencing with Section 41-4-80) of
2 Chapter 4 of Title 41, and only in the amounts and for the
3 purposes provided by the Legislature in the general
4 appropriations bill or other appropriation bills.

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

17 "(d) The Administrative Director of Courts shall
18 promulgate policies and procedures, in conformity with rules
19 adopted by the Supreme Court of Alabama, for the handling of
20 applications for information from the State Judicial
21 Information System and applications for court forms, manuals,
22 and publications from all persons or entities outside the
23 Unified Judicial System. The Administrative Director of
24 Courts may establish in the policies and procedures,
25 subscription, rental, or user fees, and other charges
26 applicable to non-judicial system entities to be used to
27 offset the costs involved in transferring or providing any

1 information requested. Subject to applicable law, district
2 attorneys, assistant and deputy district attorneys, including
3 employees of the office of the district attorney, shall be
4 provided statewide access to all court records contained,
5 acquired, or generated in the court file including, but not
6 limited to, records in electronic format, accessible through
7 alacourt.com or any programs, including, but not limited to,
8 any online or web-based program designed to provide access to
9 court records to the parties of a case, to be accessible from
10 any computing or electronic device at no cost, fee, or charge
11 without limitation at all times.

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

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

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

12 "§15-19-7.

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

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

26 "(c) Notwithstanding subsection (b), district
27 attorneys and their assistant and deputy district attorneys

1 and the Attorney General and assistant or deputy attorneys
2 general shall have statewide access to fingerprints,
3 photographs, and other records of a person adjudged a youthful
4 offender contained in the court file at all times."

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