SB235

MNMSWHH-1

By Senator Barfoot

RFD: Judiciary

First Read: 19-Mar-24

SYNOPSIS:

Under existing law, law enforcement records of children in criminal proceedings are not public records and may not be published except in certain circumstances.

Also, under existing law, it is unlawful to directly or indirectly disclose, make use of, or knowingly permit the use of certain law enforcement records of a child charged with a criminal offense.

This bill would make it unlawful for a person to knowingly disclose, make use of, or permit the use of certain law enforcement records of a child charged with a criminal offense.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds

within the meaning of the section. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the section.

A BILL

TO BE ENTITLED

AN ACT

Relating to juveniles; to amend Section 12-15-134, Code of Alabama 1975, to further provide for the unlawful release of certain juvenile law enforcement records; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 12-15-134, Code of Alabama 1975, is amended to read as follows:

"§12-15-134

(a) Law enforcement agencies shall take special precautions to ensure that law enforcement records and files concerning a child will be maintained in a manner and pursuant to those safeguards that will protect against disclosure to any unauthorized person, department, agency, or entity. Unless a charge of delinquency is transferred for criminal

prosecution pursuant to Section 12-15-203 or the juvenile court otherwise orders in the interests of the child, of public safety, or of national security, the law enforcement records and files with respect to the child shall not be open to public inspection nor their contents disclosed to the public.

(b) Law enforcement records and files described in subsections (a) and (f) shall be open to inspection and copying by the following:

(1) A juvenile court having a child currently before it in any proceeding.

(2) Personnel of the Department of Human Resources, the Department of Youth Services, public and private institutions or agencies of which the child under the jurisdiction of the juvenile court has been placed into the legal custody, and those responsible for his or her supervision after release.

(3) Law enforcement officers of other jurisdictions when necessary for the discharge of their current official duties.

(4) The probation and other professional staff of a court in which the child is subsequently convicted of a criminal offense or adjudicated as a youthful offender for the purpose of a presentence report or other dispositional proceedings, officials of penal institutions and other penal facilities into which the child is placed, or a parole board in considering his or her parole or discharge or in exercising supervision over him or her.

(5) The probation and other professional staff serving

a court handling criminal cases when investigating or considering youthful offender applications.

(6) The parent, except when parental rights have been terminated, or legal guardian of the child ~~and~~, the child's attorney, and guardian ad litem.

(7) The principal of the school in which the child is enrolled, or the representative of the principal, upon written petition to the juvenile court setting forth the reasons why the safety or welfare, or both, of the school, its students, or personnel necessitate production of the information and without which the safety and welfare of the school, its students, and personnel would be threatened.

(c) Law enforcement records may be viewed by victims during the investigation of a crime at the discretion of the investigating officer.

(d) All law enforcement agencies shall report to the Alabama State Law Enforcement Agency that a child has been charged with an act of delinquency along with any pertinent identifying information or historical data concerning that child, when either of the following occurs:

(1) The child is taken into custody and charged with an act of delinquency for an act which would constitute a felony if committed by an adult.

(2) The child is taken into custody and charged with an act of delinquency for an act which would constitute a misdemeanor if committed by an adult.

(e) Nothing in this section shall be construed to prohibit or otherwise limit counsel from disclosing

confidential law enforcement records relating to a client as needed to investigate the case of the client or prepare a defense for that client, provided that the disclosure is in furtherance of counsel's representation of the party.

(f) Except for use in legal proceedings, photographs, likeness, and personal identifying information contained in law enforcement records of a person charged pursuant to Section 12-15-204 are not public records and may not be published in any printed or electronic media nor open to public inspection~~,~~ prior to conviction, unless a hearing has been held pursuant to Section 15-13-3, there has been a probable cause determination by a district or circuit court judge, an indictment has been issued by a grand jury, or the district court or circuit court with jurisdiction over the case orders the records be released in the interest of the person charged, in the interest of public safety, or in the interest of national security.

(g) Except as provided in this section, any person who ~~directly or indirectly~~ knowingly discloses, makes use of, or ~~knowingly~~ permits the use of information described in this section that identifies a child, or the family of a child, who is or was under the jurisdiction of the juvenile court, upon conviction, shall be guilty of a Class A misdemeanor under the jurisdiction of the juvenile court.

(h) Nothing in this section shall be construed to prohibit or otherwise limit a prosecuting authority from disclosing confidential law enforcement records relating to a defendant as needed to investigate or prosecute the case,

provided that the disclosure is in furtherance of or related to the investigation or prosecution."

Section 2. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Section 111.05 of the Constitution of Alabama of 2022, because the bill defines a new crime or amends the definition of an existing crime.

Section 3. This act shall become effective June 1, 2024.