

INDIANA STATUTES FOR RECORDS ACCESS

I. Confidentiality of Juvenile Court Records

- A. 31-39-1-1 Application of chapter – This chapter applies to ALL records of the juvenile court EXCEPT records involving an adult charged with a crime or criminal contempt of court and records involving a pregnant minor or her physician seeking a waiver of the requirements of parental consent for an abortion on an unemancipated minor.

The legal records include CCS, Index entries, Summonses, Warrants, Petitions, Orders, Motions, and Decrees.

- B. 31-29-1-2 All juvenile court records subject to this chapter are confidential and are available only in accordance with IC 31-39-2. Court needs to affirmatively protect the court records from unauthorized disclosure.
- C. 31-39-2-1 Chapter Two applies to all records of the juvenile court except records involving adults charged with a crime or criminal contempt and records regarding waiving parental consent to an abortion on an unemancipated minor.

The legal records include CCS, Index entries, Summonses, Warrants, Petitions, Orders, Motions and Decrees.

- D. 31-39-2-2 Juvenile Court records are available without a court order to the judge or authorized staff.
- E. 31-39-2-3 Juvenile Court records are available without a court order to any party and party's attorney but only those records applicable to the proceeding in which the person is a party. The exceptions to this rule are two; first, a child excluded from a hearing under IC 31-32-6 may be denied access to records pertaining to that hearing and its subject matter, and secondly, a person who was denied access to a predispositional report or the dispositional hearing may be denied access to the records.
- F. 31-39-2-4 Records are available without a court order to the judge of a court having criminal jurisdiction or staff if the record is to be used in a presentence investigation.
- G. 31-39-2-5 Records of the juvenile court are available without a court order to the prosecutor and staff.

- H. 31-39-2-6 Records are available without a court order to the attorney for DCS or staff of the county office, the State office, the Department of Corrections or the Department of Child Services Ombudsman.
- I. 31-39-2-6.5 Records may be released without a court order to the entities listed in IC 31-39-9-1 which are:
 - 1. A court
 - 2. Law Enforcement
 - 3. Department of Corrections
 - 4. Department of Child Services
 - 5. Office of the Secretary of Family and Social Services
 - 6. A primary or secondary school, including a public or nonpublic school
- J. 31-39-2-7 Records are available without a court order to the parents of a child when custody or support is being litigated in a divorce or a support action.
- K. 31-39-2-8 Records are available without a court order to the public, with some restrictions, when a delinquency petition has been filed alleging that the child:
 - 1. Committed an act that would be murder or a felony if committed by an adult
 - 2. Committed an aggregate of 2 unrelated acts that would be misdemeanors if committed by an adult if the child was at least 12 when the acts were committed
 - 3. Committed an aggregate of 6 unrelated acts that would be misdemeanors if committed by an adult if the child was less than 12 when the acts were committed
 - 4. The following information or documentation may be released
 - a. Child's name
 - b. Child's age
 - c. Nature of the offense
 - d. CCS
 - e. Index entries
 - f. Summonses
 - g. Warrants
 - h. Petitions
 - i. Orders
 - j. Motions excluding those for psychological evaluations or concerning child abuse and neglect
 - k. Decrees
 - l. If the child is adjudicated as a delinquent as described above, the child's photograph may be released
 - 5. The clerk shall place all other records in an envelope marked "confidential" in the case jacket and these records can only be released to:
 - a. The judge or staff

- b. A party or party's counsel
 - c. A judge or court having criminal jurisdiction in order to facilitate a presentence investigation
 - d. Prosecutor and staff
 - e. Attorney for DCS or staff of county and state offices
 - f. Department of Corrections
 - g. Department of Child Services Ombudsman
 - h. Parents involved in a custody or support action
 - i. An interested individual as defined by 31-39-2-10
6. The identify of any child who is a victim or a witness shall remain confidential under this section.
- L. 31-39-2-9 A juvenile court may grant any person providing services to a child or the child's family access to the records.
- M. 31-39-2-10 Under this section, subject to some restrictions, the court may grant any person having a legitimate interest in the work of the court or in a particular case access to the court's legal records. In making this discretionary decision, the court shall consider that the best interests of the safety and welfare of the community are generally served by the public's ability to obtain information about:
- 1. The alleged commission of an act that would be murder or a felony if committed by an adult or
 - 2. The alleged commission of an act that would be a pattern of less serious offenses
 - 3. An interested person having access to the records under this section is not bound by any confidentiality provision and may disclose the contents of the records
- N. 31-39-2-11 The court shall grant any person involved in legitimate research access to confidential records if, in writing, the researcher describes the purpose of his research, his intent to publish findings, the nature of the data sought, the mechanism for analysis, records to be reviewed and the safeguards that will be taken to protect the identity of the person whose records are reviewed. Thereafter, having been advised of the confidentiality provision of the statute and the criminal liability of a person who recklessly fails to protect the records, a written agreement is executed between the court and the researcher setting forth the specific scope and terms of research.
- O. 31-39-2-12 The court shall allow any party to a criminal or juvenile delinquency proceeding access to a person's records if the information may be used to impeach the person as a witness or to discredit the person's reputation of the person places his reputation in issue.

- P. 31-39-2-13 The court may grant the victim of a delinquent act, or a member of the victim's family, access to the records if the information may be used in a civil action against the child who committed the act or the child's parent. A person obtaining access to records pursuant to this section may disclose the contents if disclosure is necessary to prosecute the civil action.
- Q. 31-39-2-13.5 The records are available without a court order to DCS, a caseworker or a probation officer conducting a criminal history check to determine the appropriateness of an out-of-home placement
- R. 31-39-2-13.8 The court MAY grant access to all or a portion of the records to the school a child attends if:
1. The superintendent, chief administrative officer or the individual with administrative control of designee submits a written request for records
 2. The request must show that the records are necessary to service the educational needs of the child whose records are being released or to protect the safety or health of a student, employee or school volunteer
 3. If the Court releases records under this section, it must give written notice to the child and the child's parents that the juvenile records were disclosed to the school
 4. If the Court releases records under this section it shall issue an order requiring the school to keep the records confidential but this order does not prevent the school from releasing these records to
 - a. Another school
 - b. Any person if the parent consents
 - c. Law enforcement
 - d. Department of corrections
 - e. DC
 - f. Secretary of Family and Social Services
 - g. DCS ombudsman
- S. 31-39-2-14 When the court releases records to a researcher an access order shall be placed in each child's file or into a file for general access orders.
- T. 31-39-2-15 A person who is 18 or older may waive the confidentiality of his records if this waiver is done in writing.

II. Confidentiality of Law Enforcement Records

- A. 31-39-3-1 This chapter applies to all law enforcement records involving allegations of CHINS or delinquency.
- B. 31-39-3-2 The following information contained in records are considered public information:

1. Nature of the offense
 2. Identity of the victim
 3. Description of apprehension
 4. Description of force used
 5. Identity of officers assigned to the investigation, except for undercover units
 6. The age and sex of any child apprehended or sought
 7. Identity of child if the child is apprehended or sought for:
 - a. An infraction
 - b. Violation of an ordinance
 - If the child is alleged to have committed an act that would be a felony and has previously been waived to a court having felony jurisdiction
 - c. Any child 16 or older who is sought or apprehended for attempted murder, murder, kidnapping, rape, criminal deviant conduct, robbery if committed while armed with a deadly weapon or if the robbery results in bodily injury, carjacking, criminal gang activity, criminal gang intimidation, carrying a handgun without a license if charged as a felony, dealing in a sawed-off shotgun, the unlawful possession or distribution of a firearm, plus any other offense that may be jointed with an above listed offense
 - d. Any child 16 or older who is sought or apprehended for manufacturing or dealing in cocaine or a narcotic, dealing methamphetamine, dealing in a Schedule I, II, or III controlled substance or dealing in a schedule IV controlled substance if the person has a prior, unrelated drug conviction
 - e. Any child 10 or older who is charged with murder and has been waived from juvenile court jurisdiction
- C. 31-39-3-3 Records relating to the detention of any child in a secure facility shall be open to public inspection.
- D. 31-39-3-4 All other law enforcement records except those described above are confidential and are available only in accordance with IC 31-39-4.

III. Persons Entitled to Access to Law Enforcement Records

- A. 31-39-4-1 This chapter applies to all law enforcement records involving allegations of CHINS or delinquency.
- B. 31-39-4-2 The records of a law enforcement agency are available, without specific permission, from the head of the agency, to law enforcement officer acting within the scope of the lawful duties.
- C. 31-39-4-3 Law enforcement records are available to the judge of the juvenile court or staff without specific permission.

- D. 31-39-4-4 Law enforcement records are available without permission to any party or the party's attorney unless the child has been excluded from a specific hearing for cause or a person was denied access to predispositional reports or records; the party or the party's attorney may only review records applicable to the proceeding to which the person is a party.
- E. 31-39-4-5 Law enforcement records are available without permission to any court or staff preparing a presentence investigation.
- F. 31-39-4-6 Law enforcement records are available without permission to the prosecutor and staff.
- G. 31-39-4-7 Law enforcement records are available without permission to the attorney for DCS or staff or staff of the DCS ombudsman.
- H. 31-39-4-8 Law enforcement administration may grant any person having a legitimate interest in the work of the agency or a particular case access to confidential records. In exercising this discretion, the agency shall consider that the best interests of the safety and welfare of the community are generally served by the public's ability to obtain information about anyone charged with murder or a felony or anyone charged with crimes that would be part of a pattern of less serious offenses. Anyone obtaining access to records under this section is not bound by confidentiality and may disclose the records.
- I. 31-39-4-9 Researchers may be granted access to law enforcement records under pretty much identical qualification and restriction as described above for a researcher's access to juvenile court records.
- J. 31-39-4-10 Any party shall be allowed to obtain law enforcement records if needed for impeachment or to discredit reputation but may only be used in criminal or juvenile delinquency proceedings.
- K. 31-39-4-11 The victim of a delinquent act may obtain the alleged perpetrator's name if needed to proceed with a civil action.
- L. 31-39-4-12 Like above, if a researcher is granted access to records, a copy of the access order shall be placed in the files or in a general file.
- M. 31-39-4-13 A person who is 18 or older may waive confidentiality to law enforcement records.
- N. 31-39-4-14 The juvenile court does not exercise any jurisdiction or control over law enforcement records except as required by law.
- O. 31-39-5-1 Law enforcement may take fingerprints or photographs of a child if the child is taken into custody for a felony and the child was at least 14 when the

alleged felony occurred and the juvenile court may, by general order, limit fingerprinting and photographing children to situation in which children are charged with specified offenses.

- P. 31-39-5-2 Fingerprint and photograph files of children shall be separated from those of adults and the files are confidential under IC 31-39-3.
- Q. 31-39-5-3 If latent fingerprints are found during an investigation and there is probably cause to believe that the print belongs to a certain child, the child may be fingerprinted.
- R. 31-39-5-4 Upon written request of the child or parent, law enforcement shall destroy and give to the child any fingerprints or photographs if no petition was filed, the petition was dismissed because of mistaken identity, the petition was dismissed because no delinquent act was committed or the petition was dismissed for lack of probable cause, but if the child has a prior arrest record or another charge pending, law enforcement does not have to destroy the fingerprints or photographs.
- S. 31-39-5-5 When a child is photographed or printed, the parents shall be given written notice of the right to have the photos and/or prints destroyed or surrendered not later than 60 days of the request.
- T. 31-39-5-6 If photos or prints subject to surrender or destruction were forwarded to other law enforcement agencies, law enforcement shall request in writing that all copies be returned for destruction or surrender.
- U. 31-39-4-7 When prints or photos are expunged, law enforcement may retain no other information on the incident but law enforcement records, such as a blotter entry made at the time of arrest, or any records of the juvenile court do not require alteration.

IV. Confidentiality of Reports and Photographs

- A. 31-33-18-1 With certain exceptions described below, the following are confidential:
 - 1. Report made pursuant to Article 33 of the Juvenile Code
 - 2. Information obtained, reports written, or photographs taken concerning the reports that is in the possession of DCS, either county or state, or the DCS ombudsman
 - 3. Except as provided below, all records of DCS, county and state, the local Child Fatality Review Team, the State fatality review committee or the DCS ombudsman regarding the death of a child as a result of abuse, abandonment or neglect are confidential and may not be disclosed.

- B. 31-33-18-1.5 This section applies to records held by DCS, county or state, the local child fatality review team, the state child fatality review committee, the DCS ombudsman which relate to a child whose death or near fatality may have been the result of abuse, abandonment or neglect. If the purpose of the, a child's death or near death may be the result of abuse, abandonment or neglect if:
1. DCS or a fatality review team so determines
 2. The prosecutor files charges
 3. Upon the request of any person or its own motion, the juvenile court in the county in which the death or near death occurred shall determine whether the allegations contained in the prosecutor's indictment, information or complaint would cause a reasonable person to believe that the child's death or near death may have been the result of abuse, abandonment or neglect
 4. Definitions pertinent to this section are:
 - a. Identifying information means information that identifies an individual including an individual's name, address, date of birth, occupation, place of employment and telephone number
 - b. Identifying information also can include employer ID numbers, mother's maiden name, Social Security number or any identification number issued by a governmental entity
 - c. Identifying information can also include unique biometric data, including fingerprint, voice print, retina or iris image
 - d. It can also include unique electronic identification number, address or routing code
 - e. It also can include telecommunication identifying information or
 - f. Telecommunication access device, including a card, a plate, a code, an account number, a personal ID number, an electronic serial number, a mobile identification number or another telecommunications service or device or means of account access
 5. Unless the information in a record is otherwise confidential under state or federal law, a record that has been redacted in accordance with this section is not confidential and may be disclosed to persons requesting the record upon payment of reasonable copying expenses
 6. When the record is requested, the entity having control shall immediately transmit a copy of the record to the juvenile court in the county where the child died or nearly died. The court may request that the original record to transmitted.
 7. Upon receipt of the record, the court shall have 30 days to redact
 - a. Concerning a person 18 or older, all information described in b through f above
 - b. Concerning a person under 18, all identifying information which would include information as defined in a through f above
 8. The court shall disclose the redacted record to any person who requested same if the person has paid the costs of copying to the state and /or the court

9. The data and information in a record disclosed under this section must include the following
 - a. A summary of the report of abuse or neglect and a factual description of the contents of the report
 - b. The birth date and gender of the child
 - c. The cause of death or near death, if determined
 - d. Whether DCS or the office of the Secretary of Family and Social Services had any contact with the child or a member of the child's family or household before the death or near death and, if so,
 - (i) the frequency of the contact
 - (ii) the date of contact
 - (iii) a summary of the status of the case at the time of death or near death including whether the case was closed and if closed, the reason for closure

C. 31-33-18-2 The un-redacted record shall be made available only to:

1. Persons authorized
2. A public or private legally mandated CPS agency investigating
3. A physician who is treating a reasonably suspected victim of abuse or neglect
4. An individual legally authorized to place a child in protective custody who need the information to determine whether to place a child into custody
5. An agency having the legal responsibility or authorization to care for treat or supervise a child who is the subject of a report or a person responsible for the child's welfare
6. An individual named in the report who is alleged to be abused or neglected, the GAL or CASA or both
7. Parents and parents' attorney
8. A court for redaction or upon a finding that access to the records is necessary for a determination of an issue before the court. However, if the court believes the records are necessary to determine an issue, the records are only available for in camera inspection unless the court determines that public disclosure is necessary for the resolution of an issue
9. A grand jury
10. State and local officials responsible for child protection services
11. Community Child Protection Team
12. A juvenile court established foster care review board
13. A person about whom a report has been made with protection for the identity of any person reporting suspected child abuse or neglect and any other person if the person or agency making the information available finds that disclosure of the information would likely endanger the life or safety of the person
14. DCS employees and juvenile probation officers conducting a criminal history check to determine the appropriateness of an out-of-home placement
15. Local and statewide child fatality review teams
16. DCS

- 17. The Division of Family Resources if the investigation is substantiated and concerns an applicant for a license to operate, a person licensed to operate, an employee of or a volunteer of a child care center or a child care home
 - 18. A citizen review panel established under IC 4-13-19-3
 - 19. The DCS ombudsman
- D. 31-33-18-3 These records can be released by DCS to qualified individual engaged in research under certain stipulations.
 - E. 31-33-18-4 Whenever a record is prepared pursuant to this article, DCS shall give verbal or written notice to each parent, guardian or custodian that the records and, if a CHINS case is initiated, the juvenile court records are available upon request with the payment of reasonable copying costs.

V. Trial in Open Court

- A. 31-32-6-1 states that ALL proceedings in the juvenile court involving adults charged with contempt or criminal charges shall be tried in open court.
- B. 31-32-6-2 The juvenile court shall determine whether the public should be excluded from a proceeding other than a juvenile proceeding described in Section 3.
- C. 31-32-6-3 With certain exceptions as described below, when a child is charged with murder or a felony, the delinquency proceeding is open to the public.
- D. 31-32-6-4 The prosecutor, the child or the child's GAL, lawyer or parent may motion the court to:
 - 1. Close a proceeding during the testimony of a child witness or a child victim. To do so the court must find:
 - (i) The allegation or the defense involved sexual matters and
 - (ii) The Welfare of the child witness or child victim is protected by closing the delinquency proceeding
 - 2. Close a proceeding during the testimony of a health care provider. To do so the court must find:
 - (i) The testimony involves matters that would be protected under HIPAA or
 - (ii) The testimony involves matters that would be a privileged communication between a health care provider and a patient
 - 3. Close the proceeding during the testimony of a certified social worker, certified clinical social worker or a certified marriage and family therapist. To do so the court must find the testimony is concerning a client
 - 4. Close the proceedings during the testimony of a school counselor regarding a student or

5. Close the proceedings during the testimony of a school psychologist regarding a student
- E. 31-32-6-5 When deciding whether to close an otherwise open hearing in order to protect the welfare of a child witness or child victim the court shall consider:
1. The nature of the charges or the defense
 2. The age of the witness or victim
 3. The psychological maturity of the witness or victim
 4. The desire of the witness or victim to testify in a closed proceeding
- F. 31-32-6-6 If the court decides to close an otherwise open hearing in order to protect the child witness or child victim the court shall:
1. Make findings of fact that support the decision to close the proceedings
 2. Place the order excluding the public and closing the proceedings in the case file
- G. 31-32-6-7 A trial of an adult charged with a crime shall be tried before a jury unless the adult requests a bench trial. With that exception, all matters in juvenile court shall be tried to the court.
- H. 31-32-6-8 In CHINS or Termination proceedings, the child may be excluded from any part of any hearing for good cause made upon the record.