

HOUSE BILL 78

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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AN ACT

RELATING TO RECORDS; AUTHORIZING A PARTY TO REFER TO THE
EXISTENCE OF A SEALED JUVENILE RECORD FOR THE PURPOSES OF A
HEARING REGARDING PRETRIAL DETENTION, CONDITIONS OF RELEASE OR
SENTENCING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 32A-2-26 NMSA 1978 (being Laws 1993, Chapter 77, Section 55, as amended) is amended to read:

"32A-2-26. SEALING OF RECORDS.--

A. On motion by or on behalf of a person who has been the subject of a delinquency petition or on the court's own motion, the court shall vacate its findings, orders and judgments on the petition and order the legal and social files and records of the court, probation services and any other agency in the case sealed. If requested in the motion, the

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1 court shall also order law enforcement files and records
2 sealed. An order sealing records and files shall be entered if
3 the court finds that:

4 (1) two years have elapsed since the final
5 release of the person from legal custody and supervision or two
6 years have elapsed since the entry of any other judgment not
7 involving legal custody or supervision;

8 (2) the person has not, within the two years
9 immediately prior to filing the motion, been convicted of a
10 felony or of a misdemeanor involving moral turpitude or been
11 found delinquent by a court and no proceeding is pending
12 seeking such a conviction or finding; and

13 (3) the person is eighteen years of age or
14 older or the court finds that good cause exists to seal the
15 records prior to the child's eighteenth birthday.

16 B. Reasonable notice of the motion shall be given
17 to:

18 (1) the children's court attorney;
19 (2) the authority granting the release;
20 (3) the law enforcement officer, department
21 and central depository having custody of the law enforcement
22 files and records; and

23 (4) any other agency having custody of records
24 or files subject to the sealing order.

25 C. Upon the entry of the sealing order, the

1 proceedings in the case shall be treated as if they never
2 occurred and all index references shall be deleted. The court,
3 law enforcement officers and departments and agencies shall
4 reply, and the person may reply, to an inquiry that no record
5 exists with respect to the person. Copies of the sealing order
6 shall be sent to each agency or official named in the order.

7 D. Inspection of the files and records or the
8 release of information in the records included in the sealing
9 order may thereafter be permitted by the court only:

10 (1) upon motion by the person who is the
11 subject of the records and only to those persons named in the
12 motion; and

13 (2) in its discretion, in an individual case,
14 to any clinic, hospital or agency that has the person under
15 care or treatment or to other persons engaged in fact finding
16 or research.

17 E. Any finding of delinquency or need of services
18 or conviction of a crime subsequent to the sealing order may at
19 the court's discretion be used by the court as a basis to set
20 aside the sealing order.

21 F. A court may set aside a sealing order for the
22 juvenile disposition of a youthful offender and any evidence
23 given in a hearing in court for a youthful offender for the
24 purpose of considering the setting of bail or other conditions
25 of release of a person charged with a felony whether charged as

1 an adult or a juvenile.

2 G. A child who has been the subject of a petition
3 filed pursuant to the provisions of the Delinquency Act shall
4 be notified in writing by the department when the child reaches
5 the age of eighteen or at the expiration of legal custody and
6 supervision, whichever occurs later, that the department's
7 records have been sealed and that the court, the children's
8 court attorney, the child's attorney and the referring law
9 enforcement agency have been notified that the child's records
10 are subject to sealing.

11 H. The department shall seal the child's files and
12 records when the child reaches the age of eighteen or at the
13 expiration of the disposition, whichever occurs later. The
14 department shall notify the children's court attorney, the
15 child's attorney and the referring law enforcement agency that
16 the child's records are subject to sealing.

17 I. Youthful offender records sealed pursuant to
18 Subsection H of this section may be unsealed by the court along
19 with any evidence given in a hearing in court for a youthful
20 offender for the purpose of considering the setting of bail or
21 other conditions of release of a person charged with a felony,
22 whether charged as an adult or juvenile.

23 J. A child who is determined by the court not to be
24 a delinquent offender shall have the child's files and records
25 in the instant proceeding automatically sealed by the court

upon motion by the children's court attorney at the conclusion of the proceedings.

K. After sealing, the department may store and use a person's records for research and reporting purposes, subject to the confidentiality provisions of Section 32A-2-32 NMSA 1978 and other applicable federal and state laws.

L. Notwithstanding the provisions of Subsections A through K of this section, and only with prior notice to the court, a party may refer to the existence of a juvenile record and to the contents of the juvenile record in written pleadings for the purposes of a hearing held in accordance with Article 2, Section 13 of the constitution of New Mexico, a hearing held pursuant to supreme court rule to consider or address conditions of release or a sentencing hearing. A party may refer to the existence of a juvenile record in all other written pleadings but shall not disclose the contents of the juvenile record unless otherwise allowed by law."

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