HOUSE BILL 179

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

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

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

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

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

(1) the children's court attorney;

(2) the authority granting the release;

(3) the law enforcement officer, department and central depository having custody of the law enforcement files and records; and

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

C. Upon the entry of the sealing order, the

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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

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an adult or a juvenile.

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

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

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

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

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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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