

**§ 5038. Use of juvenile records**

(a) Throughout and upon the completion of the juvenile delinquency proceeding, the records shall be safeguarded from disclosure to unauthorized persons. The records shall be released to the extent necessary to meet the following circumstances:

(1) inquiries received from another court of law;

(2) inquiries from an agency preparing a presentence report for another court;

(3) inquiries from law enforcement agencies where the request for information is related to the investigation of a crime or a position within that agency;

(4) inquiries, in writing, from the director of a treatment agency or the director of a facility to which the juvenile has been committed by the court;

(5) inquiries from an agency considering the person for a position immediately and directly affecting the national security; and

(6) inquiries from any victim of such juvenile delinquency, or if the victim is deceased from the immediate family of such victim, related to the final disposition of such juvenile by the court in accordance with section 5037.

Unless otherwise authorized by this section, information about the juvenile record may not be released when the request for information is related to an application for employment, license, bonding, or any civil right or privilege. Responses to such inquiries shall not be different from responses made about persons who have never been involved in a delinquency proceeding.

(b) District courts exercising jurisdiction over any juvenile shall inform the juvenile, and his parent or guardian, in writing in clear and non-technical language, of rights relating to his juvenile record.

(c) During the course of any juvenile delinquency proceeding, all information and records relating to the proceeding, which are obtained or prepared in the discharge of an official duty by an employee of the court or an employee of any other governmental agency, shall not be disclosed directly or indirectly to anyone other than the judge, counsel for the juvenile and the Government, or others entitled under this section to receive juvenile records.

(d) Whenever a juvenile is found guilty of committing an act which if committed by an adult would be a felony that is a crime of violence or an offense described in section 401 of the Controlled Substances Act or section 1001(a), 1005, or 1009 of the Controlled Substances Import and Export Act, such juvenile shall be fingerprinted and photographed. Except a juvenile described in subsection (f), fingerprints and photographs of a juvenile who is not prosecuted as an adult shall be made available only in accordance with the provisions of subsection (a) of this section. Fingerprints and photographs of a juvenile who is prosecuted as an adult shall be made available in the manner applicable to adult defendants.

(e) Unless a juvenile who is taken into custody is prosecuted as an adult neither the name nor picture of any juvenile shall be made public in connection with a juvenile delinquency proceeding.

(f) Whenever a juvenile has on two separate occasions been found guilty of committing an act which if committed by an adult would be a felony crime of violence or an offense described in section 401 of the Controlled Substances Act or section 1001(a), 1005, or 1009 of the Controlled Substances Import and Export Act, or whenever a juvenile has been found guilty of committing an act after his 13th birthday which if committed by an adult would be an offense described in the second sentence of the fourth paragraph of section 5032 of this title, the court shall transmit to the Federal Bureau of Investigation the information concerning the adjudications, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matters were juvenile adjudications.

(Added Pub. L. 93-415, title V, § 508, Sept. 7, 1974, 88 Stat. 1137; amended Pub. L. 95-115, § 8(b), Oct. 3, 1977, 91 Stat. 1060; Pub. L. 98-473, title II, § 1202, Oct. 12, 1984, 98 Stat. 2150; Pub. L. 103-322, title XIV, § 140005, Sept. 13, 1994, 108 Stat. 2032; Pub. L. 104-294, title VI, § 601(f)(16), (o), Oct. 11, 1996, 110 Stat. 3500, 3502.)

## REFERENCES IN TEXT

Section 401 of the Controlled Substances Act, referred to in subsecs. (d) and (f), is classified to section 841 of Title 21, Food and Drugs.

Sections 1001(a), 1005, or 1009 of the Controlled Substances Import and Export Act, referred to in subsecs. (d) and (f), are classified to sections 951(a), 955, and 959, respectively, of Title 21.

## AMENDMENTS

1996—Subsec. (d). Pub. L. 104-294, § 601(f)(16), substituted “section 401 of the Controlled Substances Act or section 1001(a), 1005, or 1009 of the Controlled Substances Import and Export Act” for “section 841, 952(a), 955, or 959 of title 21”.

Subsec. (f). Pub. L. 104-294 substituted “section 401 of the Controlled Substances Act or section 1001(a), 1005, or 1009 of the Controlled Substances Import and Export Act” for “section 841, 952(a), 955, or 959 of title 21”, “juvenile has been found guilty” for “juvenile has been found guilty”, and “the Federal Bureau of Investigation” for “the Federal Bureau of Investigation, Identification Division.”

1994—Subsec. (f). Pub. L. 103-322 inserted “or whenever a juvenile has been found guilty of committing an act after his 13th birthday which if committed by an adult would be an offense described in the second sentence of the fourth paragraph of section 5032 of this title,” after “title 21.”

1984—Pub. L. 98-473 amended section generally, striking out in subsec. (a) provisions that, upon completion of any delinquency proceedings the court shall order the entire record and file to be sealed, substituting a new subsec. (d) for a former subsec. (d) which provided that unless a juvenile is prosecuted as an adult neither fingerprints nor photographs shall be taken without the consent of the judge and the juveniles name and picture shall not be made available to any public medium of communication and adding subsecs. (e) and (f).

1977—Subsec. (a)(6). Pub. L. 95-115 added par. (6).

## EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93-415, as added by Pub. L. 95-115, formerly set out as a note under section 11101 of Title 34, Crime Control and Law Enforcement.

**§ 5039. Commitment**

No juvenile committed, whether pursuant to an adjudication of delinquency or conviction for