

ARTICLE 19
Juvenile Records

SECTION 63-19-2010. Records.

The court shall make and keep records of all cases brought before it. The records of the court are confidential and open to inspection only by court order to persons having a legitimate interest in the records and to the extent necessary to respond to that legitimate interest. These records must always be available to the legal counsel of the child and are open to inspection without a court order where the records are necessary to defend against an action initiated by a child.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-19-2020. Confidentiality.

(A) Except as provided herein, all information obtained and records prepared in the discharge of official duty by an employee of the court or department are confidential and must not be disclosed directly or indirectly to anyone, other than the judge, the child's attorney, or others entitled under this chapter or any other provision of law to receive this information, unless otherwise ordered by the court. The court may order the records be disclosed to a person having a legitimate interest and to the extent necessary to respond to that legitimate interest. However, these records are open to inspection without a court order where the records are necessary to defend against an action initiated by a child.

(B) The director of the department must develop policies providing for the transmission of necessary and appropriate information to ensure the provision and coordination of services or assistance to a child under the custody or supervision of the department. This information must include that which is required for the admission or enrollment of a child into a program of services, treatment, training, or education. The information may be provided to another department or agency of state or local government, a school district, or a private institution or facility licensed by the State as a child-serving organization. This information may be summarized in accordance with agency policy.

(C) The director is authorized to enter into interagency agreements for purposes of sharing information about children under the supervision or in the custody of the department. The agencies entering into these agreements must maintain the confidentiality of the information.

(D) Reports and recommendations produced by the department for the court for the purpose of a dispositional hearing must be disseminated by the agency to the court, the solicitor, and the child's attorney.

(E)(1) The department must notify the principal of a school in which a child is enrolled, intends to be enrolled, or was last enrolled upon final disposition of a case in which the child is charged with any of the following offenses:

- (a) a violent crime, as defined in Section 16-1-60;
- (b) a crime in which a weapon, as defined in Section 59-63-370, was used;
- (c) assault and battery against school personnel, as defined in Section 16-3-612;
- (d) assault and battery of a high and aggravated nature committed on school grounds or at a school-sponsored event against any person affiliated with the school in an official capacity; or
- (e) distribution or trafficking in unlawful drugs, as defined in Article 3, Chapter 53 of Title 44.

(2) Each school district is responsible for developing a policy for schools within the district to follow to ensure that the confidential nature of a child offense history and other information received is maintained. This policy must provide for, but is not limited to:

- (a) the retention of the child offense history and other information relating to the child offense history in the child's school disciplinary file or in some other confidential location;
- (b) the destruction of the child offense history upon the child's completion of secondary school or upon reaching twenty-one years of age; and

(c) limiting access to the child's school disciplinary file to school personnel. This access must only occur when necessary and appropriate to meet and adequately address the educational needs of the child.

(F) When requested, the department must provide the victim of a crime with the name of the child and the following information retained by the department concerning the child charged with the crime:

- (1) other basic descriptive information, including but not limited to, a photograph;
- (2) information about the juvenile justice system;
- (3) the status and disposition of the delinquency action including hearing dates, times, and locations;
- (4) services available to victims of child crime; and
- (5) recommendations produced by the department for the court for the purpose of a dispositional hearing.

(G) The department or the South Carolina Law Enforcement Division, or both, must provide to the Attorney General, a solicitor, or a law enforcement agency, upon request, a copy of a child offense history for criminal justice purposes. This information must not be disseminated except as authorized in Section 63-19-2030. The department and the South Carolina Law Enforcement Division must maintain the child offense history of a person for the same period as for offenses committed by an adult.

(H) Other information retained by the department may be provided to the Attorney General, a solicitor, or a law enforcement agency pursuant to an ongoing criminal investigation or prosecution.

(I) The department may fingerprint and photograph a child upon the filing of a petition, release from detention, release on house arrest, or commitment to a juvenile correctional institution. Fingerprints and photographs taken by the department remain confidential and must not be transmitted to the State Law Enforcement Division, the Federal Bureau of Investigation, or another agency or person, except for the purpose of:

- (1) aiding the department in apprehending an escapee from the department;
- (2) assisting the Missing Persons Information Center in the location or identification of a missing or runaway child;
- (3) locating and identifying a child who fails to appear in court as summoned;
- (4) locating a child who is the subject of a house arrest order; or (5) as otherwise provided in this section.

(J) Nothing in this section shall be construed to waive any statutory or common law privileges attached to the department's internal reports or to information contained in the file of a child under the supervision or custody of the department.

HISTORY: 2008 Act No. 361, Section 2.

Code Commissioner's Note

Section 16-3-612, referenced in subsection (E)(1)(c), was repealed by 2010 Act. No. 273, Section 7.

Editor's Note

2010 Act No. 273, Section 7.C, provides:

"Wherever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16-3-620, and, except for references in Section 16-1-60 and Section 17-25-45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16-3-29."