

SB235 INTRODUCED



1 SB235
2 MNMSWHH-1
3 By Senator Barfoot
4 RFD: Judiciary
5 First Read: 19-Mar-24



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SYNOPSIS:

Under existing law, law enforcement records of children in criminal proceedings are not public records and may not be published except in certain circumstances.

Also, under existing law, it is unlawful to directly or indirectly disclose, make use of, or knowingly permit the use of certain law enforcement records of a child charged with a criminal offense.

This bill would make it unlawful for a person to knowingly disclose, make use of, or permit the use of certain law enforcement records of a child charged with a criminal offense.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds



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29 within the meaning of the section. However, the bill
30 does not require approval of a local governmental
31 entity or enactment by a 2/3 vote to become effective
32 because it comes within one of the specified exceptions
33 contained in the section.

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A BILL

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TO BE ENTITLED

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AN ACT

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40 Relating to juveniles; to amend Section 12-15-134, Code
41 of Alabama 1975, to further provide for the unlawful release
42 of certain juvenile law enforcement records; and in connection
43 therewith would have as its purpose or effect the requirement
44 of a new or increased expenditure of local funds within the
45 meaning of Section 111.05 of the Constitution of Alabama of
46 2022.

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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Section 1. Section 12-15-134, Code of Alabama 1975, is
49 amended to read as follows:

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"§12-15-134

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(a) Law enforcement agencies shall take special
52 precautions to ensure that law enforcement records and files
53 concerning a child will be maintained in a manner and pursuant
54 to those safeguards that will protect against disclosure to
55 any unauthorized person, department, agency, or entity. Unless
56 a charge of delinquency is transferred for criminal



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57 prosecution pursuant to Section 12-15-203 or the juvenile
58 court otherwise orders in the interests of the child, of
59 public safety, or of national security, the law enforcement
60 records and files with respect to the child shall not be open
61 to public inspection nor their contents disclosed to the
62 public.

63 (b) Law enforcement records and files described in
64 subsections (a) and (f) shall be open to inspection and
65 copying by the following:

66 (1) A juvenile court having a child currently before it
67 in any proceeding.

68 (2) Personnel of the Department of Human Resources, the
69 Department of Youth Services, public and private institutions
70 or agencies of which the child under the jurisdiction of the
71 juvenile court has been placed into the legal custody, and
72 those responsible for his or her supervision after release.

73 (3) Law enforcement officers of other jurisdictions
74 when necessary for the discharge of their current official
75 duties.

76 (4) The probation and other professional staff of a
77 court in which the child is subsequently convicted of a
78 criminal offense or adjudicated as a youthful offender for the
79 purpose of a presentence report or other dispositional
80 proceedings, officials of penal institutions and other penal
81 facilities into which the child is placed, or a parole board
82 in considering his or her parole or discharge or in exercising
83 supervision over him or her.

84 (5) The probation and other professional staff serving



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85 a court handling criminal cases when investigating or
86 considering youthful offender applications.

87 (6) The parent, except when parental rights have been
88 terminated, or legal guardian of the child~~and~~, the child's
89 attorney, and guardian ad litem.

90 (7) The principal of the school in which the child is
91 enrolled, or the representative of the principal, upon written
92 petition to the juvenile court setting forth the reasons why
93 the safety or welfare, or both, of the school, its students,
94 or personnel necessitate production of the information and
95 without which the safety and welfare of the school, its
96 students, and personnel would be threatened.

97 (c) Law enforcement records may be viewed by victims
98 during the investigation of a crime at the discretion of the
99 investigating officer.

100 (d) All law enforcement agencies shall report to the
101 Alabama State Law Enforcement Agency that a child has been
102 charged with an act of delinquency along with any pertinent
103 identifying information or historical data concerning that
104 child, when either of the following occurs:

105 (1) The child is taken into custody and charged with an
106 act of delinquency for an act which would constitute a felony
107 if committed by an adult.

108 (2) The child is taken into custody and charged with an
109 act of delinquency for an act which would constitute a
110 misdemeanor if committed by an adult.

111 (e) Nothing in this section shall be construed to
112 prohibit or otherwise limit counsel from disclosing



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113 confidential law enforcement records relating to a client as
114 needed to investigate the case of the client or prepare a
115 defense for that client, provided that the disclosure is in
116 furtherance of counsel's representation of the party.

117 (f) Except for use in legal proceedings, photographs,
118 likeness, and personal identifying information contained in
119 law enforcement records of a person charged pursuant to
120 Section 12-15-204 are not public records and may not be
121 published in any printed or electronic media nor open to
122 public inspection, prior to conviction, unless a hearing has
123 been held pursuant to Section 15-13-3, there has been a
124 probable cause determination by a district or circuit court
125 judge, an indictment has been issued by a grand jury, or the
126 district court or circuit court with jurisdiction over the
127 case orders the records be released in the interest of the
128 person charged, in the interest of public safety, or in the
129 interest of national security.

130 (g) Except as provided in this section, any person who
131 ~~directly or indirectly~~ knowingly discloses, makes use of, or
132 ~~knowingly~~ permits the use of information described in this
133 section that identifies a child, or the family of a child, who
134 is or was under the jurisdiction of the juvenile court, upon
135 conviction, shall be guilty of a Class A misdemeanor under the
136 jurisdiction of the juvenile court.

137 (h) Nothing in this section shall be construed to
138 prohibit or otherwise limit a prosecuting authority from
139 disclosing confidential law enforcement records relating to a
140 defendant as needed to investigate or prosecute the case,



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141 provided that the disclosure is in furtherance of or related
142 to the investigation or prosecution."

143 Section 2. Although this bill would have as its purpose
144 or effect the requirement of a new or increased expenditure of
145 local funds, the bill is excluded from further requirements
146 and application under Section 111.05 of the Constitution of
147 Alabama of 2022, because the bill defines a new crime or
148 amends the definition of an existing crime.

149 Section 3. This act shall become effective June 1,
150 2024.