

Senate Bill No. 601

(By Senators Cookman, Walters and Stollings)

[Introduced March 22, 2013;
referred to the Committee on the Judiciary.]

A BILL to amend and reenact §49-5-18 of the Code of West Virginia, 1931, as amended, relating to keeping the records of a juvenile proceeding confidential; and removing the requirement of sealing the records.

Be it enacted by the Legislature of West Virginia:

That §49-5-18 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. JUVENILE PROCEEDINGS.

§49-5-18. Confidentiality of juvenile records.

- 1 (a) One year after the juvenile's eighteenth birthday, or
- 2 one year after personal or juvenile jurisdiction has
- 3 terminated, whichever is later, the records of a juvenile

4 proceeding conducted under this chapter, including, but not
5 limited to, law-enforcement files and records, ~~shall be~~ may
6 be sealed by operation of law kept in a separate secure
7 confidential place and the records may not be inspected
8 except by order of the circuit court.

9 (b) The records of a juvenile proceeding in which a
10 juvenile was transferred to criminal jurisdiction pursuant to
11 the provisions of section ten of this article shall be ~~sealed by~~
12 ~~operation of law~~ kept in a separate secure confidential place
13 and the records may not be inspected except by order of the
14 circuit court if the juvenile is subsequently acquitted or found
15 guilty only of an offense other than an offense upon which
16 the waiver or order of transfer was based, or if the offense
17 upon which the waiver or order of transfer was based is
18 subsequently dismissed.

19 (c) To ~~seal~~ keep the confidentiality of juvenile records,
20 they shall be returned to the circuit court in which the case
21 was pending and be kept in a separate confidential file. The

22 records shall be physically marked to show that they ~~have~~
23 ~~been sealed~~ are to remain confidential and shall be securely
24 ~~sealed~~ kept and filed in ~~such~~ a manner so that no one can
25 have access to determine the identity of the juvenile, except
26 upon order of the circuit court.

27 ~~(d) Sealed records may not be opened except upon order~~
28 ~~of the circuit court.~~

29 ~~(e) Scaling of juvenile records~~

30 (d) Marking the juvenile records to show they are to
31 remain confidential has the legal effect of extinguishing the
32 offense as if it never occurred.

33 ~~(f) (e)~~ The records of a juvenile convicted under the
34 criminal jurisdiction of the circuit court pursuant to
35 subdivision (1), subsection (d), section ten of this article may
36 not be ~~sealed~~ marked and kept as confidential.

37 ~~(g) (f)~~ Any person who willfully violates this section
38 ~~shall be~~ is guilty of a misdemeanor and, upon conviction
39 thereof, shall be fined not more than \$1,000, or confined in

40 ~~the county or regional~~ jail for not more than six months, or
41 both so fined and confined, and ~~shall be~~ is liable for damages
42 in the amount of \$300 or actual damages, whichever is
43 greater.

(NOTE: The purpose of this bill is to remove the requirement of sealing the records of a juvenile proceeding while still maintaining the confidentiality of the records.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)