



Access to Juvenile Courts

A
Reporters
Guide to
Proceedings
&
Documents

In the 50
States
&
D.C.

REPORTERS
COMMITTEE
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The 1990's: Juvenile Courts Proceedings and Records Continue to Be More Accessible to the Public

Courts have long recognized that criminal proceedings involving adults should be open. The U.S. Supreme Court recognized a presumption of openness for criminal trials in *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 5455, 571-573 (1980), with Chief Justice Burger noting:

[W]hen a shocking crime occurs, a community reaction of outrage and public protest often follows. Thereafter the open processes of justice serve an important prophylactic purpose, providing an outlet for community concern, hostility, and emotion. . . . The crucial prophylactic aspects of the administration of justice cannot function in the dark; no community catharsis can occur if justice is "done in a corner [or] in any covert manner." Where the trial has been concealed from public view an unexpected outcome can cause a reaction that the system at best has failed and at worst has been corrupted. To work effectively, it is important that society's criminal process "satisfy the appearance of justice," [which] can best be provided by allowing people to observe it.

Although there is a strong presumption that criminal proceedings are open to the media and public, this First Amendment right of access is not absolute.¹ This presumption can be overcome by a showing that competing interests favor closed proceedings and records, such as when the media coverage will interfere with the Sixth Amendment guarantee of a fair trial.²

By contrast, juvenile courts traditionally have been closed to the public.³ As a policy matter, it was believed that youthful offenders should not be stigmatized forever because of one mistake. Another justification for secrecy was promoting rehabilitation of the youthful offender. For example, the Vermont Supreme Court upheld a statute closing juvenile proceedings to the public, holding that publication of information about youthful offenders could impair the rehabilitative goals of the juvenile system.⁴

But high profile crimes involving minors, such as the March 1998 schoolyard shooting tragedy in Jonesboro, Ark., have led to changes in public attitudes about the juvenile justice system and a youthful offender's right to privacy. The rise in juvenile crime rates, coupled with widespread media coverage of violent crimes committed by juveniles, has created a public perception that the nation is under attack. This perception has not only driven many states to prosecute more juveniles as adults, but also open more juvenile proceedings and records to the public and to impose heavier

sentences on juveniles.⁵

This recent increase in violent crimes committed by juveniles has caused a shift from goals of rehabilitation to those of retribution and deterrence. Many states have opened juvenile proceedings to the public when a minor is charged with a violent crime that incites community outrage.

For example, court records and proceedings involving youths charged with offenses that would be considered felonies if committed by adults are public in Idaho, Indiana, Iowa, Maine, Maryland, Minnesota, Missouri, Utah, and Virginia.⁶ In Florida, a law enforcement agency may release the name, picture and address of a child charged with an offense which would constitute a felony.⁷

In California, the public can be admitted to hearings when a juvenile is alleged to have committed "felony criminal street gang activity," such as carjacking or drive-by shooting.⁸ In Illinois, the public has a right of access to the name and address of a juvenile who is at least 13 years old and has been criminally convicted of a serious crime or connected to criminal street gang activity.⁹ A Pennsylvania statute allows public access in felony cases when the defendant is over 14, and when in enumerated serious felony cases the defendant is over 12, including murder, voluntary manslaughter, aggravated assault, arson, involuntary deviate sexual intercourse, kidnaping, rape, robbery, and carjacking.¹⁰

In 1997, an amendment to New York State's court rules created an explicit presumption that Family Court proceedings are open to the public, and members of the public were admitted to several high-profile juvenile cases.¹¹ Subsequently, Westchester County Family Court Judge Howard Spitz in White Plains, permitted pool reporters to cover the proceedings involving Malcolm Shabazz, the 12-year-old grandson of Malcolm X. and Betty Shabazz. Malcolm was accused of setting a fire that resulted in Betty Shabazz's death. Spitz said that the proceedings should be open to "preserve the integrity of public proceedings."¹²

These are a few of the many examples found within this guide where the "tide has turned" and the legislatures and courts have allowed public access to juvenile offenders' hearings and records. According to the National Council of Juvenile and Family Court Judges:

Traditional notions of secrecy and confidentiality should be re-examined and re-

laxed to promote public confidence in the court's work. The public has a right to know how courts deal with children and families. The court should be open to the media, interested professionals and students and, when appropriate, the public, in order to hold itself accountable, educate others, and encourage greater community participation.¹³

Indeed, when a proceeding is open to public scrutiny, there is an opportunity to understand not only the workings of the court in a particular case, but the justice system as a whole.¹⁴

Transfer proceedings

In a transfer hearing, the juvenile court determines whether the juvenile should be prosecuted as an adult in criminal court. Transfer to adult courts and prisons allows for longer incarceration periods and places emphasis on retribution rather than rehabilitation.¹⁵ If a transfer is granted, the juvenile will have the right to a jury trial. In deciding whether to admit the public to transfer hearings, courts must consider such factors as whether pretrial publicity could jeopardize the minor's right to a fair trial by an impartial jury.

For example, an Alabama court found that an alleged violation of confidentiality laws by the media did not violate a juvenile's right to a fair hearing because in transfer hearings, the trial judge sits as the trier of fact.¹⁶

In some states, the nature of the crime with which the juvenile is charged determines whether the media will be allowed to attend transfer hearings. In North Dakota,

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The Reporters Committee for Freedom of the Press
1815 N. Fort Myer Drive, Suite 900
Arlington, VA 22209
(703) 807-2100
web: <http://www.rcfp.org>
e-mail: rcfp@rcfp.org

cases are transferred to adult courts if a juvenile is 16 and requests the transfer, or if a juvenile is 14 or older and has been charged with murder, attempted murder, certain sex crimes, or the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance.¹⁷ In Georgia, the juvenile justice laws automatically require any child 13 or older who is charged with murder to be tried as an adult.¹⁸ In Virginia, any child 14 or older who is charged with murder is to be tried as an adult automatically.¹⁹

Many states give individual courts great discretion to decide whether or not a transfer hearing will be open to the public. In Arizona, a judge may close a transfer hearing upon a finding of a need to protect the best interests of a victim, a witness, the state, or a clear public interest in confidentiality.²⁰ An Ohio court ruled that trial judges have the authority to admit the public and the news media to transfer hearings, because the statutory law provides only that the public "may" be excluded from juvenile hearings.²¹ In a Texas capital murder case, the trial court's decision to admit the media but not the general public to the transfer hearing was upheld.²²

Access to juvenile court records

Most states consider juvenile court records to be confidential, and the public and media are denied access to them. However, many states have made exceptions for records of cases involving violent offenses or acts that would be felonies if committed by an adult. Among these are Arkansas, California, Colorado, Georgia, Indiana, Minnesota, Missouri, Oklahoma, Vermont, and Washington.²³

In Tennessee, petitions and orders regarding juveniles at least 14 years old charged with violent offenses are open to the public.²⁴ In Kansas, court files are public if the juvenile was at least 14 years old at the time of the offense.²⁵ In Utah, if a petition is filed charging a minor 14 years of age or older with an offense that would be a felony if committed by an adult, the court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary of the minor charged unless the records are closed by the court upon findings on the record for good cause.²⁶

Some statutes may permit certain people, such as the juvenile who is the subject of the proceeding, the juvenile's attorney, the parent or guardian and people with a legitimate interest in the workings of the court or a particular case, to gain access to juvenile records. However, access is not automatic or unlimited, and under many statutes a court order first must be obtained.

Consequences of revealing identity

Even in those states that continue to limit access to juvenile proceedings, the media cannot be sanctioned for revealing a juvenile's identity if they lawfully obtained the information.²⁷ Also, when a defendant's picture and identity already have been revealed to the public, the court may not forbid the media from disseminating that information.²⁸

Recently, the Mississippi Supreme Court overturned the contempt conviction of *Delta Democrat Times* reporter Cynthia Jeffries, who had written about a discussion of a criminal defendant's juvenile record in open court.²⁹ The Massachusetts Supreme Court has ruled that the state may not punish the press for publishing legally-obtained information about a juvenile offender or victim.³⁰ In a recent case, the court held that a lower court's order which prevented the press from fully reporting on cases involving contributing to the delinquency of minors violated free-press rights and amounted to an "unlawful prior restraint."³¹ Several Minnesota rulings have held that courts may not prohibit newspapers from publishing lawfully-obtained information regarding juvenile proceedings, including information obtained by news media in open court or from parties to the action.³²

An Alabama state court overturned the conviction of two newscasters for violating a state law that prohibits disclosure of information in juvenile records. They had broadcast the name of a juvenile charged with murder. Although the newspaper had obtained the name from a confidential source, the judge reversed the lower court's ruling because the juvenile's name had been revealed before the broadcast in a bond hearing.³³ In 1996, the Alabama Supreme Court held that a television station's news report about a 15-year-old runaway whose puppy had been stolen and tortured did not constitute an invasion of privacy. The court found that the broadcast of the juvenile's identity and runaway status did not constitute an invasion of privacy because the public had a legitimate interest in the story.³⁴

Courts in Illinois may suppress publication of the identity of a juvenile only if it was obtained from a juvenile court proceeding.³⁵ Any restriction on information otherwise obtained is suspect and subject to strict scrutiny, especially where the proceedings have been deemed to be open. However, in general, the public cannot attend juvenile proceedings in Illinois.³⁶

The Connecticut Supreme Court has held that statutes mandating the confidentiality of juvenile records and proceedings do not prohibit the media from disclosing

information about the case, but only restrict press access to proceedings and records.³⁷ In Maine, even when court records are secret, the court cannot forbid publication of the information if a reporter has lawfully obtained access to the records.³⁸

In Rhode Island, if a media organization learns a juvenile's name from sources outside court proceedings, it may publish the name and attend the proceedings. However, if the organization learns of the name from a judicial source, the court can keep the media out of the proceedings and forbid publication of the juvenile's identity.³⁹

Several states have criminal penalties for revealing confidential or sealed information about juveniles, including Alaska, Montana, Nebraska, New Hampshire, New Mexico, Oklahoma, South Carolina, South Dakota, West Virginia, and Wisconsin.⁴⁰

Cameras in Juvenile Court

In recent years, some states and courts have decided to allow cameras and recording devices into juvenile court proceedings. For example, in Georgia, a juvenile court rule provides that members of the media must get permission to use certain electronic or photographic equipment and the trial judge may require pooled coverage. Once permission is granted, all cameras should run without noise and the media should not film images of the delinquent child. The rule also requires that reporters, photographers and technicians "should do everything possible to avoid attracting attention to themselves."⁴¹ In Florida, a trial court held that print and broadcast media have a right to attend and the photograph detention hearing for juvenile charged with murdering his parents, but they cannot take or broadcast the juvenile's face.⁴²

However, many states and courts refuse to allow cameras in juvenile court. In Tennessee, a court rule bars cameras from photographing minors and jurors and covering bench conferences.⁴³ In September 1998, a trial judge ordered cameras and audio recording devices banned from the trial of Michael Carneal, who was charged with killing three schoolmates and wounding five others in December 1997. The judge cited the need to protect several potential juvenile witnesses and to prevent witnesses from dramatizing their testimonies.⁴⁴

Federal Courts - The Juvenile Delinquency Act

The Juvenile Delinquency Act⁴⁵ provides that the government may initiate juvenile delinquency proceedings in federal district court against people less than 21 years old who commit a federal offense

before turning 18.

The law does not prohibit public access to federal juvenile proceedings in all cases; courts have discretion to determine closure on a case-by-case basis.⁴⁶

Under federal law, juvenile records are closed to the press and public until a transfer to criminal court has been granted. No sanctions may be imposed on reporters who publish information that was obtained at a juvenile proceeding.⁴⁷

Tips on gaining access

In seeking access to juvenile proceedings and documents, journalists should examine their state constitutions and statutes, as well as the cases interpreting them.

In states where statutes do not clearly provide a right to attend juvenile proceedings, look for provisions granting judges the discretion to open them. If there is a clause allowing individuals with a legitimate interest in the case or the work of the court to attend or inspect records, journal-

ists can try to demonstrate that they have such an interest. If a juvenile offender already has been identified, journalists can argue that a closed proceeding would not restore anonymity.

Bear in mind that law governing access to juvenile courts is volatile, and some of the cases described here may have been overturned or statutes amended, modified or repealed since this booklet was prepared. Contact the Reporters Committee for further information.

Notes

¹ See *Press-Enterprise Co. v. Superior Ct.*, 478 U.S. 1 (1986); *United States v. A.D.*, 28 F.3d 1353, 1357 (3d Cir. 1994); *United States v. Simone*, 14 F.3d 833, 840 (3d Cir. 1994).

² See *Press-Enterprise Co. v. Superior Court*, 478 U.S. 1, 9 (1986).

³ The United States Supreme Court has not found that juvenile proceedings are presumed to be open. In *In re Gault*, 387 U.S. 1, 25 (1967), the United States Supreme Court stated, "There is no reason why, consistently with due process, a State cannot continue, if it deems it appropriate, to provide and to improve provision for the confidentiality of records of police contacts and court action relating to juveniles."

⁴ *In Re J.S.*, 140 Vt. 458; 438 A.2d 1124 (1981). See also *Brian W. v. Superior Court*, 574 P.2d 788, 791 (Cal. 1978) ("The provisions for confidentiality in the juvenile court law . . . were included to prevent the underlying rehabilitative philosophy from being thwarted by unduly stigmatizing the juvenile offender."); *In re J.D.C.*, 594 A.2d 70, 72 (D.C. 1991) ("The primary purpose . . . [for] providing that in general the public shall be excluded from juvenile proceedings, is to preserve the anonymity of juvenile respondents in order to foster an atmosphere conducive to rehabilitation"); *Florida Publ'g Co. v. Morgan*, 322 S.E.2d 233, 235-36 (Ga. 1984) ("The asserted state interest in the closure of the hearing was the protection of the anonymity of the juvenile offender in order to further his or her rehabilitation."); *In re T.R.*, 556 N.E.2d 439 (Ohio 1990) (aim of traditionally closed juvenile proceedings is rehabilitative); *In re M.C.*, 527 N.W.2d 290, 293 (S.D. 1995) ("The purpose behind closed juvenile proceedings is to "protectively rehabilitate juveniles."").

⁵ Danielle R. Oddo, *Removing Confidentiality Protections and the "Get Tough" Rhetoric: What has Gone Wrong with the Juvenile Justice System?*, 18 B.C. Third World L.J. 105, 105-106 (1998) (citations omitted).

⁶ Idaho Code § 20-525 (1998); Ind. Code Ann. § 31-32-6-3 (1998); Iowa Code Ann.

§ 232.150 (1997); Me. Rev. Stat. Ann. tit. 15 § 3307(2) (1997); Md. Code Ann., Cts. & Jud. Proc. § 3-818 (1998); Minn. Stat. Ann. § 260.155(1) (1998); Mo. Rev. Stat. § 211.171(6) (1998); Utah Code Ann. § 78-3a-115 (1998); Va. Code Ann. § 16.1-302 (1998)

⁷ Fla. Stat. Ann. § 985.04 (1998).

⁸ Cal. Welf. & Inst. Code § 676 (1999).

⁹ 705 ICLS 405/1-8 (1998).

¹⁰ Pa. Cons. Stat. Ann. tit. 42 § 6336 (1998).

¹¹ N.Y. C.L.S. Unif. Rules, Family Ct. § 205.4 (1998).

¹² *In re Shabazz*, 662 N.Y.S.2d 207, 173 Misc.2d 656 (1997).

¹³ Danielle R. Oddo, *Removing Confidentiality Protections and the "Get Tough" Rhetoric: What has Gone Wrong with the Juvenile Justice System?*, 18 B.C. Third World L.J. 105, 120-121 (1998) (citations omitted).

¹⁴ See *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 572 (1980)..

¹⁵ Danielle R. Oddo, *Removing Confidentiality Protections and the "Get Tough" Rhetoric: What has Gone Wrong with the Juvenile Justice System?*, 18 B.C. Third World L.J. 105, 114 (1998) (citations omitted).

¹⁶ *C.S. v. State*, 615 So.2d 1254 (Ala. Crim. App. 1992).

¹⁷ N.D. Cent. Code § 27-20-34 (1999).

¹⁸ Ga. Code Ann. § 15-11-5 (1998).

¹⁹ Va. Code Ann. § 16.1-269.1 (1998).

²⁰ Ariz. Juv. Ct. R. P. 13(b) (1998).

²¹ *State ex. rel. Fyffe v. Pierce*, 40 Ohio St. 3d 8, 531 N.E.2d 673 (1988).

²² *R.A.G. v. Texas*, 870 S.W.2d 79 (Tex. 1993), error granted, judgment rev'd on other grounds, 866 S.W.2d. 199 (Tex. 1993).

²³ Ark. Code Ann. § 9-27-309 (1997); Cal. Welf. & Inst. Code § 389 (1999); Colo. Rev. Stat. Ann. § 19-1-302 (1998); Ga. Code Ann. § 15-11-58 (1998); Ind. Code Ann. § 31-39-2-8 (1998); Minn. Stat. Ann. § 260.161(2) (1998); Mo. Rev. Stat. § 211.321 (1997); Okla. Stat. Ann. tit. 10, § 7307-1.2 (1999); Vt. Stat. Ann. tit. 33, § 5538 (1998); Wash. Rev. Code Ann. § 13.50.050 (1999).

²⁴ Tenn. Code Ann. § 37-1-153 (1999).

²⁵ Kan. Stat. Ann. § 38-1607 (1997).

²⁶ Utah Code Ann. § 78-3a-206 (1999).

²⁷ *Smith v. Daily Mail*, 443 U.S. 97 (1979).

²⁸ *Oklahoma Publishing v. District Ct.* 430 U.S. 308 (1977).

²⁹ *Jeffries v. Mississippi*, 724 So.2d 897 (Miss. 1998).

³⁰ *Globe Newspaper Co. v. Superior Ct.*, 423 N.E.2d 773 (Mass. 1981).

³¹ *George W. Prescott Publishing Co. v. Stoughton Division of the District Court*, 429 Mass. 309; 701 N.E.2d 307 (1998).

³² *Minneapolis Star and Tribune Co. v. Schmidt*, 360 N.W.2d 433 (Minn. Ct. App. 1985); *Minneapolis Star and Tribune Co. v. Lee*, 353 N.W.2d 213 (Minn. Ct. App. 1984).

³³ *State v. Ozbirn*, cc-930148, Dist. Franklin Cty., Ala., dismissed, Feb. 3, 1994).

³⁴ *J.C. and C.C. v. WALA-TV, Inc.*, 675 So.2d 360 (Ala. 1996).

³⁵ *In re a Minor*, 205 Ill. App. 3d 480, 563 N.E.2d 1069 (1990).

³⁶ *In re M.B.*, 137 Ill. App. 3d 992, 484 N.E.2d 1154 (1985).

³⁷ *In re Juvenile Appeal*, 195 Conn. 303, 488 A.2d 778 (1985).

³⁸ *State v. Yard*, No. CV-83-897 (Me. Super. Ct., Aug. 26, 1983).

³⁹ *Edward A. Sherman Publishing Co. v. Goldberg*, 443 A.2d 1252 (R.I. 1982).

⁴⁰ Alaska Stat. § 47.12.300 (1999); Mont. Code Ann. § 41-5-216 (1999); Neb. Rev. Stat. § 43-2,105 (1998); N.H. Rev. Stat. Ann. § 169-B:38 (1999); N.M. Stat. Ann. § 32A-2-16(B) (1998); N.M. Stat. Ann. § 32A-2-32 (1998); N.M. Stat. Ann. § 32A-2-33 (1998); Okla. Stat. Ann. tit. 10, § 7005-1.3 (1998); S.C. Code Ann. § 20-7-690 (1998); S.D. Codified Laws Ann. § 26-7A-38 (1999); W. Va. Code § 49-5-17 (1999); Wis. Stat. Ann. § 48.299 (1997)

⁴¹ Uniform Rules for the Juvenile Courts of Georgia, R. 26.1; R. 26.2 (1999).

⁴² *In re B.P.*, 9 Media L. Rep. 1151 (Fla. 4th Cir. Ct. 1983).

⁴³ Tenn. Sup. Ct. R. 30. (1998).

⁴⁴ *Kentucky v. Carneal*, No. 97-CR-00350 (Ky. 2d Cir. Ct., order banning recording devices Aug. 12, 1998).

⁴⁵ 18 U.S.C. § 5031-42.

⁴⁶ *United States v. A.D.*, 28 F.3d 1350 (3d Cir. 1994).

⁴⁷ 18 U.S.C. § 5038(d); *Oklahoma Publ. Co. v. United States*, 515 F. Supp 1255 (Okla. 1981).

ALABAMA

Ala. Code § 12-15-65(a) (1998): The general public is to be excluded from delinquency hearings. Only the parties, their counsel, witnesses, and other people that the parties request can be admitted. Furthermore, the judge may admit people with "a proper interest in the case" if they "refrain from divulging any information which would identify the child or family involved." Finally, relatives, pre-adoptive parents, or foster parents who have been approved by the Department of Human Resources providing care to a child shall be given notice and an opportunity to be heard in any hearing to be held with respect to a child in their care.

Ala. Code § 12-15-100 (1998); Ala. Code § 12-15-101 (1998): Juvenile court records are open only to judges and probation officers; representatives of child custody agencies; other people, who have "a legitimate interest in the case or in the work of the court;" attorneys handling the case; the child's parents or guardian; the principal of the child's school or that principal's representative if reasons are set forth why the safety or welfare, or both, of the school, its students, or personnel, necessitate production of the information. All information obtained from records "shall be held in the strictest confidence."

Ala. Code § 12-15-103 (1998): On motion by a juvenile who has been the subject of a delinquency petition or on the court's own motion, the court shall seal the file of the juvenile if it finds that two years have elapsed since the final discharge of the person from legal custody or supervision and the juvenile has not been convicted of a felony or misdemeanor involving moral turpitude or adjudicated delinquent prior to the filing of the motion. Upon entry of the order, the proceedings in the case shall be treated as if they never occurred.

Ala. R. Juv. Proc. R. 18 (1998): The court may release statistical information regarding the processing and disposition of juvenile cases if identity of parties cannot be ascertained from such information and such release is not detrimental to the interests of a child or the work of the juvenile court.

Ala. R. Juv. Proc. R. 19 (1998): The juvenile court may adopt local rules to enforce the confidentiality of law enforcement records.

Transfer hearing: An alleged violation of juvenile confidentiality laws by media did not violate defendant's right to a fundamentally fair hearing. *C.S. v. State*, 615 So. 2d 1254 (Ala. Crim. App. 1992).

Access granted: A television station's news report about a 15-year-old runaway

whose puppy had been stolen and tortured did not constitute an invasion of privacy. The court found that the public had a legitimate interest in the story. *J.C. and C.C. v. WALA-TV, Inc.*, 675 So. 2d 360 (Ala. 1996).

Records held to be confidential: The Court of Civil Appeals held that law enforcement, social, medical, and psychiatric or psychological records of a juvenile who is declared delinquent or dependent are confidential and are open to inspection only under limited circumstances. *In re: C.G., a minor*, 716 So. 2d 219 (Ala. Civ. App. 1998).

Access denied: The Court of Civil Appeals held that the state has an interest in protecting the anonymity of youthful offenders. *Clerk of the Municipal Court v. Lynn*, 702 So. 2d 166 (Ala. Civ. App. 1997).

Access to juvenile witnesses granted: The admission into evidence of portions of a defendant's testimony at a dependency hearing concerning the victim was not error. The Court of Criminal Appeals reasoned that the confidentiality rules which govern juvenile proceedings and records are designed to protect the juveniles in juvenile proceedings, not the privacy of witnesses. *See Bombailey v. State*, 580 So. 2d 41 (Ala. Crim. App. 1990).

ALASKA

Alaska Stat. § 47.10.070 (1999): The public is excluded from juvenile hearings involving child welfare and social services, but the court, in its discretion, may permit individuals to attend a hearing if their attendance is compatible with the best interests of the child. The court may restrict the presence of the foster parent or other out-of-home care provider if it is in the best interest of the child or necessary to protect the privacy interests of the parties.

Alaska Stat. § 47.10.090 (1999): In cases dealing with child welfare and social services, the court shall order all official court records sealed when a minor turns 18 or after the court releases its jurisdiction over the minor. The minor's name and picture cannot be released to the public without the court's authorization. A person may not use these sealed records for any purpose unless the court orders their use for "good cause." In addition, juvenile records may be inspected only with the court's permission and only by persons having a legitimate interest in them.

Alaska Stat. § 47.12.110 (1999): The public shall be excluded from delinquency hearings, but the court, in its discretion, may permit individuals to attend a hearing if their attendance is compatible with the best interests of the minor. In addition, the hearing on a petition seeking the adjudication of a minor as a delinquent shall be open

to the public if the department requests it, and the petition seeking adjudication of the minor as a delinquent is based on the minor's alleged commission of a felony or other serious offense.

Alaska Stat. § 47.12.300 (1999): In delinquency proceedings, the name or picture of a minor may not be made public in connection with the minor's status as a delinquent unless authorized by order of the court. Moreover, the court's official records are confidential and may be inspected only with the court's permission and only by persons having a legitimate interest in them. However, when a district attorney has elected to seek imposition of a dual sentence or when a minor agrees as part of a plea agreement to be subject to dual sentencing, all court records shall be open to the public except for predisposition reports, psychiatric and psychological reports, and other documents that the court orders to be kept confidential because the release of the documents could be harmful to the minor or could violate the constitutional rights of the victim or other persons. Furthermore, within 30 days of the date of a minor's 18th birthday or, if the court retains jurisdiction of a minor past the minor's 18th birthday, within 30 days of the date on which the court releases jurisdiction over the minor, the court shall seal all the court's official records pertaining to that minor. These sealed records cannot be used for any purpose unless the court permits it for "good cause." A person who discloses confidential information in violation of this section is guilty of a class B misdemeanor.

Alaska Delinquency R. 27 (1999): The court records of a juvenile delinquency proceeding are confidential in any case in which the juvenile is not subject to dual sentencing. Information may not be released and access to the records may not be permitted except as authorized by statute or upon court order for good cause. If the juvenile is subject to dual sentencing, all court records are open to the public except for predisposition reports, psychiatric and psychological reports, and other documents that the court orders to be kept confidential because the release of the documents could be harmful to the juvenile or could violate the constitutional rights of the victim or other persons.

ARIZONA

Ariz. Rev. Stat. § 8-208 (1998): The following juvenile records are to be open for public inspection: referrals involving delinquent acts; arrest records; delinquency hearings; disposition hearings; revocation of probation hearings; appellate review records; and diversion proceedings involv-

ing delinquent acts. The statute allows for the release of juvenile court records to probation employees, the prosecutor and the juvenile's attorney, other courts and jail authorities. The records of an adoption, severance or dependency proceeding shall not be open to public inspection. Finally, the court may order that the records be kept confidential and withheld from public if the court determines "that the subject matter of any record involves a clear public interest in confidentiality."

Ariz. Juv. Ct. R. 7(c) (1998): Juvenile delinquency and incorrigibility hearings shall be open to the public, except upon the court's written finding of a need for secrecy to protect the best interests of a victim, a witness, the state, or a clear public interest. In determining whether to close a hearing or a portion thereof, the judge may consider whether an open hearing may: (1) be emotionally harmful to a participant; (2) inhibit testimony, or the disclosure or discussion of information material to the truth-finding or rehabilitation process; or (3) otherwise interfere with rehabilitation of a victim. Any person filing a request to close a hearing or portion of the hearing shall give notice of such request to all persons or entities which have filed an appearance in the case (or to one or more media representatives designated by the court), to the juvenile, to the parents, guardian, or custodian of the juvenile, and to any person who is designated by the court as a party.

Ariz. Juv. Ct. R. P. 19 (1998): The court may exclude any party other than the juvenile or the victim from any hearing. Additionally, the court may impose reasonable restrictions as may be required by the physical limitations of the facility or to maintain order and decorum.

Ariz. Juv. Ct. R. P. 19.1(1998): In general, the juvenile court file shall be open to inspection by the public without order of the court. However, upon a finding by the court of a clear public interest in confidentiality, the file or portions thereof may be withheld from public inspection. Moreover, the social file of a juvenile offender (which contains diagnostic evaluations, psychiatric and psychological reports and medical reports) shall be confidential and withheld from public inspection except upon order of the court.

Ariz. Juv. Ct. R. P. 13(b) (1998): All juvenile transfer proceedings shall be open to the public, except that a judge may close a hearing upon a finding of a need to protect the best interests of a victim, a witness, the state, or a clear public interest in confidentiality. Anyone requesting closure must give public notice.

Juvenile hearing: The Arizona Supreme Court held that a juvenile court hearing on

whether to prosecute a child as an adult was open to the public because Arizona Constitution art. VI, § 15, which requires that such hearings be in chambers, does not require that the public be excluded. The court held that there was no abuse in the discretionary decision of the judge to admit the news media to the juvenile transfer hearing. *Wideman v. Garbarino*, 770 P.2d 320 (Ariz. 1980).

Access granted: The Court of Appeals held that the purpose of a closed hearing in juvenile court is to promote the juvenile's rehabilitation and to foster his successful re-assimilation back into the community by maintaining his anonymity during the juvenile proceedings. The court held, however, that this purpose vanishes once the juvenile court waives its jurisdiction and transfers

the juvenile to adult court. *See In re Juvenile Action 7-96695*, 705 P.2d 478 (Ariz. Ct. App. 1985).

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ARKANSAS

Ark. Code Ann. § 9-27-325(i) (1999): In juvenile delinquency hearings, the juvenile has the right to an open hearing. Other hearings may be closed within the discretion of the court. However, all hearings involving adoption, child maltreatment and children in foster care shall be closed.

Ark. Code Ann. § 9-27-348 (1997): The news media may not publish, without written order of the court, information identifying a juvenile who is the subject of a juvenile proceeding.

Ark. Code Ann. § 9-27-309 (1997): The court has discretion to close all juvenile records, except in cases involving charges for which the juvenile could have been tried as an adult. Judges may seal statistics and data that identify juveniles but may not seal anonymous data.

Access granted: The Arkansas Supreme Court held that items were not inadmissible simply because they came from defendant's juvenile court file. According to the court, § 9-27-309(a) gives the juvenile court discretion to open files for the state. *See Echols v. State*, 936 S.W.2d 509 (Ark. 1996).

CALIFORNIA

Cal. Welf. & Inst. Code § 346 (1999): The court is authorized to admit the public to juvenile dependency proceedings unless there is a reasonable likelihood that access

will harm the best interests of the child. The court should consider allowing press access to portions of the proceeding. *See San Bernardino County Dept. of Public Social Services v. Superior Court*, 232 Cal. App. 3d 188 (1991) (holding that the First Amendment right of access to court proceedings did not apply to juvenile dependency proceedings).

Cal. Welf. & Inst. Code § 389 (1999): The court may seal court records at the juvenile's request after a hearing if he has not been convicted of a felony or misdemeanor involving "moral turpitude." The records can be opened in defamation suits. The court shall order the destruction of the sealed juvenile court record five years after a juvenile court record has been sealed, unless good cause exists that the juvenile court record shall be retained.

Cal. Welf. & Inst. Code § 676 (1999): Unless the juvenile requests a public hearing, the public has no right of access to juvenile court hearings. The court may admit those it decides have a "direct and legitimate" interest in the case. However, the public has a right of access to cases involving charges of violent crimes, including carjacking, drive-by-shooting and felony criminal street gang activity.

Cal. Welf. & Inst. Code § 827 (1999): Juvenile court records can only be viewed by court personnel, the minor, his parents and other persons designated by court order. Dissemination of the records by these persons to others is forbidden. *But see In re Keisha T.*, 38 Cal. App. 4th 220 (1995) (holding that § 827 does not limit the other persons who may obtain access to juvenile court records by court order).

Cal. Welf. & Inst. Code § 828 (1999): Information gathered by a law enforcement agency relating to the taking of a minor into custody may be disclosed to another law enforcement agency, including a school district police or security department, or to any person or agency which has a legitimate need for the information.

Cal. Welf. & Inst. Code § 827.5 (1999): A law enforcement agency may disclose the name of any minor at least 14 years old who has been charged with a serious felony under Cal. Penal Code § 1197.7.

Cal. Welf. & Inst. Code § 781 (1999): The records of a juvenile who was 16 years of age or older at the time he or she committed any criminal offense listed in § 707 shall not be destroyed.

Cal. Welf. & Inst. Code § 707 (1999): With regard to a minor 16 years of age or older who commits any enumerated offense, the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. The enumerated offenses include fol-

lowing: murder, arson, robbery while armed with a dangerous or deadly weapon, rape with force or violence or threat of great bodily harm, and sodomy by force, violence, duress, menace, or threat of great bodily harm.

California Court Rule § 1423(b) (1999): Only those persons specified in § 827 and § 828 may inspect juvenile court records without authorization from the court. Juvenile court records may not be obtained or inspected by civil or criminal subpoena. Authorization for any other person to inspect, obtain, or copy juvenile court records must be ordered by the juvenile court. In determining whether to release juvenile court records, the court must balance the interests of the child and other parties to the juvenile court proceedings, the interests of the petitioner, and the interests of the public. The court shall permit disclosure of juvenile court records or proceedings only insofar as is necessary, and "only if there is a reasonable likelihood that the records in question will disclose information or evidence of substantial relevance to the pending litigation, investigation, or prosecution."

Detention hearing: The California Court of Appeal held that media have a right to attend the detention hearing of a minor charged with murder because murder is an offense designated under § 676. The court held that the juvenile court violated the media's First Amendment rights by prohibiting dissemination of information lawfully obtained at the hearing. *KGTV Channel 10 v. Superior Ct.*, 26 Cal. App. 4th 1673 (1994).

Access granted: The Court of Appeals held that if a juvenile court determines, consistent with the best interests of the minors, that records should be released to the press, the public can thereafter learn the content of the disclosed records. The court found that § 827 does not limit the other persons who may obtain access to juvenile court records by court order. *In re Keisha T.*, 38 Cal. App. 4th 220 (1995).

Access granted: The disclosure to the news media of juvenile case information acquired by the district attorney's office independently of the documents deemed confidential under provisions § 827, would be unlawful absent a juvenile court order permitting such disclosure. However, where the juvenile proceedings are open to the public generally, the district attorney may furnish the news media with whatever information is available to the public at those proceedings in which he participates unless the juvenile court has placed restrictions on such dissemination. 65 Op. Att'y. Gen. Cal. 503 (1982).

Detention hearing: A juvenile murder defendant's motion to exclude the press and public from a detention hearing was denied

based on evidence showing that the case has already received extensive media coverage, including publication of the juvenile's name and photograph and that public interest in this case is high. *In re Gjevve*, 5 Media L. Rep. 2329 (Cal. Super. Ct. 1980).

Competency hearing: A minor cannot exclude the public from her competency hearing held in juvenile court for a murder charge because she failed to show a reasonable likelihood of substantial prejudice to her right to a fair trial with an impartial jury. *Cheyenne K. v. Superior Ct.*, 208 Cal. App. 3d 311 (1989).

Competency hearing: A trial court's order allowing news media into competency hearing of juvenile charged with kidnapping and murder is valid because court has discretionary authority to admit persons who have a "direct and legitimate interest in the particular case" and because juvenile failed to show there was a reasonable likelihood that his fair trial rights would be compromised. *Brian W. v. Superior Ct.*, 143 Cal. Rptr. 717, 574 P.2d 788 (1978).

COLORADO

Colo. Rev. Stat. Ann. § 19-1-106(2) (1998): The general public cannot be excluded from juvenile hearings unless the court rules it is in the best interests of the child or the community. The court may admit people with an interest in the case or the work of the court.

Colo. Rev. Stat. Ann. § 19-1-302 (1998): The Legislature recognizes that the disclosure of sensitive information carries the risk of stigmatizing children; however, disclosure of juvenile records "may result in serving the best interests of the child and may be in the public interest such as where a juvenile has committed an act that would be a crime of violence if committed by an adult."

Colo. Rev. Stat. Ann. § 19-1-303 (1998): The judicial department or any agency that performs services regarding juvenile delinquency and neglect cases may exchange information with other agencies or individuals for purposes of investigations and case management.

Colo. Rev. Stat. Ann. § 19-1-304 (1998): Court records in juvenile delinquency proceedings shall be open, without court order, to the juvenile, the juvenile's parents or guardian, any attorney of record, the juvenile's guardian ad litem, the probation department, any agency to which legal custody of the juvenile, any law enforcement agency or police department in Colorado, a court which has jurisdiction over a juvenile, the state department of human services, and, any person conducting a custody evaluation.

Colo. Rev. Stat. Ann. § 19-1-305 (1998): All records prepared or obtained by the department of human services regarding the operation of juvenile facilities shall be confidential and privileged. The records may be disclosed, however, to the parents, legal guardian, legal custodian, attorney for the juvenile, district attorney, guardian ad litem, law enforcement official, and probation officer.

Colo. Rev. Stat. Ann. § 19-1-306 (1998): Upon the entry of an expungement order, the person, agency, and court may properly indicate that no record exists. The court may order expunged all records in a juvenile's case if the court finds that the juvenile has not been convicted of a felony or of a misdemeanor and has not been adjudicated a juvenile delinquent since the termination of the court's jurisdiction; no proceeding concerning a felony, misdemeanor, or delinquency action is pending or being instituted against the juvenile; and, the rehabilitation of the petitioner has been attained to the satisfaction of the court.

Colo. Rev. Stat. Ann. § 19-1-307 (1998): In general, reports of child abuse or neglect and the name and address of any child, family, or informant or any other identifying information contained in such reports shall be confidential and shall not be public information. However, disclosure of the name and address of the child and family and other identifying information involved in such reports may be permitted when authorized by a court for good cause.

Forbidding publication: Colorado statute that prohibited publication of juvenile's name, unless allowed by court order, is an unconstitutional prior restraint. *Colorado v. Denver Publishing*, 597 P.2d 1038 (Colo. 1979).

CONNECTICUT

Conn. Gen. Stat. Ann. § 46b-122 (1997): Judge shall exclude from a juvenile hearing people not necessary to the proceeding.

Conn. Gen. Stat. Ann. § 46b-124 (1998): All juvenile court records are confidential. However, records can be inspected pursuant to a court order by any person who has a legitimate interest in the information.

Forbidding publication: Statutes intended to protect juveniles from publicity about their crimes do not forbid the press from disclosing any information which came into its possession lawfully. *In re Juvenile Appeal*, 488 A.2d 778 (Conn. 1985).

Access denied: The Supreme Court of Connecticut held that the strong presumption of confidentiality of juvenile records established in § 46b-124 and the privacy interests implicated therein justified a narrow construction of the discretion afforded a trial court with regard to releasing information without the express written consent

of the parties concerned. The court concluded that until other alternatives had been exhausted, it was an abuse of discretion for the trial court to have granted a movant access to information from juvenile files. *In re Sheldon G.*, 583 A.2d 112 (Conn. 1990).

Access denied: A Connecticut Superior Court denied a defendant's request to review and disclose material from the records of the Department of Children and Families. *State v. Cutler*, CR 9660866, 1998 Conn. Super. LEXIS 3365 (Conn. Sup. Ct. Nov. 24, 1998).

Access granted: A Connecticut Superior Court held that like a victim in adult court, the victim in juvenile court will have access to the delinquent's name and address by virtue of access to the juvenile court file. Moreover, the names and addresses of the juvenile's parents are open to access by the victim. If such information is not contained in the court file, the court may, in its discretion, release the names and addresses of the parents if the victim demonstrates a legitimate interest in the information. However, the victim does not have the right to the release of any and all information contained in the prosecutor's case file. The prosecutor's case file is not filed with the clerk of court's office and, therefore, it is not a public record, nor available to disclosure to the victim and/or public. Finally, although the court may order documents from juvenile records to be released, the victim may not disclose any information contained in the records to anyone else. Therefore, according to the court, a victim is not permitted to use the actual records or documents released by the juvenile court in a civil action for damages. *State v. Humberto N.*, 1998 Conn. Super. LEXIS 1101 (Conn. Sup. Ct. April 16, 1998).

Access denied: A Connecticut Superior Court held that police department records are not to be released unless they are a part of "records of cases of juvenile matters." The court found that nothing in the record in this case suggested that the requested documents were records of juvenile court matters. *Glastonbury Police Department v. Freedom of Information Commission*, CV 970570076, 1998 Conn. Super. LEXIS 867 (March 25, 1998).

Access denied: The Connecticut Superior Court held that the respondent could not receive the confidential Department of Children and Families and juvenile court records sought in a civil termination of parental rights. *In re James T. Jr.*, 1997 Conn Super. LEXIS 2368 (Conn. Sup. Ct. Aug. 18, 1997).

DELAWARE

Del. Code Ann. tit. 10, § 1063(a) (1998): All juvenile court proceedings and

records are private. However the court may consider publication in the public interest. Moreover, all felony proceedings are public. Court records are to be kept with the Superior Court and the Department of Services for Children. If the crime is a felony or class A misdemeanor, the clerk of the Court can release the name and address of the juvenile and the names of his parents if requested by "a responsible representative" of the public information media.

DISTRICT OF COLUMBIA

D.C. Code Ann. § 16-2316(e) (1998): The general public is to be excluded from juvenile proceedings. However, the court may admit such other persons, including members of the press, "as have a proper

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interest in the case or the work of the court on condition that they refrain from divulging information identifying the child or members of his family involved in the proceedings."

D.C. Code Ann. § 16-2331 (1998); D.C. Code Ann. § 16-2332 (1998); D.C. Code Ann. § 16-2363 (1998): Juvenile court records are to be kept confidential, but may be released to judges, attorneys, the juvenile and his parents, and probation employees. People inspecting the records cannot divulge their contents to unauthorized people. The Superior Court can allow certain people to inspect or copy the records but none of this information in the records may be published. Individuals who can inspect are listed in the statute; the media are not included in the list.

D.C. Juv. R. 55 (1998): Persons who have a professional interest in the work of the Juvenile Division may seek permission to inspect juvenile records.

D.C. Juv. R. 118 (1998): Any juvenile arrested for the commission of a delinquent act who has not been the subject of a petition may file a motion to seal the arrest records.

Access granted: Members of the press have a proper interest in attending juvenile proceedings. *In re M.A.M.*, 124 WLR 173 (Super. Ct. 1996).

Access denied: All representatives of the media were excluded from the trial of a juvenile accused of murder after *The Wall Street Journal* published the name of a 14-year-old juvenile. Originally the trial court had excluded the *Journal* to punish it for publishing the juvenile's name, but had

granted access to *The Washington Post* and other media organizations. The D.C. Court of Appeals reversed that order, stating that it disagreed with the media's arguments that the "cat was out of the bag." Rather, the court held, "Assuming that the kitten's whiskers (or even its tail) may be showing, the rest of the body remains concealed," and remanded the case with directions that the trial court grant the juvenile's motion to exclude the media. *In re J.D.C.*, 594 A.2d 70 (D.C. 1991).

Court records: If a youth offender is discharged from probation prior to the expiration of the maximum probation period, his conviction records are to be physically removed from central criminal files, placed in a separate storage facility, and not disseminated to anyone other than law enforcement officials conducting legitimate criminal investigations. The court did not address the procedure for handling records when the youth is discharged from probation after the entire sentence is completed. *Doe v. Webster*, 606 F.2d 1226 (D.C. 1979), interpreting Federal Youth Corrections Act, 18 U.S.C.A. §§ 5005 et seq.

FLORIDA

Fla. Stat. Ann. § 985.205 (1998): In general, all hearings are open to the public, and the public can only be excluded by court order. The court has the power to close a hearing if this would best serve the public interest and the welfare of the child.

Fla. Stat. Ann. § 985.04 (1998): Juvenile records regarding a child found to have committed a delinquent act are to be sealed by the court. However, such records may be inspected upon court order. A law enforcement agency may release the name, picture and address of a child charged with an offense which would constitute a felony, or three or more offenses which would constitute misdemeanors if committed by an adult.

Detention hearing: Print and broadcast media have a right to attend and the photograph detention hearing for juvenile charged with murdering his parents, but they cannot take or broadcast the juvenile's face. *In re B.P.*, 9 Media L. Rep. 1151 (Fla. 4th Cir. Ct. 1983).

Access granted: The District Court of Appeal held that the father and minor had right to obtain, at father's expense, copy of court file and requested transcripts from juvenile delinquency proceeding against minor, especially when case did not involve particularized finding of need to withhold portions of records or transcripts to protect minor from harm. *T.T. v. State*, 689 So. 2d 1209, 1211 (Fla. Dist. Ct. App. 1996).

GEORGIA

Ga. Code Ann. § 15-11-28(c) (1998):

The general public has a right of access to juvenile proceedings in cases involving: allegations of a felony designated in § 15-11-37, child support, legitimation actions, and delinquency if a juvenile has been found previously to be delinquent. However, the court shall close any delinquency hearings involving allegations of sexual assault or any delinquency hearings at which any party expects to introduce evidence related to matters of deprivation. The court may open any dispositional hearing at its discretion. The general public shall be excluded from hearings involving delinquency, deprivation or unruliness, but persons the court finds have a proper interest in the case can attend.

Ga. Code Ann. § 15-11-58 (1998): In general, juvenile court records can be inspected only pursuant to a court order. However, several exceptions exist, and the public can inspect records involving allegations of a felony designated in § 15-11-37, child support, legitimation actions, and delinquency if a juvenile has been found previously to be delinquent.

Ga. Code Ann. § 15-11-37 (1998): For purposes of § 15-11-28(c) and § 15-11-58, designated felonies are kidnaping, arson, aggravated assault, armed robbery, attempted murder or kidnaping, carrying a weapon, carjacking, drug trafficking, racketeering, and committing an offense three times that would be a felony if committed by an adult.

Uniform Rules for the Juvenile Courts of Georgia, R. 26.1; R. 26.2 (1999): Any person seeking access to any juvenile court proceeding generally closed to public shall file a written motion for access. In any hearing open to public access by statute or court order, the media may make written notes and sketches. However, members of the media must get permission to use certain electronic or photographic equipment. The judge may require pooled coverage. All cameras should run without noise and may be assigned to a particular place in the courtroom. Pictures of the child shall not be taken. No interviews can be conducted in the courtroom except with the permission of the judge. Finally, reporters, photographers and technicians "should do everything possible to avoid attracting attention to themselves."

Presence of the media: The Court of Appeals held that because a father failed to object to the presence of the press during the hearing or at the time of the ruling, he failed to preserve the issue on appeal. *Heath v. McGuire*, 306 S.E.2d 741 (Ga. App. 1983).

Felony charges: Juvenile felony murder, armed robbery and theft proceedings

must be open to the press and public because the public's interest in disclosure outweighs the state's or juvenile's interest in closed proceedings. *In re Ross*, 16 Media L. Rep. 2087 (Ga. Juv. Ct. 1989).

Delinquency hearing: The state may create a procedural rule that delinquency proceedings are presumed closed to the public, but the public and press must be given an opportunity to show that the state's or juvenile's interest in closure does not override the public's interest in an open hearing. *Florida Publishing Co. v. Morgan*, 342 S.E.2d 233 (Ga. 1984).

Access granted: A defendant's juvenile court record is admissible as evidence during the sentencing phase of a capital trial. *Smith v. Georgia*, 510 S.E.2d 1 (Ga. 1998).

HAWAII

Haw. Rev. Stat. § 571-41(b) (1998): In general, only persons whose presence is requested by a parent or guardian or whom the judge deems to have a direct interest in the case upon considering the minor's best interests, can attend juvenile proceedings. However, see exception provided in § 571-84.6 (below).

Haw. Rev. Stat. § 571-84 (1998): Only persons having a legitimate interest in the case, from the standpoint of the juvenile or those with a court order, can view juvenile court records. Otherwise, court dockets, petitions, complaints, motions and papers filed in the case are to be withheld from the public.

Haw. Rev. Stat. § 571-84.6 (1998): All legal records related to certain violent crimes, such as first or second degree murder or attempted murder, are open to the public, unless the judge or court finds "that there are significant and compelling circumstances peculiar to the case" to forbid public access.

IDAHO

Idaho Code § 20-525 (1998), et. seq. ("The Juvenile Corrections Act"): Policy of the state of Idaho that the juvenile corrections system will be based on the following principles: accountability; community protection; and competency development.

Idaho Code § 20-525 (1998): All proceedings against a juvenile who is charged with an offense which would be a felony if committed by an adult are to be open to the public. In addition, the court docket, petitions, complaints, information, arraignments, trials, sentencings, probation violation hearings and dispositions, motions and other papers filed in such a case shall be open, as well as transcripts, findings, verdicts, judgments, orders, decrees and other papers filed in such proceedings.

Extraordinary circumstances may permit the courtroom in a felony case to be closed if "it is in the best interest of the juvenile." In cases where the juvenile is aged 13 years or younger, records and court proceedings are open to the public, except by court order. Finally, the victim of misconduct shall always be entitled to the name of the juvenile involved, the name of the juvenile's parents or guardian, and their addresses and telephone numbers, if available in the records of the court.

Idaho Juv. R. 32 (1997): Juvenile case records, including records of proceedings under Youth Rehabilitation Acts, the Juvenile Corrections Act or Child Protective Acts are confidential. However, the court in its discretion may make information from these records available to a person for research under terms and conditions specified by the court. Further, if a juvenile is 14 years or older and is adjudicated guilty of an offense which would be a felony if committed by an adult, the name, offense of which the juvenile was adjudicated, and disposition of the court may be subject to disclosure.

Idaho Code § 16-1608 (1998): The general public shall be excluded from Child Protective Act proceedings, and only such persons shall be admitted as are found by the court to have a direct interest in the case. *See also* Idaho Juv. R. 37; R. 52 (1997) (The general public is to be excluded from Juvenile Corrections Act and Idaho Code § 16-1601 (1998), et. seq. ("The Child Protective Act") proceedings; however, persons who are found by the court to have a direct interest in the case or in the work of the court may be admitted).

ILLINOIS

705 ILCS 405/1-5 (1998): The general public, except for the news media and the victim, are excluded from any hearing. However, the court may, for the minor's safety and protection and for good cause shown, prohibit any person or agency present in court from further disclosing the minor's identity.

705 ILCS 405/1-7 (1998): Law enforcement records are closed to the public unless criminal proceedings are instituted against the minor.

705 ICLS 405/1-8 (1998): Juvenile court records are not available to the general public but may be inspected by representatives of agencies, associations and news media or other properly interested persons by general or special order of the court. The public has a right of access to the name and address of a juvenile who is at least 13 years old and has been criminally convicted of a serious crime or connected to criminal street gang activity.

Access granted: The Illinois Court of Appeals affirmed a trial court order allowing that the Department of Professional Regulation to examine the pleadings, docket entries and orders in an abused minor's court file. The court noted that concerns about protecting the minor's identity were adequately addressed by the Department's agreement that her name would be redacted from all of the records to be inspected. In addition, the court noted that the Department was not permitted to examine any reports or other documents in the file, and therefore, the minor's confidentiality was secured. *In re K.D.*, 279 Ill.App.3d 1020, 666 N.E.2d 29 (1996).

Court proceeding: The Illinois Court of Appeals held that the trial court exercised proper authority in excluding the public from a proceeding where extensive publicity would adversely affect juveniles. The court found that even when closure was not requested, the trial court had authority to prohibit a newspaper from publishing identity of juvenile victim if the identity was learned in a juvenile court proceeding. *In re a Minor (Ill. v. Champaign News-Gazette)*, 205 Ill. App. 3d 480, 563 N.E.2d 1069 (1990).

Access denied: The Illinois Supreme Court held that the newspaper was not deprived of the opportunity to exercise its constitutional right to inform the public about the operation of the juvenile court system. The court held that prohibiting the newspaper from disclosing the minor victims' identities in no way interfered with the newspaper's constitutional role of acting as a conduit for the public in generating the free flow of ideas, keeping the public informed of the workings of governmental affairs, and checking abuses by public officials. *In re Minor*, 149 Ill. 2d 247, 595 N.E.2d 1052 (1992).

Protective order: The Illinois Court of Appeals held that a protective order prohibiting public discussion of a child custody case violated the First Amendment as a prior restraint. However, the court found that if specific findings are made that the conduct of parties or attorneys created clear and present danger to the fairness and integrity of the custody proceeding, a protective order would be permissible. *In re Summerville*, 190 Ill. App. 3d 1072, 547 N.E.2d 513 (1989).

Jurisdiction: The Illinois Court of Appeals does not have jurisdiction to rule on juvenile court order that forbade newspaper to publish the name of a defendant charged with murder because the order was administrative in nature and derived from the trial court's authority to control the proceedings. *In re No Name*, 160 Ill. App. 3d 613, 513 N.E.2d 1185 (1987).

Forbidding publication: The Illinois Supreme Court held that a statute which gives the court the power to proscribe publication of a juvenile's name in connection with a juvenile proceeding could not be constitutionally applied to restrain newspaper publisher's First Amendment rights, where the publisher learned the identity of the juvenile, not through hearing closed to the public, but through routine reporting, and where no demonstration of serious and immediate threat to the juvenile was shown. *In re a Minor v. Daily Journal of Kankakee*, 127 Ill. 2d 247, 537 N.E.2d 292 (1989).

Forbidding publication: The Illinois Court of Appeals held that the trial court erred in issuing protective order prohibiting the media from disseminating any information obtained from an open juvenile proceed-

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ing. *In re M.B. (State v. The Daily Paragraph)*, 137 Ill. App. 3d 992, 484 N.E.2d 1154 (1985).

Forbidding publication: State's attorney does not have the power to impose restrictions on the publication of the names of minors involved in juvenile proceedings. 1974 Op. Atty Gen. No. S-803.

Forbidding publication: Juvenile court cannot prohibit media from publishing information they obtain by attending the proceedings, unless publication poses an immediate threat to the judicial proceeding. 1973 Op. Att'y Gen. Mo. S-645.

Access granted: The Illinois Supreme Court held that a judge's order in a delinquency hearing which excluded all members of the public except for the press was not erroneous because the defendant was not entitled to a private trial at the expense of the public's right to gain information about court proceedings. *In re Jones*, 46 Ill. 2d 506, 263 N.E.2d 863 (1970).

Gag order: In child custody dispute, a gag order which provided that the parties and their attorneys may not discuss the case with the news media did not bar the media from any of the proceedings in the case, nor did it prohibit the media from making its own inquiries. *People v. J.M.*, 267 Ill. App. 3d 145, 640 N.E.2d 1379 (2 Dist. 1994), *appeal denied*, 159 Ill. 2d 568, 647 N.E.2d 1010 (1995).

INDIANA

Ind. Code Ann. § 31-32-6-2 (1998): The juvenile court shall determine whether the public should be excluded from a proceeding, other than the open juvenile proceeding described in § 31-32-6-3 (see below).

Ind. Code Ann. § 31-32-6-3 (1998): A delinquency proceeding is open to the public whenever a petition alleges that a child has committed an act that would be murder or a felony if committed by an adult.

Ind. Code Ann. § 31-33-18-1 (1998): With regard to child abuse and neglect cases, reports in the possession of the division of family and children, the county office of family and children, or the local child protection service are confidential.

Ind. Code Ann. § 31-39-2-8 (1998): The records of the juvenile court are available without a court order to the public whenever a petition has been filed alleging that a child is delinquent as the result of any of the following alleged acts or combination of alleged acts: (1) An act that would be murder or a felony if committed by an adult; (2) An aggregate of two unrelated acts that would be misdemeanors if committed by an adult if the child was at least 12 years of age when the acts were committed; or (3) An aggregate of five unrelated acts that would be misdemeanors if committed by an adult if the child was less than 12 years of age when the acts were committed. However, the public may only have access to the child's name; his/her age; the nature of the offense; chronological case summaries; index entries; summonses; warrants; petitions; orders; select motions; degrees, and photographs.

Ind. Code Ann. § 31-39-2-10 (1998): The juvenile court may grant any person having a legitimate interest in the work of the court or in a particular case access to the court's legal records. In exercising its discretion, the court shall consider that the best interests of the safety and welfare of the community are generally served by the public's ability to obtain information about the alleged commission of an act that would be murder or a felony if committed by an adult; or the alleged commission of an act that would be part of a pattern of less serious offenses.

Ind. Code Ann. § 31-39-3-2 (1998): The following information contained in law enforcement records involving allegations of delinquency that would be a crime if committed by an adult is considered public information: the nature of the offense allegedly committed and the circumstances immediately surrounding the alleged offense, including the time, location, and property involved; the identity of any victim; a description of the method of apprehension; any instrument of physical force used; the identity of any officers assigned to the investigation, except for the undercover units; the age and sex of any child apprehended or sought for the alleged commission of the offense; and, under limited circumstances, the child's identity.

Ind. Code Ann. § 31-39-4-8 (1998):

The head of a law enforcement agency or that person's designee may grant any person having a legitimate interest in the work of the agency or in a particular case access to the agency's confidential records.

Waiver hearing: The Indiana Supreme Court affirmed an order denying closure of a transfer hearing. Lower courts must weigh the need to protect a juvenile from dissemination of information against constitutional guarantees of a free press to decide whether media should be allowed access to records and court proceedings. *Taylor v. State*, 438 N.E.2d 275 (Ind. 1982), citing *State v. Shelby Superior Court*, 396 N.E.2d 337 (Ind. 1979).

IOWA

Iowa Code Ann. § 232.39 (1997); Iowa R. Juv. Proc. 5.10(b) (1999): The court can exclude the public from hearings if it determines that the public's interest in keeping the hearing open is outweighed by the possibility of harm to the minor.

Iowa Code Ann. § 323.147 (1997); Iowa R. Juv. Proc. 5.10(a) (1999): In general, juvenile court records are confidential. However, records in cases alleging delinquency are public. If the public is excluded from the juvenile hearing, the transcript of the proceeding shall remain confidential, unless its release is ordered by the court. All records of parental notification are confidential.

Iowa Code Ann. § 232.150 (1997): A juvenile found or alleged to be delinquent may motion the court to seal his file if two years have elapsed since the final discharge of the person; the person has not been subsequently convicted of an act that would be a felony or serious misdemeanor if committed by an adult, and, the person was not placed on youthful offender status. Inspection of sealed records is permitted only pursuant to a court order.

Juvenile name: The name of a juvenile involved with a law enforcement agency may not be revealed to the media unless the media representative qualifies under an exemption to confidentiality provisions. Exemptions to the confidentiality provisions can be made pursuant to a court order for people with a direct interest in the workings of the court and people conducting bona fide research, but no personal identifying data can be released to the researcher. Op Att'y Gen. (Kirkenslager), Sept. 26, 1979.

Delinquency complaints: All delinquency complaints are public records under Iowa Code § 232.147. Op. Att'y Gen. (Vander Hart), March 6, 1992.

Juvenile name: Law enforcement officials must wait until a juvenile has been formally charged to release the juvenile's name. Op Att'y Gen. (Lepley), September 5, 1991.

KANSAS

Kan. Stat. Ann. § 38-1652 (1997): If the juvenile is at least 16 years old at the time of the offense, the proceeding is open to the public. If the juvenile is younger, the court can exclude the public if it is in the best interest of the child. However, if all interested parties agree, the public may attend unless the court determines this would disrupt the proceedings.

Kan. Stat. Ann. § 38-1607 (1997): If the juvenile is at least 14 years old at the time of the offense, his/her juvenile file is open to the public. Information that identifies victims of sex offenses, however, is closed to the public. If the juvenile is less than 14 years of age, the file is open to public except if the judge "determines that opening the official file for public inspection is not in the best interest of such juvenile." In addition, the Kansas state historical society is allowed to take possession of any court records related to proceedings under the Kansas juvenile justice code whenever such records otherwise would be destroyed. The Kansas state historical society shall make available for public inspection any unexpunged docket entry or official file in its custody concerning any juvenile 16 or more years of age. No other such records in the custody of the Kansas state historical society shall be disclosed directly or indirectly to anyone for 80 years after creation of the records, except as provided in this statute. *See In re J.T.M.*, 22 Kan. App. 2d 673, 922 P.2d 1103 (1996) (holding that charges against juvenile were matter of public record).

Closure order: Kansas trial court was correct in closing detention hearing for two youths over age 15, based on conclusion that § 38-1652 applies only to adjudicative proceedings and not detention hearings and in finding that evidence presented at the hearing was confidential under Kan. Stat. § 38-1607. *Stauffer Communications, Inc. v. Mitchell*, 246 Kan. 492, 789 P.2d 1153 (1990).

KENTUCKY

Ky. Rev. Stat. Ann. § 610.070(3) (Michie 1998): Public is to be excluded from juvenile proceedings. However, persons that the judge determines have a direct interest in the case or the workings of the court may be admitted. In addition, persons agreed to by the child and his attorney may be admitted to the hearing.

Ky. Rev. Stat. Ann. § 610.340 (Michie 1998): Juvenile court records are confidential and cannot be disclosed to anyone other than the parent, child or victims, unless a court order is issued for good cause.

Closure Order: Press can be denied access to juvenile records and excluded from

hearing in circuit court case regarding a juvenile's appeal from order declaring transfer statute unconstitutional. *F.T.P. v. Courier-Journal*, 774 S.W.2d 444 (Ky. 1989)

Access denied: The Attorney General found that the disclosure of the fact that a juvenile was wounded during a shooting intruded upon the juvenile's right to privacy. Accordingly, the Lexington, Ky. police acted properly in redacting her name and her mother's name from an incident report disclosed to the *Lexington Herald-Leader*. Op. of Ky. Atty. Gen. No. 96-ORD-115.

Access denied: In September 1998, a trial judge ordered cameras and audio recording devices banned from the trial of Michael Carneal, who was charged with killing three schoolmates and wounding five others in December 1997. The judge cited the need to protect several potential juvenile witnesses and to prevent witnesses from dramatizing their testimonies. *Kentucky v. Carneal*, No. 97-CR-00350 (Ky. 2d Cir. Ct., order banning recording devices Aug. 12, 1998).

LOUISIANA

La. Stat. Ann. ch. C, Art. § 879(B) (1998): Juvenile delinquency proceedings are to be open to the public when involving a crime of violence or when the juvenile is a repeat felony offender.

La. Stat. Ann. ch. C, Art. § 407 (1998): With the exception of delinquency hearings (§ 879(B)), child support proceedings, traffic violations and misdemeanor trials of adults, proceedings before the juvenile court shall not be public. However, the court will open the proceedings to the public when the alleged delinquent act committed by the child would be considered a crime of violence, or when the alleged delinquent act would constitute a second felony. In addition, the court may admit any other person to a juvenile proceeding "who has a proper interest in the proceedings or the work of the court."

Access granted: The Louisiana Court of Appeals reversed a trial court's decision which denied a newspaper and television station access to a videotape depicting a beating on a public school bus. The court held that the school board failed to demonstrate that the students had a reasonable expectation that their identity or their reaction to the crime would be shielded from public view. *Louisiana v. Mart*, 697 So.2d 1055 (La. App. 1997).

MAINE

Me. Rev. Stat. Ann. tit. 15 § 3307(2) (1997): Juvenile hearings are open to the public if the crime would constitute murder or certain felonies if committed by an adult.

Me. Rev. Stat. Ann. tit. 15 § 3308 (1997): If the proceeding is open to the public, the records are open to the public. The petition, the record of the hearing and the order of adjudication are open to inspection by the victim regardless of whether the hearing is open to the general public. Records of proceedings not open to the public can be inspected by persons with a legitimate interest in the proceedings, if the court consents. In those cases, the names of the juvenile, his parents, guardian, legal custodian, his attorney or any other parties shall be excluded. In addition, a person adjudicated to have committed a juvenile crime may petition the court to seal all records if at least three years have passed since the time of adjudication, the person has not been convicted of another crime, and no other criminal charges are pending. The court may grant the petition unless "it finds that the general public's right to information substantially outweighs the juvenile's interest in privacy."

Access to documents: A Maine Superior Court held that when a newspaper legally obtains documents, even if the reporter should not have been allowed to view them, it cannot be enjoined from publishing the information. *State v. Yard*, No. CV-83-897 (Me. Super. Ct., Aug. 26, 1983).

MARYLAND

Md. Code Ann., Cts. & Jud. Proc. § 3-818 (1998): In general, all juvenile court proceedings are open. Cases where the crime alleged would be a felony if committed by an adult are open unless "good cause" can be shown for closing the proceeding.

Md. Code Ann., Cts. & Jud. Proc. § 3-828 (1998); Md. R. Civ. P. 11-121 (1998): Records are confidential and cannot be released unless the court issues an order to release the records upon a showing of good cause. The court, on its own motion or on petition, and for good cause shown, may order the court records of a child sealed after the child has turned 21 years old. If sealed, the court records may not be open, for any purpose, except by court order and a showing of good cause.

Md. R. Civ. P. 11-104(f) (1998): Courts must list the names of respondents involved in all juvenile felony hearings and post hearing times and places. In addition, the clerk must make the list available to the public prior to convening court on any day the juvenile court is in session.

Juvenile facilities: Public access to juvenile facilities is not prohibited under § 3-828. 78 Op. Att'y Gen. (Sept. 24, 1993).

Confidentiality upheld: The federal district court in Maryland held that there is a compelling governmental concern in pre-

servicing the confidentiality of identity of a minor and her family and that this decision is sufficiently narrowly tailored to preserve the confidentiality concerns of the parties. However, the court allowed that any interested party may file a motion requesting further relief regarding the contents of the complaint and the attachments thereto and other court pleadings. *M.P. v. Schwartz*, 853 F. Supp 164 (D. Md. 1994).

Access granted: The Maryland Court of Appeals held that courts may close juvenile proceedings to the public in instances where closure would be impermissible in other court proceedings. However, the court also held that although a juvenile court has the discretion to exclude the press from a juvenile proceeding, its discretion is not unlimited and must be exercised in accord with the purposes

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for which it was given and within applicable constitutional limitations. According to the court, although a court can place reasonable restrictions on the media's use of information obtained in a confidential juvenile proceeding, it cannot limit the media's publication of information which it legitimately collected from other sources, and cannot condition access to the juvenile proceeding upon the media's publication of material specified by the court. *Baltimore Sun Co. v. State*, 667 A.2d 166 (Md. 1995).

MASSACHUSETTS

Mass. Gen. Laws Ann. ch. 119 § 65 (1998): Access to juvenile hearings is required in all cases where the state has proceeded by indictment. See *News Group Boston, Inc. v. Commonwealth*, 568 NE2d 600 (Mass. 1991) (holding that the press has right to attend juvenile court sessions involving juvenile charge with murder).

Mass. Gen. Laws Ann. ch. 119 § 60A (1998): Records of juvenile proceeding conducted pursuant to an indictment shall be open to the public in the same manner and to the same extent as adult criminal court records. All other records of the court in cases of delinquency shall be withheld from public inspection except with the consent of a justice of such court. The probation officer is to make the child's name available to the public if the child is 14 years old or older at the time the crime was committed and has been adjudicated delinquent on two prior occasions for acts for which he would have been imprisoned if he were 17 years or older, and the act he is

currently charged with would be punishable by imprisonment if he were 17 years or older. See *Doe v. AG*, 680 N.E.2d 92 (Mass. 1997) (Records of youthful offender proceeded against by indictment are public).

Access Granted: The Massachusetts Supreme Court held that a newspaper should have full access to the court cases involving Robert and Andrea Berkowitz, who were charged with 10 counts of serving alcohol to a minor and with contributing to the delinquency of a minor after they allegedly served beer and liquor to their son and his friends at their home. The court held that the lower court's order, which prevented the press from fully reporting on the cases, violated free-press rights and amounted to an "unlawful prior restraint." The court stated that the lower court failed to provide detailed findings of fact which would clearly show a compelling state interest. *George W. Prescott Publishing Co. v. Stoughton Division of the District Court*, 701 N.E.2d 307 (Mass. 1998).

Forbidding publication: If a news organization legitimately obtains information about a juvenile offender or victim, the state cannot punish it for publishing the information. *Globe Newspaper Co. v. Superior Ct.*, 423 N.E.2d 773 (Mass. 1981).

MICHIGAN

Mich. Comp. Laws § 712A.17(7) (1998): The public may be excluded from hearings upon a motion by any party, or by the victim, if the court finds it necessary to protect the welfare of a child witness or victim. In determining whether closing a hearing is necessary to protect the welfare of the juvenile witness or the victim, the court must consider the age of the juvenile witness or the victim, the nature of the proceeding and the desire of the juvenile witness, the witness's family or guardian, or of the victim to have the testimony taken in a room closed to the public.

Mich. Comp. Laws § 712A.28 (1998): All case records are open to the general public, except for records of hearings which were closed. Those records can be opened by court order but only to persons having a legitimate interest.

Mich. Ct. R. 5.925 (1998) (incorporates above statutes): In general, juvenile hearings shall be open to the public. However, the court, on motion of a party or a victim, may close the proceedings to the public during the testimony of a child or during the testimony of the victim to protect the welfare of either. In making such a determination, the court shall consider the nature of the proceedings, the age and maturity of the witness and the preference of the witness, and the preference of a parent

if the witness is a child, that the proceedings be open or closed. The court may not close the proceedings to the public during the testimony of the juvenile. Furthermore, records of the juvenile court other than confidential files shall be open to the general public. Only persons who are found by the court to have a legitimate interest may be allowed access to the confidential files. In determining whether a person has a legitimate interest, the court shall consider the nature of the proceedings, the welfare and safety of the public, and the interest of the minor. In addition, the court may at any time for good cause expunge its own files and records pertaining to an offense by or against a minor. The court must expunge the record of a juvenile within 28 days after the juvenile becomes 17 years of age. The court must expunge the files and records pertaining to a person's juvenile offenses when the person becomes 30 years of age. With regard to child protective files and records, the court shall expunge such files and records 25 years after the jurisdiction over the last child in the family ends.

MINNESOTA

Minn. Stat. Ann. § 260.155(1) (1998); Minn. R. Juv. Ct. Proc. R. 2.01 (1998); Minn. Juv. Ct. Proc. R. 18.04 (1998): Members of the public are excluded from hearings unless the court finds they have a direct interest in the case or the workings of the court. However, the court is open in delinquency proceedings where the child is charged with an offense that would be felony if committed by an adult and the child was at least 16 years old at the time the offense was committed. The court may exclude portions of a transfer hearing from the public. The court shall open the certification hearings to the public in proceedings where the child is alleged to have committed an offense or has been proven to have committed an offense that would be a felony if committed by an adult and the child was at least 16 years of age at the time of the offense. The court may exclude the public from portions of a transfer hearing to consider psychological material or other evidence that would not be accessible to the public in an adult proceeding.

Minn. Stat. Ann. § 260.161(2) (1998): In general, except for the proceedings that are open under Minn. Stat. Ann. § 260.155(1), records from juvenile court proceedings are closed to the public, absent a court order to the contrary. The court shall retain records of a court finding that a juvenile committed an act that would be a felony or gross misdemeanor level offense until the offender reaches the age of 28. Furthermore, the following records involv-

ing child in need of protection or services are open to the public, unless the court determines that access should be restricted because of the intensely personal nature of the information: the summons and petition, affidavits of publication and service, certificates of representation, court orders, hearing and trial notices, witness lists, subpoenas, motions, legal memoranda, exhibits introduced at hearings or trial, and birth certificates. These records become inaccessible to the public if one year has elapsed since either the proceeding was dismissed or the court's jurisdiction over the matter was terminated. In addition, records relating to an appeal from a nonpublic juvenile court proceeding, except the written appellate opinion, are closed to the public except by court order. A photograph may be taken of a child taken into custody, provided that the photograph is destroyed when the child reaches the age of 19 years. Finally, a person who receives access to juvenile court or peace officer records of children that are not accessible to the public may not release or disclose the records to any other person except as authorized by law.

Forbidding publication: The Minnesota Court of Appeals upheld an order that forbade the media to publish information about a pending dependency and neglect proceeding because the information was legally obtained from public records and independent sources. *Minneapolis Star and Tribune Co. v. Schmidt*, 360 N.W.2d 433 (Minn. Ct. App. 1985).

Forbidding publication: The Minnesota Court of Appeals held that an order forbidding publication of lawfully obtained information about a juvenile proceeding was an unconstitutional prior restraint. *Minneapolis Star and Tribune Co. v. Lee*, 353 N.W.2d 213 (Minn. Ct. App. 1984).

Parental rights proceeding: The Minnesota Supreme Court held that it was proper for a lower court to allow a reporter to attend a proceeding regarding the termination of parental rights, because the newspaper had an interest in the work of the court and this interest was weighed against those of the parties. The court noted that the news media had a strong interest in obtaining information regarding our legal institutions and an interest in informing the public about how judicial power in juvenile courts is being exercised. The court concluded that no harm would occur to the parents or the children by having the reporter present, especially because the reporter promised not to reveal the names or addresses of the parties. *In re R.L.K.*, 269 N.W.2d 367 (Minn. 1978).

Access restricted: The Minnesota Court of Appeals permitted the media to attend a trial involving criminal sexual con-

duct against juveniles on the condition that it not report any identifying information about juveniles. *Austin Daily Herald v. Mork*, 507 N.W.2d 854 (Minn. Ct. App. 1993).

MISSISSIPPI

Miss. Code Ann. §43-21-203(6) (1998): Members of the public are excluded from juvenile hearings unless they have a direct interest in the case or the work of the court.

Miss. Code Ann. §43-21-259 (1998); Miss. Code Ann. §43-21-261 (1998): Court records cannot be disclosed to the public, except by court order. Such an order must include the person or persons to whom the records may be disclosed, the extent of the records which may be disclosed and the purpose of the disclosure. Such orders are to be limited to those instances in which the youth court concludes, in its discretion, "that disclosure is required for the best interests of the child, the public safety or the functioning of the youth court." Furthermore, names and addresses of juveniles adjudicated delinquent twice for an act which would be a felony if committed by an adult, or for unlawful possession of a firearm, or for murder, aggravated assault, any sex offense, burglary, arson, or armed robbery, are available to the public. Finally, in every case where there is any indication or suggestion of either abuse or neglect and a child's physical condition is medically labeled as medically "serious" or "critical" or a child dies, the confidentiality provisions do not apply.

Ability to publish: The state Supreme Court overturned the contempt conviction of *Delta Democrat Times* reporter Cynthia Jeffries, who had written about a discussion of a criminal defendant's juvenile record in open court. Jeffries had been ordered not to publish any information of the juvenile's record and disobeyed the order. *Jeffries v. Mississippi*, 724 So.2d 897 (Miss. 1998).

Access granted: A youth court judge did not abuse his discretion in holding that youth court records of a juvenile's adjudication of delinquency arising from a shoplifting incident could be released for the purposes of the juvenile's civil suit for slander, assault, and battery against a store employee arising from the same incident. The Mississippi Supreme Court held that the right of "confidentiality" on behalf of the child in a youth court proceeding is a "qualified" and not an "absolute" privilege. *Daniels by Glass v. Wal-Mart Stores, Inc.*, 634 So.2d 88 (Miss. 1993).

MISSOURI

Mo. Rev. Stat. § 211.171(6) (1998); Mo. Juv. Ct. R. 117.02 (1999): In general, the members of the public are excluded

from hearings except persons who have a direct interest in the case or the work of the court. Members of the public may also be admitted in cases where the child is accused of conduct which, if committed by an adult, would constitute a felony.

Mo. Rev. Stat. § 211.321 (1997); Mo. Juv. Ct. R. 122.02 (1999): Court records cannot be disclosed, except by court order to persons having a legitimate interest. If a child is charged with an offense which, if committed by an adult, would be a class A felony under the criminal code of Missouri, or capital murder, first degree murder, or second degree murder, the records may be open. Moreover, after a child has been adjudicated delinquent for an offense which would be a felony if committed by an adult, the records are to be open to the public to the same extent that records of adult criminal proceedings are open to the public. Furthermore, a juvenile officer may make public information concerning a juvenile's offense, the substance of the petition, the status of proceedings in the juvenile court and any other information which does not specifically identify the child or the child's family. In addition, police records of children are to be kept separate from the records of persons 17 years of age or over and shall not be open to inspection or their contents disclosed, except by order of the court. However, when a juvenile is charged with serious offense, this provision does not apply. Finally, after a child's 17th birthday, if the court finds that it is in the best interest of the child, the court may destroy all social histories, records, and information, other than the official court file, and may enter an order to seal the official court file.

MONTANA

Mont. Code Ann. § 41-5-1502(7) (1998): The general public may not be excluded from delinquency proceedings. However, the general public may be excluded, in the court's discretion, if there is a petition which alleges that the youth offender is in need of intervention.

Mont. Code Ann. § 41-5-1511 (1998): All dispositional hearings must be conducted in the manner set forth in § 41-5-1502(7). If the court finds that it is in the best interest of the youth, or the youth's parents or guardian, the public may be temporarily excluded from the hearing during the taking of evidence on the issues of need for treatment and rehabilitation.

Mont. Code Ann § 41-5-205 (1998): All records concerning reports of child abuse and neglect must be kept confidential. However, records can be disclosed to the news media provided disclosure is limited

to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian. A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose the information except to limited agencies. A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

Mont. Code Ann § 41-5-215 (1999): In general, all youth court records on file with the clerk of court are open to public

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inspection until the records are sealed under § 41-5-216. However, social, medical, and psychological records, youth assessment materials, predispositional studies, and supervision records of probationers are only open to members of the public if by court order and if the person has a legitimate interest in the case or in the work of the court.

Mont. Code Ann § 41-5-216 (1999): Court records and law enforcement records must be sealed 3 years after supervision for an offense ends. In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the records must be sealed upon termination of the extended jurisdiction. Any person in violation of the sealing provision is subject to be found in contempt of court. The sealed records can be open by the court for good cause to persons who have a legitimate interest in the case or in the work of the court.

NEBRASKA

Neb. Rev. Stat. § 43-277 (1998): The statute does not state that proceedings cannot be open to the public or the press.

Neb. Rev. Stat. § 43-2,105 (1998): Court records are sealed after an adjudication is set aside, and can be opened only upon a showing of good cause. Anyone who reveals information may be held in contempt of court.

Neb. Rev. Stat. § 43-2,108 (1998): Court records cannot be disseminated to the public, without a court order. Records regarding medical, welfare and probation cannot be inspected without a court order.

NEVADA

Nev. Rev. Stat. Ann. § 62.193(1) (1999): In general, juvenile hearings are open to the public. However, hearings may be closed if the court finds that it is in best interest of child to close the hearing. If closure is warranted, only the portions of hearing necessary to preserve the child's privacy interest may be closed.

Nev. Rev. Stat. Ann. § 62.360 (1999): In general, records can only be open for inspection by court order to persons with a legitimate interest in the case. In addition, any party to the civil action may petition the court for release of the child's name, and upon a showing of good faith, the court shall order the release of the child's name and authorize its use in the civil action.

Court discretion: The Supreme Court of Nevada held that nothing in § 62.360 limits the class of persons who can have a "legitimate interest" in juvenile records. According to the court, courts have wide discretion to determine the persons "having a legitimate interest" in juvenile court records. In exercising its discretion, a court must balance the need of the requesting party for the records against the interests of society in keeping confidential certain juvenile court records. *Hickey v. Eighth Judicial Dist. Court*, 782 P.2d 1336 (Nev. 1989).

NEW HAMPSHIRE

N.H. Rev. Stat. Ann. § 169-B:34 (1999): Juvenile proceedings are closed to the public. Further, any person who knowingly discloses confidential information shall be guilty of a misdemeanor.

N.H. Rev. Stat. Ann. § 169-B:35 (1999): The public is not allowed access to court records, unless pursuant to a court order or with written consent of the juvenile. Once a delinquent reaches 21 years of age, all court records and individual institutional records, including police records, shall be closed and placed in an inactive file. The prosecutor may disclose the existence of an adjudication for juvenile delinquency only when such disclosure is constitutionally required or after the court having jurisdiction over the criminal prosecution orders its disclosure.

N.H. Rev. Stat. Ann. § 169-B:36 (1999): It is misdemeanor to disclose court records, except as provided in § 169-B:37. However, in cases involving violent crimes, the clerk of the court may disclose the following after an adjudicatory hearing: the name and address of the juvenile charged; the specific offense; the custody status of the juvenile; and the final disposition ordered by the court.

N.H. Rev. Stat. Ann. § 169-B:37 (1999): It is a misdemeanor for the news

media to publish identifying information about juveniles without court permission, or to make public any juvenile court proceedings. However, information about the disposition of cases involving acts that would be felonies if committed by an adult may be published. In addition, the police, with the written approval of the county attorney or the attorney general, may release to the news media the name and photograph of the juvenile if: the juvenile has escaped from court-ordered custody; the juvenile has not been apprehended; and there is good cause to believe the juvenile presents a serious danger to the juvenile or to public safety.

N.H. Rev. Stat. Ann. § 169-B:38 (1999): The publisher or any newspaper or manager of a radio or TV station who violates § 169-B:37 is guilty of a misdemeanor.

N.H. Rev. Stat. Ann. § 169-B:46 (1999): Publication is permitted in cases involving charges of vandalism or controlled drugs.

Forbidding Publication: An adult witness who had acted as an informant in a child pornography case was not entitled to have his identity protected, despite the fact that the witness was a minor when he was involved in the creation of various pornographic materials allegedly possessed by the defendant. *United States. Bateman*, 805 F. Supp 1058 (D.N.H. 1992).

NEW JERSEY

N.J. Stat. Ann. § 2A:4A-60 (1999): Juvenile records are "strictly safeguarded" from the public, except the identity of a juvenile may be disclosed when the juvenile is under warrant for arrest for an act that would constitute a crime if committed by an adult. Members of the public also have access to a juvenile's identity where the offense for which the juvenile has been adjudicated delinquent if committed by an adult, would constitute a crime of the first, second or third degree murder, or aggravated assault, destruction or damage to property to an extent of more than \$500.00, unless upon application at the time of disposition the juvenile demonstrates a substantial likelihood that specific and extraordinary harm would result from such disclosure in the specific case. Where the court finds that disclosure would be harmful to the juvenile, the reasons therefore shall be stated on the record. In addition, if a person knowingly discloses, publishes, receives, or makes use of confidential information concerning a particular juvenile, that person can be convicted of a disorderly persons offense. Finally, the court may, upon application by the news media, permit public attendance during any court proceeding at a delinquency case, where it determines that a substantial likelihood that

specific harm to the juvenile would not result. In such an instance, the court shall permit a victim to make a statement prior to ordering a disposition in any delinquency proceeding involving an offense that would constitute a crime if committed by an adult. The court shall have the authority to limit and control the attendance in any manner and to the extent it deems appropriate.

N.J. Court Rules, 1969 R. 5:19-2 (1998): In general, every hearing shall be conducted in private and only persons who have a direct involvement in the proceeding may attend, except as provided in .§ 2A:4A-60(g). Further, at the judge's discretion, any person who has an interest in the work of the court attendance may be permitted to attend a private hearing provided that person shall agree not to record, disclose or publish the names, photographs or other identifying data with respect to any of the participants in the hearing. Upon objection by a juvenile, a juvenile's attorney or a juvenile's parents, guardian or custodian, any person seeking permission to attend because of interest in the work of the court may be excluded from any hearing involving said juvenile.

Access granted: The New Jersey Court of Appeals held that a hearing to determine whether a juvenile will be tried as an adult offender was open to the media, since the juvenile failed to demonstrate evidence of substantial likelihood that he would be specifically harmed by an open hearing, and since no extraordinary circumstances were established which would compel use of court's discretion to close hearing. *In re Presha*, 677 A.2d 806 (N.J. Super. 1996).

Access denied: With regard to whether a victim has standing to oppose the presence of the media, the New Jersey Court of Appeals held that the victim has a direct interest in deciding whether to open the proceedings and can petition the court to consider his/her position. The court determined that in this case, because of the victim's acute post-traumatic disorder, press coverage would lead to permanent harm to the victim. Therefore, press access to the proceedings was denied. *In re K.P.*, 709 A.2d 315 (N.J. Super. 1998).

Access granted: Transfer hearing will be open to the media, according to statutory law, since the juvenile failed to show by a preponderance of evidence a substantial likelihood that he would be specifically harmed by an open proceeding, and since no other extraordinary circumstances exist. *In the Interest of P.P.*, 23 Media L. Rptr. 2178 (1995).

Proceeding closed: The New Jersey Court of Appeals held that the interest of juvenile and his family to preserve confidentiality of intimate family details and psychological information outweighs the media's interest in access and warrants clo-

sure of the proceeding. However, final disposition of case is to be released to the press. *In re D.B.*, 439 A.2d 94 (N.J. Super. 1981).

Procedure for confidentiality: Court's decision to withhold information about juvenile for good cause and for the juvenile's best interests required weighing the public's right to know against the juvenile's desire for rehabilitation and any special circumstances of the offender. *In re B.C.L.*, 413 A.2d 335 (N.J. 1980).

Juvenile name: The New Jersey Court of Appeals held that a trial judge erred in stopping the media from publishing identifying information about a juvenile charged with scalding her two-month-old nephew to death. Because the information was lawfully obtained, its publication was protected by free speech provisions of the U.S. and New Jersey constitutions. *State ex rel. H.N.*, 632 A.2d 537 (N.J. Super. 1993).

Access denied: Newspaper can be prohibited from attending court proceeding. *State ex rel. B.J.W.*, 595 A.2d 1132 (N.J. Super. 1991).

NEW MEXICO

N.M. Stat. Ann. § 32A-2-16(B) (1998): Delinquency hearings are open to the public, except where the judge, based on exceptional circumstance, finds it appropriate to conduct a closed hearing. The media may attend a closed hearing provided that they agree not to reveal information regarding the "exceptional circumstance" that resulted in the need for a closed hearing. The media shall also be subject to such enabling regulations as the court finds necessary for the maintenance of order and decorum and for the furtherance of the purposes of the Delinquency Act. Persons who are granted admission to a closed hearing and intentionally divulge information are guilty of a petty misdemeanor.

N.M. Stat. Ann. § 32A-2-32 (1998): With regard to delinquency, all social records, including diagnostic evaluation, psychiatric reports, medical reports, social studies reports, pre-parole reports and supervision histories obtained by the juvenile probation office, parole officers and parole board or in possession of the department are privileged and are generally not available to the public. However, members of the public may inspect the above-mentioned records by order of the court and if the person has a legitimate interest in the case or the work of the court. Persons who intentionally and unlawfully release any information or records closed to the public are guilty of a petty misdemeanor.

N.M. Stat. Ann. § 32A-2-33 (1998): All records concerning a party to a neglect or abuse proceeding, including social records, diagnostic evaluation, psychiatric

or psychological reports, videotapes, transcripts and audio recordings of a child's statement of abuse, or medical reports, that are in the possession of the court as the result of a neglect or abuse proceeding or that were produced or obtained during an investigation in anticipation of or incident to a neglect or abuse proceeding are confidential and closed to the public. However, the members of the public may inspect the above-mentioned records by order of the court and if the person has a legitimate interest in the case or the work of the court. Persons who intentionally and unlawfully release any information or records closed to the public are guilty of a petty misdemeanor. Furthermore, when a child's death is allegedly caused by abuse or neglect, the child welfare department may release information about the case after consultation with and the consent of the district attorney.

NEW YORK

N.Y. C.L.S. Family Ct. Act § 720.15

(1998): The public does not have access to the accusatory instrument used against a youth offender. Furthermore, the arraignment based upon the accusatory instrument shall be held in private. However, this statute does not apply when the youth offender is charged with a felony or when the youth has previously been adjudicated to be a youth offender or convicted of a crime.

N.Y. C.L.S. Family Ct. Act § 341.1

(1998): With regard to juvenile delinquency proceedings, the general public may be excluded from any proceeding and only such persons and the representatives of authorized agencies that have a direct interest in the case may be admitted.

N.Y. C.L.S. Family Ct. Act § 166

(1998): The records of any proceeding in the family court shall not be open to indiscriminate public inspection. However, the court in its discretion in any case may permit the inspection of any papers or records.

N.Y. C.L.S. Family Ct. Act § 741(b)

(1998): The general public may be excluded from hearings regarding whether a juvenile is in need of supervision and only persons with a direct interest in the case may be admitted.

N.Y. C.L.S. Unif. Rules, Family Ct. § 205.4

(1998): In general, the Family Court is open to the public. Members of the public, including the news media, shall have access to all courtrooms, lobbies, public waiting areas and other common areas of the Family Court otherwise open to individuals having business before the court. The general public may be excluded from a courtroom only if the judge presiding in the courtroom determines, on a case-by-case basis, that such exclusion is warranted in

that case. In exercising this discretion, the judge may consider whether: (1) the person is causing or is likely to cause a disruption in the proceedings; (2) the presence of a person is objected to by one of the parties, including the law guardian, for a compelling reason; (3) the orderly and sound administration of justice, including the nature of the proceeding, the privacy interests of individuals before the court, and the need for protection of the litigants, in particular, children, from harm requires that some or all observers be excluded from the courtroom; and, (4) less restrictive alternatives to exclusion are unavailable or inappropriate to the circumstances of the particular case. The judge must make any closure findings on the record. In order to preserve the decorum of the proceedings, the judge shall

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instruct representatives of the news media regarding the permissible use of the courtroom and other facilities of the court, the assignment of seats to representatives of the news media on an equitable basis, and any other matters that may affect the conduct of the proceedings and the well-being and safety of the litigants therein.

Sentencing proceeding: Sentencing proceedings in felony cases in which defendants have been granted youthful offender status are presumptively open to the press and public. *Capital Newspapers v. Moynihan*, 71 N.Y.S.2d 263, 519 N.E.2d 825 (1988).

Closure order: There is a presumption of openness with regard to all criminal proceedings, including pretrial hearings, that must be overcome before a judge may issue a closure order. *Herald Co. v. Tormey*, 537 N.Y.S.2d 978, 142 Misc. 2d 675 (N.Y. Sup. Ct. 1987).

Access to court records: Newspaper has a right of access to felony complaint filed against a defendant who was eligible for youthful offender status but was not yet ruled to be a youthful offender. *Orange Cty. Publishing v. Sawyer*, 14 Media L. Rep., 1766 (N.Y. Sup. Ct. 1987).

Privacy: Juvenile defendant's mere claim of right of privacy does not overcome right of press and public to attend delinquency proceedings. *In re Chase*, 448 N.Y.S.2d 1000, 112 Misc. 2d 436 (1982).

Access denied: News media were denied access to fact-finding hearing to determine whether nine-year-old committed acts which would have been "criminal" had he committed them as an adult. Family court denied access based on extreme youth of

juveniles, objections to access by respondent's attorney and court's inability, if access was granted, to shield juvenile or his family from publicity. *In re Robert M.*, 7 Media L. Rep. 1173 (N.Y. Fam. Ct. 1981).

Access denied: Trial court did not abuse its discretion when it excluded press and public from pretrial suppression hearing in murder prosecution of 13-year old and instead granted the media access to redacted transcript of the hearing. The court reasoned that because the defendant's interests would no longer be in jeopardy, access to the transcript after the hearing was permissible. *In re Merola*, 47 N.Y.2d 985, 419 N.Y.S.2d 965, 393 N.E.2d 1038 (1979), *cert. den. sub nom. Merola v. Bell*, 448 U.S. 910 (1980).

Access granted: Trial court correctly granted the media access to juvenile proceedings for 15-year-old. The defendant failed to show absolute necessity for exclusion of press and public, and closure of proceedings would violate media's First Amendment news gathering right and the public's First Amendment right to receive information. *State v. Green*, 4 Media L. Rep. 1561 (N.Y. Sup. Ct. 1978).

Access granted: Judges may admit the news media and parties to the proceedings, and may disclose copies of court records. *Dorsey v. National Enquirer, Inc.*, 973 F.2d 1431, 20 Media L. Rep. 1745 (1992).

Equal protection: On a motion to close custody proceedings to press and public, there was no merit to plaintiff's contention that child's right to equal protection was violated because his custody was being decided in Supreme Court rather than Family Court since there was no significant distinction between protection from improper media coverage afforded subject of custody dispute in Family Court and in Supreme Court. *Anonymous v. Anonymous*, 158 A.D.2d 296, 550 N.Y.S.2d 704 (1990).

Closure authorized: A child protective proceedings can be closed to press and public because: (1) all parties to proceeding, law guardian, county attorney and district attorney were opposed to presence of press and public in courtroom; (2) although the kidnapping and sexual abuse of the child had received considerable publicity, precise details of the child's family life which preceded that event had not yet been divulged; and (3) uncontroverted affidavit of psychologist indicated that opening of courtroom to press and public would revictimize child and have negative effect on her well-being. *In Re Katherine B.*, 189 A.D.2d 443, 596 N.Y.S.2d 847 (1993).

Closure authorized: A child protective proceeding involving 5 surviving siblings of 6-year-old girl, whose brutal murder while in her parents' custody received intensive

media coverage, can be closed to public and press because potential trauma to children resulting from public dissemination of certain personal aspects of their lives outweighed interests of press in having free access to judicial proceedings. *In re Ruben R.*, 219 A.D.2d 117, 641 N.Y.S.2d 621 (1996).

Closure authorized: In a well-publicized child custody proceeding involving parties' six minor children, two of whom had achieved professional success as motion picture actors, the proceeding would be closed to press and general public to protect children from further emotional and educational harm judge's best efforts to protect children, by entertaining *in camera* offers of proof and closing. *P.B. v C.C.*, 223 A.D.2d 294, 647 N.Y.S.2d 732 (1996).

Access granted: Although department of social services and law guardian objected to presence of reporter at neglect proceeding, the court still retained discretion to permit reporter to be present, subject to conditions including (1) no audiovisual coverage, portrait sketching or still photographs, (2) confidential records could be reviewed subject to limitations and no names in files could be printed, (3) no publication of names of persons who reported possible abuse or neglect, (4) no publication of names or identifying information of victim, respondent, foster parents, teachers, etc., and (5) no publication of anything referring to transcript without confirmation that transcript supplied to reporter by respondent was exact duplicate of official transcript. *In re Ulster County Dep't of Social Servs. ex rel. Jane*, 621 N.Y.S.2d 428, 163 Misc. 2d 373 (1993).

Access granted: The appellate court held that a juvenile delinquency proceeding involving 12-year-old boy accused of setting fire that eventually caused death of his grandmother, widow of famous civil rights leader and esteemed spokesperson for human rights, would be open to press. *In re Shabazz*, 662 N.Y.S.2d 207, 173 Misc.2d 656 (1997).

Access granted: The appellate court affirmed the lower court's finding that no evidence exists that the presence of the press would potentially have detrimental effects on the juvenile's well-being. *In the Matter of Malcolm S.*, 663 N.Y.S.2d 979, 241 A.D.2d 469 (1997)

NORTH CAROLINA

N.C. Gen. Stat. § 7A-629 (1999) — [repealed July 1, 1999]: The judge can exclude the public from hearings unless the juvenile asks for the hearing to be open.

N.C. Gen. Stat. § 7B-801 (1999) — [effective July 1, 1999]: With regard to abuse, neglect and dependency hearings, the court in its discretion shall determine whether the hearing or any part of the

hearing shall be closed to the public. In determining whether to close the hearing or any part of the hearing, the court must consider the nature of the allegations, the age and maturity of the juvenile, the benefit to the juvenile of confidentiality, and the benefit to the juvenile of an open hearing. No hearing or part of a hearing shall be closed by the court if the juvenile requests that it remain open.

N.C. Gen. Stat. § 7B-2402 (1999) — [effective July 1, 1999]: With regard to delinquency hearings, all hearings are open to the public unless the court closes the hearing or part of the hearing for good cause, upon motion of a party or its own motion. If the court closes the hearing or part of the hearing to the public, the court may allow any victim, member of a victim's family, law enforcement officer, witness or any other person directly involved in the hearing to be present at the hearing. In determining good cause to close a hearing or part of a hearing, the court must consider: the nature of the allegations against the juvenile, the age and maturity of the juvenile, the benefit to the juvenile of confidentiality, the benefit to the public of an open hearing; and the extent to which the confidentiality of the juvenile's file will be compromised by an open hearing. No hearing or part of a hearing shall be closed by the court if the juvenile requests that it remain open.

N.C. Gen. Stat. § 7A-675 (1999) — [repealed July 1, 1999]: Juvenile records cannot be inspected by the public unless pursuant to a judicial order. Disclosure of information concerning any juvenile under investigation that would reveal the identity of that juvenile is prohibited except that publication of pictures of runaways is permitted with the permission of the parents.

N.C. Gen. Stat. § 7B-2901 (1999) — [effective July 1, 1999]: The clerk shall maintain a complete record of all juvenile cases filed in the clerk's office alleging abuse, neglect, or dependency. The records shall be withheld from public inspection and, except as provided in this subsection, may be examined only by order of the court. The record shall include the summons, petition, custody order, court order, written motions, the electronic or mechanical recording of the hearing, and other papers filed in the proceeding. After the time for appeal has expired with no appeal having been filed, the recording of the hearing may be erased or destroyed upon the written order of the court. In addition, family background information, reports of social, medical, psychiatric, or psychological information concerning a juvenile or the juvenile's family and interviews with the juvenile's family are protected from public inspection if it is in the best interests of the juvenile. Finally, the court's entire record

of a proceeding involving consent for an abortion on an unemancipated minor must be withheld from public inspection, and may be examined only by order of the court.

N.C. Gen. Stat. § 7B-3000 (1999) — [effective July 1, 1999]: With regard to delinquency cases, all juvenile records shall be withheld from public inspection and may be examined only by order of the court. The court may direct the clerk to "seal" any portion of a juvenile's record. The clerk shall secure any sealed portion of a juvenile's record in an envelope clearly marked "SEALED: MAY BE EXAMINED ONLY BY ORDER OF THE COURT," or with similar notice, and shall permit examination or copying of sealed portions of a juvenile's record only pursuant to a court order specifically authorizing inspection or copying.

N.C. Gen. Stat. § 7B-3001 (1999) — [effective July 1, 1999]: The court counselor's records, which include family background information; reports of social, medical, psychiatric, or psychological information concerning a juvenile or the juvenile's family; probation reports; interviews with the juvenile's family, are unavailable to the public unless the court finds that inspection would be in the best interests of the juvenile.

N.C. Gen. Stat. § 7B-3100 (1999) — [effective July 1, 1999]: Disclosure of information concerning any juvenile under investigation that would reveal the identity of that juvenile is prohibited except that publication of pictures of runaways is permitted with the permission of the parents.

Confidentiality: The right to print identity and photograph of a juvenile charged with arson and murder is not outweighed by the minor's interest in confidentiality when that information is lawfully obtained. *A Minor Charged in this Proceeding ex rel. Mitchell v. Fayetteville Observer Times*, N.C. Dist. Ct. Cumberland County Feb. 27, 1995), *vacated in part*, No. 90P95 (N.C. March 2, 1995), *stay denied*, No. A-653 (Rehnquist, Circuit Justice March 10, 1995).

NORTH DAKOTA

N.D. Cent. Code § 27-20-51 (1999): All juvenile court records are confidential and are only open to persons the judge deems to have legitimate interest in the case or in the work of the court. However, general information, upon request, which does not identify the identity of any juvenile, witness, or victim in any proceeding is available to the public. The name of the juvenile may be released if the juvenile is convicted a third time of an offense which would be a felony if committed by an adult.

N.D. Cent. Code § 27-20-51.1 (1999): In order to apprehend a juvenile who is alleged to have committed a delinquent act

or has escaped from a secured facility, the juvenile's name, photograph, fingerprints or other identifying information may be released.

N.D. Cent. Code § 27-20-52 (1999): Law enforcement records are not open to the public unless the national security or the interest of the juvenile requires disclosure. However, general information not identifying any juvenile may be released.

N.D. Cent. Code § 27-20-24(5) (1999): Except for contempt cases, the general public must be excluded from juvenile hearings; however, the court may permit access to those persons who have a "proper interest" in the case.

N.D. Cent. Code § 27-20-34 (1999): Trials are to be transferred to adult courts if a juvenile is 16 and requests the transfer or if a juvenile is 14 or older and committed a crime involving the offenses of murder or attempted murder; gross sexual imposition or the attempted gross sexual imposition of a victim by force or by threat of imminent death, serious bodily injury, kidnapping; or, the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance.

Access denied: The North Dakota Supreme Court in Bismarck affirmed a jury verdict despite a defendant's challenge that the trial court violated his right to a public trial by clearing the courtroom during the testimony of a juvenile witness. The court upheld the closure order because the record showed that the judge weighed the competing interests of the defendant and the public, held hearings out of the jury's presence, and delayed ruling until the media could be heard. *North Dakota v. Garcia*, 561 N.W.2d 599 (N.D. 1997), cert. denied sub nom. *Garcia v. North Dakota*, 118 S. Ct. 193 (1997).

OHIO

Ohio Rev. Code Ann. § 2151.18(C) (Anderson 1998): The juvenile courts will compile a summary each year covering the preceding year showing all of the information for that year contained in the statistical record. The statistical record and the annual summary shall be public records open for inspection. Neither the statistical record nor the annual summary will include the identity of any party to the case.

Ohio Rev. Code Ann. § 2151.35 (Anderson 1998); Ohio Juv. R. 27 (Anderson 1998): The juvenile court may choose to exclude members of the public from proceedings and admit only those persons with a direct interest in the case.

Ohio Juv. R. 37 (Anderson 1998): No public use shall be made by any person, including a party, of any juvenile court

record, including the recording or a transcript of any juvenile court hearing, except in the course of an appeal or as authorized by order of the court.

Transcript release: The Ohio Supreme Court held that Juvenile Rule 37(B) does not prevent release of a transcript of a juvenile court proceeding where there is no evidence that the release of the particular transcript will result in any harm to the child involved. *State ex rel. Scripps Howard Broadcasting Co. v. Cuyahoga Cty.*, 652 N.E.2d 179 (Ohio 1995).

Hearing before closure: The Ohio Court of Appeals held that before excluding press and public from juvenile court proceeding, a juvenile court must conduct an evidentiary hearing and determine whether the juvenile's right to a fair trial

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outweighs the public's First Amendment rights. *State ex rel. Dispatch Printing v. Petree*, 15 Media L. Rep. 2200 (Ohio Ct. App. 1988).

Access granted: The Ohio Supreme Court held that the trial judge had the authority to open to the public and news media a juvenile hearing regarding transfer of jurisdiction to an adult court. *State ex rel. Fyffe v. Pierce*, 531 N.E.2d 673 (Ohio 1988).

Probable cause hearing: The public has a First Amendment right of access to probable cause hearing in juvenile delinquency case, but not to portions of an amenability hearing regarding the child's psychological, social and family history. *In re N.H.*, 63 Ohio Misc. 2d 285, 626 N.E.2d 697 (Ohio C.P. 1992).

Access granted: The Press was given access to juvenile court proceeding to determine whether probable cause exists to believe juvenile committed murder and whether the act would be a felony if committed by an adult. *In re Three Unnamed Juveniles*, 14 Media L. Rep. 2312 (Ohio Ct. C.P. 1988).

Access granted: The trial court held that the possibility that there will be additional damage to the juvenile's fair trial rights by publicity about a hearing to determine whether a juvenile should be tried as an adult was not enough to overcome the media's and public's First Amendment interest in an open hearing. *In re Roberts*, 13 Media L. Rep. 1427 (Ohio Ct. C.P. 1986).

Closed request denied: The Ohio Court of Appeals refused to issue a closure order, requested by juveniles, for a hearing to a determine whether probable cause ex-

isted to believe that allegations of delinquent behavior were true. *State ex rel. Roberts v. Pierce*, 13 Media L. Rep. 1142 (Ohio Ct. App. 1986).

Access granted: The Ohio Supreme Court held that a motion to close a juvenile proceeding must be accompanied by an evidentiary hearing. Any *in camera* evidentiary inspection must be conducted with counsel for the parties, the press and the public. *State ex rel. Dispatch Printing Co. v. Lias*, 628 N.E.2d 1368 (Ohio 1994).

Confidentiality: Once redacted, a minor appellant's identity needs no further safeguards. The number of juvenile cases appealed, docket numbers, and text of the opinion with the minor's name redacted must be released. *Ohio ex rel Cincinnati Post*, 604 N.E.2d 37 (Ohio 1986).

Access denied: Juvenile court proceedings are neither presumptively open nor presumptively closed to the public. The juvenile court, pursuant to Juv. R. 27 and Ohio Rev. Code Ann. § 2151.35, can restrict public access to the proceedings if, after a hearing, it finds there is a reasonable basis for believing public access could harm the child or endanger the fairness of the adjudication and the potential harm to the child outweighs the benefits of public access. *In re T.R.*, 556 N.E.2d 439 (Ohio 1990).

Access denied: A juvenile court should not summarily deny closure of a hearing where no party objects to closure and evidence is likely to be presented that will be psychologically damaging to an abused child if made public. *In re Joanne M.*, 659 N.E.2d 864 (Ohio 1995).

Right of parental access: An indigent parent has a right to a transcript of proceedings for purposes of appealing from a state-instituted permanent custody action. *State ex rel. Howard v. Ferreri*, 70 Ohio St. 3d 587, 639 N.E.2d 1189 (1994).

Access granted: The Supreme Court of Ohio ordered the disclosure of juvenile criminal justice records, including records pertaining to the Cuyahoga County Juvenile Court and records regarding alleged child abuse by staff members of the Cuyahoga County Juvenile Detention Center. The Court stated, "One of the salutary purposes of the Public Records Law is to ensure accountability of government to those being governed." *Ohio ex rel. Strothers v. Wertheim*, 684 N.E.2d 1239 (Ohio 1997).

Records involving allegations of child abuse: In general, records and reports compiled by the Department of Human Services and the Children's Services Board, in relation to an allegation of sexual abuse of a child, are confidential and privileged. However, these records are not absolutely confidential. Permission to view records will be

granted on a showing of "good cause," which incorporates the concept of the best interest of the child. *In re: Meghan Henderson*, No. 96-L-0068, 1997 Ohio App. LEXIS 5333 (Ohio Ct. App. Nov. 28, 1997).

OKLAHOMA

Children's Code Provisions (governing family law issues such as abuse, neglect, custody):

Okla. Stat. Ann. tit. 10, § 7003-4.1 (1998): Juvenile hearings are private unless the court orders a public hearing; however, only persons determined to have a direct interest in the case may be admitted.

Okla. Stat. Ann. tit. 10, § 7005-1.2 (1999): Court records are confidential unless the court determines that disclosure is "necessary for the protection of a legitimate public or private interest."

Okla. Stat. Ann. tit. 10, § 7005-1.3 (1998): Any person who furnishes any unauthorized juvenile record or discloses any information from a confidential record for commercial, political or any other unauthorized purpose is guilty of a misdemeanor.

Juvenile Code Provisions (governing delinquency proceedings):

Okla. Stat. Ann. tit. 10, § 7307-1.2 (1999): In general, juvenile records are confidential. However, records are open to the public if a juvenile is certified as an adult and the juvenile: violated a traffic regulation of the motor vehicle code, the juvenile is 14 and has previously been adjudicated delinquent; the juvenile committed an act that would be felony if an adult had committed that act; or the juvenile violated the Prevention of Youth Access to Tobacco Act. Furthermore, when a delinquent child has escaped or run away from a training school or other institutional placement for delinquents, the name and description of the child may be released to the public "as necessary and appropriate for the protection of the public and the apprehension of the delinquent child." In addition, the judge has the discretion to open records to the public, provided that an order authorizing the inspection, release, disclosure, correction or expungement of confidential records shall be entered by the court only if a compelling reason exists and such inspection, release or disclosure is necessary for the protection of a legitimate public or private interest.

Okla. Stat. Ann. tit. 10, § 7307-1.7 (1998); Okla. Stat. Ann. tit. 10, § 7307-1.8 (1998): The court may order the records of a person alleged to be delinquent to be sealed if 1 year has elapsed from the later of dismissal or final discharge from court supervision; the person has not been found

guilty of another criminal offense; and no other criminal charges are pending. The records may also be sealed if the case has been dismissed or no adjudication has occurred. When the court finds that there is a compelling reason, the record may be unsealed in the interest of justice. Any person or agency having a legitimate interest in a delinquency case or proceeding may petition the court for an order unsealing a juvenile court record. Moreover, if any record ordered to be sealed is not unsealed within 10 years of the order, the record must be destroyed at the end of a 19 year period. In addition, a juvenile may ask the court to expunge his open court record if he is 21 years of age or older, he has no pending criminal charges, and he has paid all of his fines. Upon a finding that the harm to the privacy of the person in interest outweighs the public interest in retaining the records, the court may order the records, or any part thereof except basic identification information, to be expunged. If the court finds that neither expungement of the records nor maintaining of the records unsealed by the agency would serve the ends of justice, the court may enter an appropriate order limiting access to the records.

Forbidding publication: A newspaper challenged constitutionality of federal statute, 18 U.S.C. 5038(d), which forbids releasing to the public the name or identity of a juvenile who is taken into custody. Federal District Court held the statute applies only to court personnel and not to the media. *Oklahoma Publishing Co. v. United States*, 515 F. Supp 1255 (D Okla. 1981).

Forbidding publication: The U.S. Supreme Court held that First and Fourteenth amendments are violated by Oklahoma trial judge's order prohibiting the media from publishing juvenile defendant's name and picture which had been publicly revealed and widely disseminated prior to the judge's order. *Oklahoma Publishing v. District Court*, 430 U.S. 308 (1977).

OREGON

Or. Rev. Stat. § 419A.250 (1997): Fingerprints and photographs of juveniles are confidential. However, public agencies may inspect such records for investigation purposes if the juvenile is charged with an offense that would be a violent felony if committed by an adult.

Or. Rev. Stat. § 419A.255 (1997): Juvenile court records are closed to the public unless the court consents to the disclosure of the records. However, the name of the juvenile, the basis for the court's jurisdiction over the juvenile, the time and place of the proceeding, the act alleged in the petition if that act would constitute a crime by

an adult, and the parents' names are generally not confidential.

Or. Rev. Stat. § 419B.035 (1997): Members of the public may not inspect juvenile court reports and records.

Ore. Unif. Tr. Ct. R. 3.180 (1998): In general, juvenile proceedings are closed to the media.

Access granted: The Oregon Supreme Court held that a juvenile court order that excluded the press from a juvenile proceeding violated the Oregon Constitution, Art. I, § 10, which states that "no court shall be secret, but justice shall be administered, openly and without purchase, completely and without delay." *Oregonian Publishing v. Deiz*, 613 P.2d 23 (Or. 1980).

Publishing juvenile's name: The Oregon Supreme Court upheld the dismissal of a complaint filed against newspaper for the publication of an article that identified a juvenile defendant because the plaintiff failed to allege that the information was released without the court's consent or that the basis for the newspaper's liability was anything other than that the publication was a nuisance. *Mikan v. Valley Publishing*, 89 P.2d 1201 (Or. 1979).

Access granted: In addressing whether the juvenile court committed reversible error by permitting the presence of a newspaper reporter during a hearing regarding the placement of a child in a facility to treat emotional problems, the Oregon Court of Appeals held that the failure of the judge to inform the parties in advance that a reporter would be present at the hearing was not reversible error, since he was authorized to admit any person he determined had a proper interest in the case or the workings of the juvenile court. *In re L.*, 546 P.2d 153 (Or. Ct. App. 1976).

PENNSYLVANIA

Pa. Cons. Stat. Ann. tit. 42 § 6336 (1998): In general, members of the public are to be excluded from all hearings, except for those persons who the court finds have a proper interest in the proceeding or in the work of the court. However, public access is required in all felony cases where the defendant is over 14, and where the defendant is over 12 in enumerated serious felony cases, including murder, voluntary manslaughter, aggravated assault, arson, involuntary deviate sexual intercourse, kidnaping, rape, robbery, and carjacking. Moreover, the court shall have discretion to maintain the confidentiality of mental health records, medical records, juvenile institutional documents and juvenile probation reports.

Pa. Cons. Stat. Ann. tit. 42 § 6307 (1998): Members of the public are not allowed to inspect court files unless a per-

son obtains permission from the court and the court finds that he/she has a legitimate interest in the case or the court.

Access denied: Trial court erred in granting press and public access to juvenile proceeding based on state constitution, because statute that covers juvenile proceedings closes the proceedings to all persons except those who have a "proper interest" in the proceeding. *In re Aikens*, 8 Media L. Rep. 1222 (Pa. Sup. Ct. 1982).

Access denied: The Supreme Court of Pennsylvania held that the plaintiffs, who sought civil damages for the physical and sexual abuse which their daughter suffered at the hands of a foster child, were unable to gain access to dependency proceeding records. The term, "person with a legitimate interest in the proceedings" refers only to a person who has a direct involvement with the juvenile court proceedings or the events in question, in this case the dependency proceedings. The statutory exception to confidentiality does not extend to an unrelated civil plaintiff seeking information about the proceedings for purposes of prosecuting a personal injury lawsuit based on a separate incident involving the foster child. *V.B.T. and C.E.T. v. Family Services of Western Pennsylvania*, 705 A.2d 1325 (Penn. 1998).

PUERTO RICO

34 L.P.R.A. § 2204 (1995): Prosecutions of minors 15 years of age or older charged with deliberate and premeditated murder in the first degree, felony murder, or any offense where the minor has previously been adjudged guilty of murder in an adult proceeding, are not under the jurisdiction of the juvenile court.

34 L.P.R.A. § 2208 (1995): The public will not have access to the courtrooms where cases of minors are being tried, unless the minor's parents, tutor or his legal counsel demand that the matter be tried publicly, and in every case, under the rules established by the judge. The judge may consent to admit persons who show a legitimate interest in the matters to be discussed after the minor and his legal counsel have given their consent. All other actions or procedures may be handled and discussed by the judge in his chambers or in any other place, without the need of the presence of the clerk or other court officials.

34 L.P.R.A. § 2215 (1995): The court, at the request of the prosecutor, may waive its jurisdiction over a minor who is between the ages of 14 and 18 and who has been charged with a felony. The prosecutor may make such a petition "when he/she deems that to try the case . . . would not be in the best interests of the minor and the commu-

nity." The prosecutor may also file the petition when, after determining probable cause, the minor is charged with one of the following offenses: rape, robbery, kidnapping, mayhem, sodomy, aggravated burglary and felonious aggravated battery. In addition, the prosecutor must file a petition for waiver of jurisdiction when the minor is charged with a felony, and he has previously been adjudicated guilty of a felony.

34 L.P.R.A. § 2237 (1995): Records of cases tried in the juvenile court shall not be subject to inspection by members of the public. The name of a minor and his photograph shall not be published, nor shall his fingerprints be taken, nor shall he be included in a lineup, unless, in the discretion of the Court, it is necessary to resort to any of these means to identify him. In these

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cases, the judge shall issue the authorization in writing. The publication of the names and pictures of a minor by any person shall be deemed as contempt of court. Furthermore, any record of a minor in the custody of the police and in the custody of the District Prosecuting Attorney, when the minor has been on trial or when a procedure has been unduly filled against him as an adult, shall be destroyed when the minor attains 18 years of age.

Confidentiality not absolute: Confidentiality is not an absolute right, and, when it conflicts with other interests of greater value, a reasonable balance should be struck between the opposing interests. *Pueblo en interes del menor S.G.S.*, 128 D.P.R. 169 (1991).

RHODE ISLAND

R.I. Gen. Laws § 14-1-30 (1998): The public is to be excluded from proceedings, but those with a direct interest in the case may be admitted.

R.I. Gen. Laws § 14-1-30 (1998): In general, the name and address of an alleged juvenile defendant cannot be released to the public. If the victim commences a civil action against the juvenile and/or his parents to recover for damages sustained as a result of the crime, the court will not allow the name and address of the juvenile accused of committing the crime to be divulged by the victim or the victim's attorney to any other person until the civil action is commenced.

Statute is constitutional: The Rhode Island Supreme Court held that a statute

that excludes public from juvenile proceedings is constitutional, but an order denying access because of newspaper's publication of juvenile's name is invalid. If the trial judge determines that the media learned of the juvenile's name from nonjudicial sources, the media should be allowed to publish the name and attend the juvenile proceedings. However, if the trial judge determines that the media learned the name from a judicial source or from being present in family court, the court may order the media not to publish the juvenile's name, and may also prohibit the media from attending the proceedings involving the juvenile, or future juvenile proceedings involving others. *Edward A. Sherman Publishing Co. v. Goldberg*, 443 A.2d 1252 (R.I. 1982).

Access granted: The Rhode Island Supreme Court unanimously struck down a lower court's policy that sealed all court files in criminal cases involving child victims of sexual assault. The court held that releasing redacted documents was consistent with the legislative intent of a statute which protects minor victims of sex crimes from "further trauma and embarrassment." The court further observed that the presiding judge's sweeping interpretation of the statute was inconsistent with the public's First Amendment right of access to criminal trials, which is "beyond dispute." The court directed the trial judge to implement a new policy under which the Superior Court would maintain a "public" file and a "confidential" file. The public file would contain redacted documents in which the victim's name is either obliterated or substituted by a fictitious name. *Providence Journal Co. v. Rodgers*, 711 A.2d 1131 (R.I. 1998).

SOUTH CAROLINA

S.C. Code Ann. § 20-7-8510 (1998): All juvenile records are confidential. However, records may be released by consent of the judge to persons having a legitimate interest in the case. The name, identity, or picture of a child must not be provided to or made public by a newspaper or radio or television station except as authorized by order of the court or unless the juvenile has been bound over to a court which would have trial jurisdiction of the offense if committed by an adult or the juvenile has been adjudicated delinquent in family court for violent crimes, grand larceny of a motor vehicle, a crime in which a deadly weapon was used; or distribution or trafficking in unlawful drugs. In addition, fingerprint records of a juvenile must not be disclosed for any purpose not specifically authorized by law or by a court order.

S.C. Code Ann. § 20-7-690 (1998): All juvenile records maintained by the De-

partment of Social Services and the Central Registry of Child Abuse and Neglect are confidential. A person who disseminates or permits the dissemination of these records and the information contained in these records is guilty of a misdemeanor.

S.C. Code Ann. § 20-7-1360 (1998): Reiterates that juvenile records should be confidential; references S.C. Code Ann. § 20-7-690 (1998).

S.C. Code Ann. § 20-7-755 (1998): The public is to be excluded from juvenile hearings, but the judge can allow those persons with a direct interest in the case or the work of the court to attend.

Closing proceeding: The Supreme Court of South Carolina held that a judge's decision to close a proceeding must be supported by specific findings explaining the balancing of interests and why the proceeding must be closed. According to the court, simply stating that an open proceeding would adversely affect the juvenile's chances for rehabilitation is an inadequate finding. *Ex parte Columbia Newspapers Inc.*, 333 S.E.2d 337 (S.C. 1985).

SOUTH DAKOTA

S.D. Codified Laws Ann. § 26-7A-36 (1999): In general, all juvenile hearings are closed unless the court finds compelling reasons to require otherwise. However, juvenile hearings will be open when the juvenile was 16 years of age or older at the time of an offense and the crime committed constituted a violent crime or a drug felony if committed by an adult.

S.D. Codified Laws Ann. § 26-7A-37 (1999): Records of a juvenile court proceeding may only be inspected by a party or someone with a legitimate interest in the proceeding.

S.D. Codified Laws Ann. § 26-7A-38 (1999): The news media are forbidden to publish or broadcast the name, picture, identity or address of any juvenile, parent or witness in a juvenile proceeding, unless a court order is obtained. A judge may grant a court order only on a showing of good cause. Violation of this law creates a cause of action for civil damages and a violator may be held in contempt of court.

Access denied: The Supreme Court of South Dakota affirmed a trial court's decision to deny a newspaper access to the juvenile hearings because the best interest of the child required keeping the proceedings closed. According to the court, the purpose behind closed juvenile proceedings is to "protectively rehabilitate juveniles," in which "the maintenance of confidentiality is a necessary corollary of that purpose." The court found that the newspaper presented no

evidence to outweigh this protective design. *In the Matter of M.C.*, 527 N.W.2d 290 (S.C. 1995).

TENNESSEE

Tenn. Code Ann. § 37-1-153 (1999): Juvenile court records are closed to the public, except in cases regarding traffic offenses. Furthermore, petitions and orders regarding juveniles are open to the public if the juvenile is at least 14 years old and charged with a violent offense that would be a felony if committed by an adult, such as first degree murder, second degree murder, rape, aggravated rape, aggravated robbery, kidnapping or aggravated kidnapping.

Tenn. Code Ann. § 37-1-154 (1999): Law enforcement records are closed unless national security requires their release or the records relate to charges of violent offenses.

Tenn. Code Ann. § 37-1-124(d) (1999): The public may be excluded from juvenile hearings, except if the hearing is to declare a person in contempt of court or if the juvenile is accused of a traffic violation.

Tenn. Sup. Ct. R. 30. (1998): In general, cameras are barred from photographing minors and jurors and covering bench conferences. If allowed into a proceeding, media personnel to "conduct themselves in such a way that will not detract from the proceeding. Furthermore, objections by a witness will suspend media coverage as to that person only during the proceeding, whereas objections by the accused in a criminal case or any party to a civil action will prohibit media coverage of the entire proceeding.

Tenn. Juv. Proc. R. 27(a). (1998): In the discretion of the court, the general public may be excluded from any juvenile or paternity proceeding and only those persons having a direct interest in the case may be admitted.

Access granted: In order to decide whether to close a juvenile proceeding, the Supreme Court of Tennessee ordered a juvenile court to balance the parties' respective interests and apply the following rules: 1). The party seeking to close the hearing shall have the burden of proof; 2). The juvenile court shall not close proceedings to any extent unless it determines that failure to do so would result in particularized prejudice to the party seeking closure that would override the public's compelling interest in open proceedings; 3). Any order of closure must be no broader than necessary to protect the determined interests of the party seeking closure; 4). The juvenile court must consider reasonable alternatives to closure of proceedings; and 5). The juvenile court must make adequate

written findings to support any order of closure. *State v. James*, 902 S.W.2d 911 (Tenn. 1995).

TEXAS

Tex. Fam. Code Ann. § 58.007 (1999): With the court's permission, persons with a legitimate interest in the proceedings or the work of the court can view juvenile court records.

Tex. Fam. Code Ann. § 54.08 (1999): Juvenile hearings are open to the public unless judge finds good cause to require closure. However, if a child is under the age of 14 at the time of the hearing, the court shall close the hearing to the public unless the court finds that the interests of the child or the interests of the public would be better served by opening the hearing to the public.

Closing proceeding: The Supreme Court of Texas held that it is within the trial court's discretion to exclude the public from a juvenile court case. According to the court, closure is valid to spare the minor from embarrassment and avoid publicity. In addition, a court has broad discretionary powers in handling juvenile cases. *Dendy v. Wilson*, 179 S.W.2d 269 (Tex. 1944).

Transfer hearing: The Supreme Court of Texas held that the trial court did not err by allowing the press, but not the general public, to attend the transfer hearing of a juvenile charged with capital murder. *R.A.G. v. Texas*, 870 S.W.2d 79 (Tex. 1993), *judgment rev'd on other grounds*, 866 S.W.2d 199 (Tex. 1993).

UTAH

Utah Code Ann. § 78-3a-115 (1998): In abuse, neglect, and dependency cases, the court shall exclude all persons who do not have a direct interest in the proceedings. But in delinquency cases where the minor charged is 14 years of age or older and has been charged with an offense which would be a felony if committed by an adult or if the minor is charged with an offense that would be a designated misdemeanor if committed by an adult and the minor has been previously charged with an offense, the court shall admit any person, unless court finds good cause to close the hearing.

Utah R. Juv. P. Rule 50 (1998): The public may attend juvenile delinquency proceedings at the discretion of the court. The court may exclude any person when it is in the best interest of the minor to do so. If any person, after having been warned, engages in conduct which disrupts the court, that person may be excluded from the courtroom. Any exclusion of a person who has the right to attend a hearing shall be noted

on the record and the reasons for the exclusion given. Counsel for the excluded person has the right to remain and participate in the hearing.

Utah Code Ann. § 78-3a-206 (1999): By court order, juvenile records may be inspected by persons who have a legitimate interest in the proceedings. If a petition is filed charging a minor 14 years of age or older with an offense that would be a felony if committed by an adult, the court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary of the minor charged unless the records are closed by the court for good cause. *See also* Utah Code Jud. Admin. R. 4-202.03 (1998) (juvenile records are to be released to public by court order).

Access denied: The Utah Court of Appeals held that under § 78-3a-511, access to the proceedings in the juvenile court involving J.K., a person under sixteen years of age, is restricted to only those persons who have a direct interest in the case or in the work of the court, and that, as a matter of law, neither the general public nor the media have the requisite "direct interest" in the case or in the work of the court. As such, the juvenile court had no discretion to admit either the general public or the media to proceedings involving J.K. *The Kearns-Tribune Corporation v The Honorable Kimberly K. Hornak*, 917 P.2d 79 (Utah Ct. App. 1996).

Access denied: The Utah Court of Appeals affirmed a newspaper's exclusion from a Utah juvenile court hearing to decide whether the court had jurisdiction to hear case where the juvenile was charged with a crime which would have been a felony if committed by an adult. The appellate court held that the trial judge has considerable discretion in deciding whether the media could attend hearings involving acts that would constitute felonies in the adult system. The court held that the presumption of openness under the First Amendment does not extend to juvenile proceedings, because the state has a compelling interest in maintaining the confidentiality of juvenile proceedings that outweighs the media's right of access. *In re N.H.B.*, 769 P.2d 844 (Utah Ct. App. 1989).

VERMONT

Vt. Stat. Ann. tit. 33. § 5538 (1998): By motion of the court or the juvenile, the court can seal all court records if two years have passed since the final discharge of the juvenile, if the juvenile has not been convicted of a felony or misdemeanor involving "moral turpitude," and the juvenile is rehabilitated. Upon the entry of an order

sealing the files, the proceedings are to be considered never to have occurred. Inspection of the files and records may thereafter be permitted by the court only upon petition by the person who is the subject of such records, and only to those persons named therein.

Vt. Stat. Ann. tit. 33. § 5523(c) (1998): Juvenile court proceedings are to be kept confidential, except proceedings may be open to the public with the consent of the child at issue and his parent or guardian.

Vt. Stat. Ann. tit. 33. § 5536 (1998): Court and law enforcement reports and files are not open to public for inspection, nor their contents to be disclosed to the public by any person. However, upon a finding that a child is a delinquent by the commission of an act which would have

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been a felony if committed by an adult, the child's name may be made available to the victim of the delinquent act. Furthermore, the court may allow access to the records to any other person who has a "need to know."

Access denied: Compelling interest of state in confidentiality of juvenile records overrode any compelling need of former deputy state prosecutor for access to such records, where former prosecutor desired to use juvenile records in her defense of a civil rights action brought against her personally by the mother of juvenile, at least where former prosecutor failed to show she had exhausted all other avenues of relief, and failed to show any particularized need for the material. *In re J.R.*, 146 Vt. 185, 499 A.2d 1155 (1985).

Access granted: Where a juvenile initially faces criminal charges in district court, a motion to transfer the case to juvenile court is open to the public. The confidentiality afforded to juveniles pursuant to Chapter 55 of Title 33 attaches only after a case is transferred out of the district court. *In re R.D.*, 154 Vt. 173; 574 A.2d 160 (1990).

Access granted: The Vermont Supreme Court held that a juvenile accused of manslaughter is not entitled to close his arraignment and seal related documents prior to a determination of whether the trial should be in juvenile court. According to the court, the pretrial proceeding and documents are presumptively open to the public and that juvenile proceedings become confidential only after they are transferred to juvenile court. The court said that it was not overruling *In re J.S.*, discussed below. It empha-

sized that proceedings are only secret if they are in juvenile court. *In re K.F.*, 559 A.2d 663 (Vt. 1989).

Access denied: The Vermont Supreme Court reversed a trial court's decision to admit the media to a juvenile proceeding and held that a statute excluding the public from juvenile proceedings is constitutional. The Vermont Supreme Court stated that juvenile proceedings are not criminal trials which the public and press have a First Amendment right to attend. *In Re J.S.*, 438 A.2d 1124 (Vt. 1981).

VIRGIN ISLANDS

5 V.I.C. §2508 (1998): If a child or adult is charged with an offense which would be a felony if committed by an adult and the child or adult was 14 years old at the time of the alleged offense, he may be tried as an adult.

5 V.I.C. §2528 (1998): Youth Service Administration records and files shall only be open to inspection by consent of the Family Division to persons having a legitimate interest therein. If the records are improperly used, a person may be fined not more than \$500.00, or imprisoned for not more than one year, or both.

5 V.I.C. §2529 (1998): If tried as a minor, the individual's records shall not be disclosed directly or indirectly to anyone other than the Family Division of the court or others permitted under this section to receive information unless and until otherwise ordered by the judge. Whoever knowingly permits the use of, discloses or receives information concerning a child, directly or indirectly received from court files or acquired in the course of official duties, shall be fined not more than \$500.00, or imprisoned for not more than one year, or both.

5 V.I.C. §2531a (1998): The Family Division of the Territorial Court and the Virgin Islands Police Department shall release the names of minors 14 years and older, and their parents, as part of the public record, whenever the minor is adjudicated delinquent for committing an act which would be a felony if committed by an adult.

VIRGINIA

Va. Code Ann. § 16.1-302 (1998): The general public shall be excluded from all juvenile court hearings. However, persons that the judge deems proper may be admitted. Moreover, proceedings in cases involving an adult charged with a crime and hearings where the juvenile is 14 and committed a crime which would be a felony if committed by an adult shall be open. If

good cause exists, the court may on its own or on motion of the accused or the attorney for the Commonwealth, close the proceedings. If the proceedings are closed, the court shall state in writing its reasons and the statement shall be made a part of the public record. In hearings involving criminal charges or traffic violations, the juvenile charged can choose to have a public hearing.

Va. Code Ann. § 16.1-305 (1998): Court records are not open to public inspection except by court order to persons with a legitimate interest in the case or the court's work. However, if a juvenile is 14 years of age and committed an act which would be a felony if committed by an adult, all court records regarding that adjudication and any subsequent adjudication of delinquency shall be open to the public. If a hearing was closed, the judge may order that certain records remain confidential to the extent necessary to protect any juvenile victim or juvenile witness.

Va. Code Ann. § 16.1-301 (1998): Law-enforcement records concerning a juvenile are not open to the public unless a juvenile is 14 years of age or older and was charged with a violent felony. The court may also allow records to be inspected by persons who have a legitimate interest in the case or in the work of the law-enforcement agency.

Va. Code Ann. § 16.1-309.1 (1998): Where consideration of public interest requires, the judge shall make available to the public the name and address of a juvenile and the nature of the offense for which a juvenile has been adjudicated delinquent, if the juvenile was found delinquent for certain felonies if they had been committed by an adult or in any case where a juvenile is sentenced as an adult in circuit court. If the juvenile who is charged with committing a felony becomes a fugitive, the court may release the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was adjudicated and any other information which may expedite his apprehension.

Access to records: Juvenile courts must try and balance the public's right to access and potential harm which access might cause. *In re Richmond Newspapers Inc.*, 16 Media L. Rep. 1049 (Va. Cir. Ct. 1988).

Cameras in the courtroom: In a juvenile case, a decision to permit cameras in the courtroom rests with the sound discretion of the trial court, and absent a showing of prejudice of constitutional dimensions, the mere presence of cameras does not result in an unfair trial. *Novak v. Commonwealth*, 457 S.E.2d 402 (Va. Ct. App. 1995).

WASHINGTON

Wash. Rev. Code Ann. § 13.34.110 (1999): Members of the public are to be excluded from juvenile hearings, unless the judge finds that a person has a direct interest in the case or the work of the court.

Wash. Rev. Code Ann. § 13.50.050 (1999): Official juvenile court files of proven juvenile offenders are open to the public; all other records are confidential. Records may be released when an investigation involving the juvenile in question is being pursued. Information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family. In addition, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to prosecution and defense counsel after a charge has actually been filed. A court file may be sealed if the juvenile committed certain sex offenses and at least five years have passed without the juvenile having committed any other criminal offenses. If the court seals the file, the proceedings shall be treated as if they never occurred. Inspection of sealed files and records may be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint. However, any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order. Finally, information identifying child victims under 18 who are victims of sexual assaults by juvenile offenders is confidential and not subject to release to the press or public without the permission of the child victim or the child's legal guardian. Identifying information includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a relative of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator.

Wash. Rev. Code Ann. § 4.24.550 (1999): Public agencies are authorized to release information to the public regarding sex offenders and kidnapping offenders when the agency determines that disclosure of the information is relevant and necessary to protect the public and counteract the danger created by the particular offender.

Wash. Rev. Code Ann. § 13.50.010(8) (1999): Persons can have access to records for research purposes, but only if they preserve the anonymity of anyone mentioned in the records. Persons looking at the records for research purposes must present a notarized statement to the court that the names

of the juveniles and parents will remain confidential.

Access denied: The Washington Court of Appeals held that a probable cause hearing in a sexual ly violent predator proceeding was closed to the public, since closure did not unduly interfere with public's right of access to justice system or free press. Closure serves a number of valid interests, including protection of the privacy interests of the person subject to the proceeding. *In re Detention of D.A.H.*, No. 39299-1, 25 Media L. Rptr. 1536 (Wash. App. Oct. 4, 1996).

Access granted: The Washington Court of Appeals reversed the closure of a juvenile declination hearing prior to the testimony of a psychiatric expert. The court disagreed with the trial court's general conclusion that the defendant would be denied his Sixth Amendment right to a fair trial if the hearing was closed. *State v. Loukaitis*, 918 P.2d 535 (Wash. App. 1996).

Access granted: Newspaper can be granted access to records because newspaper research constitutes "legitimate research for educational, scientific, or public purposes" under the statute. Newspaper journalism qualifies as "legitimate research" if reporter satisfies other requirements, such as preserving the anonymity of persons identified in files. The burden of qualifying the project as legitimate research rests with the researcher. *Seattle Times Co. v. Benton City*, 651 P.2d 964 (Wash. 1983).

Dependency hearings: Statutes governing exclusion of public from dependency hearings and records do not apply to appellate court proceedings. *In re Dependency of J.B.S.*, 856 P.2d 694 (Wash. 1993).

Sealed records: The Superior Court was obligated to seal juvenile records once the statutory requirements were met. *State v. Webster*, 69 Wash. App. 376, 848 P.2d 1300 (1993).

Access granted: Statute which required courts to ensure that information identifying child victims of sexual assault not be disclosed to the public or press during judicial proceedings or in records violates the right of a press guaranteed by the Washington State Constitution. *Allied Daily Newspapers v. Eikenberg*, 848 P.2d 1258 (Wash. 1993).

WEST VIRGINIA

W. Va. Code § 49-5-17 (1999): In general, juvenile records are closed to the public. However, if the juvenile was charged with an offense which would be a felony if the juvenile were an adult and the offense involves violence against another person, possession of a dangerous weapon, possession or delivery of a controlled substance,

the records may be open to the public. Furthermore, if a juvenile is 14 years of age or older and a court has determined there is a probable cause to believe the juvenile committed murder or other violent crimes, the records shall be open to public inspection pending trial only if the juvenile is released on bond and no longer detained or adjudicated delinquent of the offense. Any person who willfully violates this section shall be guilty of a misdemeanor.

W. Va. Code 49-5-2(i) (1999): The public shall be excluded from juvenile proceedings, except persons that the parties request or those that the court finds have a legitimate interest in the case may be admitted.

Exclusion of public upheld: The Supreme Court of Appeals of West Virginia upheld a juvenile defendant's sentence where the juvenile failed to show how exclusion of the public from his sentencing proceeding infringed upon his rights. The court noted that the juvenile failed to seek public access during the delinquency proceeding. *State v. Eddie "Tosh" K.*, 460 S.E.2d 489 (W. Va. 1995).

Publication is valid: The First Amendment is violated when the state attempts to punish the truthful publication of an alleged juvenile delinquent's name lawfully obtained by a newspaper. The state interest in protecting the anonymity of the juvenile offender to further rehabilitation does not justify imposing criminal sanctions for publication. *Smith v. Daily Mail*, 443 U.S. 97 (1979).

Disclosure allowed: A newspaper may publish information about the evaluation, diagnosis and treatment of a minor convicted as an adult for one count of first degree sexual assault. *State ex rel Register-Herald v. Cantebury*, 449 S.E.2d 272 (W. Va. 1994).

Confidentiality interest: The West Virginia Code, stating that court and agency records concerning juveniles shall be kept confidential and shall not be released, shows that the Legislature has deemed confidentiality vital. However, police reports are public records under FOIA, and they should be released with names of juveniles redacted. *Ogden Newspapers, Inc. v. Williamsonston*, 453 S.E.2d 631 (W. Va. 1994).

Access denied: The Supreme Court of Appeals for West Virginia held that the trial court did not abuse its discretion in denying a party's motion in limine seeking to disclose juvenile records. *Laney v. State Farm Mut. Auto. Ins. Co.*, 479 S.E.2d 902 (W. Va. 1996).

Confidentiality addressed: According to the Supreme Court of Appeals of West Virginia, "sensitivity to the importance of guarding the confidentiality of juvenile records is not only laudable but also re-

quired by law." The Court noted, "Unlike published opinions or orders, juvenile records are confidential, are not public, and are available upon request only as authorized by statute." The Court found that alterations made in juvenile files are "plainly unnecessary" because of the confidentiality statutes. *State ex rel. Barbara A. Core v. Merrifield*, 502 S.E.2d 197 (W. Va. 1998).

WISCONSIN

Wis. Stat. Ann. § 48.299 (1997): Members of the public are generally excluded from juvenile hearings unless a juvenile demands a public fact-finding hearing. However, the court cannot grant the request for a public hearing if the victim of an alleged sexual assault objects, or if a parent

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or guardian objects. Anyone who divulges information that would identify the child will be subject to contempt of court charges.

Wis. Stat. Ann. § 48.396 (1997): Law enforcement officers' records of children shall not be open to inspection or their contents disclosed. However, representatives of newspapers or other reporters of news who wish to obtain information for the purpose of reporting news without revealing the identity of the child involved may do so. Notably, any person who is denied access to a record may petition the court in writing to order the disclosure of the records. The petition shall include: the type of information sought; the reason the information is being sought; the basis for the petitioner's belief that the information is contained in the records; the relevance of the information sought to the petitioner's reason for seeking the information; the petitioner's efforts to obtain the information from other sources. The court may hold a hearing to take evidence relating to the petitioner's need for the disclosure. The court shall make an inspection, which may be *in camera*, of the child's records. If the court determines that the information sought is for good cause and that it cannot be obtained with reasonable effort from other sources, it shall then determine whether the petitioner's need for the information outweighs society's interest in protecting its confidentiality. In making this determination, the court shall balance the petitioner's interest in obtaining access to the record against the child's interest in avoiding the stigma that might result from disclosure. If

the court determines that disclosure is warranted, it shall order the disclosure of only as much information as is necessary to meet the petitioner's need for the information. The court shall record the reasons for its decision to disclose or not to disclose the child's records. All records related to a decision under this statute are confidential.

Access granted: Trial judge had the power to permit news reporters to attend and report on juvenile court proceedings because the news media have a direct interest in the work of the court. The case was decided under an earlier statute which was recodified into the present statute governing access to juvenile courts. *State ex rel E.R. v. Flynn*, 276 N.W.2d 313 (Wis. 1979).

WYOMING

Wyo. Stat. § 14-6-224(b) (1999): Members of the public are to be excluded from proceedings, except contempt hearings, unless the court finds that a person has a proper interest in the proceeding or the work of the court.

Wyo. Stat. § 14-6-239 (1999): Records cannot be disclosed to the public except as in § 14-6-203(g).

Wyo. Stat. § 14-6-203(g) (1999): All information, reports or records made, received or kept by any municipal, county or state officer or employee evidencing any legal or administrative process or disposition resulting from a minor's misconduct are confidential. However, the records may be disclosed if authorized by the District Attorney, the juvenile is under 18 years of age and one of his parents authorizes disclosure, the juvenile is at least 18 years of age or older and authorizes the disclosure himself, the disclosure results from the information being shared with or between designated employees of any court, any law enforcement agency, any prosecutor's office, any employee of the victim services division within the office of the attorney general, any probation office or any employee of the department of family services or the school district, or the disclosure is made to a victim of a delinquent act constituting a felony. Finally, records are not confidential if they involve any matter, legal record, identity or disposition pertaining to a minor charged or processed through any municipal, justice of the peace or county court.

Wyo. Stat. § 14-6-241 (1999): A juvenile adjudicated delinquent for committing an act other than a felony may ask the court for the expungement of his record upon reaching the age of majority. Upon entry of an order expunging the records, the case is deemed never to have occurred. ♦