

IC 31-39-8

Chapter 8. Expungement of Records Concerning Delinquent Child or Child in Need of Services

IC 31-39-8-1

Application of chapter

Sec. 1. This chapter applies only to records created as a result of allegations that a child is a delinquent child or a child in need of services.

As added by P.L.1-1997, SEC.22.

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Standing

Sec. 2. Any person may petition a juvenile court at any time to remove from:

- (1) the court's files;
- (2) the files of law enforcement agencies; and
- (3) the files of any other person who has provided services to a child under a court order;

those records pertaining to the person's involvement in juvenile court proceedings.

As added by P.L.1-1997, SEC.22.

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Factors considered

Sec. 3. In considering whether to grant the petition, the juvenile court may review:

- (1) the best interests of the child;
- (2) the age of the person during the person's contact with the juvenile court or law enforcement agency;
- (3) the nature of any allegations;
- (4) whether there was an informal adjustment or an adjudication;
- (5) the disposition of the case;
- (6) the manner in which the person participated in any court ordered or supervised services;
- (7) the time during which the person has been without contact with the juvenile court or with any law enforcement agency;
- (8) whether the person acquired a criminal record; and
- (9) the person's current status.

As added by P.L.1-1997, SEC.22.

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Expungement of child abuse or neglect information

Sec. 4. (a) Child abuse or neglect information may be expunged under this chapter if the probative value of the information is so doubtful as to outweigh the information's validity.

(b) Child abuse or neglect information shall be expunged if the

information is determined to be unsubstantiated after:

- (1) an investigation of a report of a child who may be a victim of child abuse or neglect by the department of child services; or
- (2) a court proceeding.

As added by P.L.1-1997, SEC.22. Amended by P.L.234-2005, SEC.190.

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Expungement of records held by law enforcement agencies and persons providing treatment for child

Sec. 5. If the court grants the expungement petition, the court shall order each law enforcement agency and each person who provided treatment for the child under an order of the court to send that person's records to the court.

As added by P.L.1-1997, SEC.22.

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Method of expungement

Sec. 6. The records may be destroyed or given to the person to whom the records pertain.

As added by P.L.1-1997, SEC.22.

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Use of expunged records in civil action

Sec. 7. If a person whose records are expunged brings an action that might be defended with the contents of the records, the defendant is presumed to have a complete defense to the action. For the plaintiff to recover, the plaintiff must show that the contents of the expunged records would not exonerate the defendant. The plaintiff may be required to state under oath whether the plaintiff had records in the juvenile justice system and whether those records were expunged. If the plaintiff denies the existence of the records, the defendant may prove the existence of the records in any manner compatible with the law of evidence.

As added by P.L.1-1997, SEC.22.