

ARIZONA

An order of the juvenile court shall not be deemed a criminal conviction, impose any civil disabilities ordinarily resulting from a conviction, or operate to disqualify the juvenile in any civil service application or appointment. ARIZ. REV. STAT. § 8-207(A). In Arizona, “criminal history record information” does not include “identification information to the extent that the information does not indicate involvement of the individual in the criminal justice system or information relating to juveniles unless they have been adjudicated as adults.” ARIZ. REV. STAT. § 41-1750(Y)(5). The disposition of a juvenile in the juvenile court may not be used against the juvenile in any case or proceeding other than a criminal or juvenile case in any court, whether before or after reaching majority. ARIZ. REV. STAT. § 8-207(B).

Juvenile Record Contents

Juvenile records include arrest records, notations of referrals involving delinquent acts, delinquency hearings, disposition hearings, probation hearings, appellate review, and diversion proceedings. ARIZ. REV. STAT. § 8-208(a). ARIZ. REV. STAT. § 41-1750(Y) explains that juvenile records are part of the “criminal history record” – the state registry for criminal offenses. ARIZ. REV. STAT. § 8-208 pertains to public records that are kept separately from the registry. Although a person’s juvenile records are exempt from the state registry, they are not protected from view by the public and remain part of arrest records, delinquency hearings, probation records, disposition and transfer hearings, and appellate proceedings.

Confidentiality of Law Enforcement Records

No distinction is made between law enforcement and court records.

Confidentiality of Court Records

All records of proceedings and matters involving juveniles accused of unlawful conduct are open to the public. Ariz. Const. art. IV, § 22. The juvenile court may order records to be kept confidential and withheld from public inspection if the court determines that the subject matter of any record indicates a clear public interest in maintaining its confidentiality. ARIZ. REV. STAT. § 8-208(G).

Exceptions to Confidentiality

Records can only be made confidential upon court order. ARIZ. REV. STAT. § 8-208(G).

Availability of Records Online or in Commercial Background Reports

Juvenile records are exempt from public disclosure as part of the “criminal history record” unless the youth has been adjudicated as an adult, accused of a felony, or of certain misdemeanors involving domestic violence, custodial interference, sexual offenses, or driving under the influence. ARIZ. REV. STAT. § 41-1750.

Consequences for Unlawfully Sharing Confidential Information

No information found.

Sealing or Expungement

Destruction: ARIZ. REV. STAT. § 8-349

Setting Aside: ARIZ. REV. STAT. § 8-348

Excluded Offenses

Setting Aside: Adjudications for offenses involving the following are not eligible to be set aside (ARIZ. REV. STAT. § 8-348):

- Infliction of serious physical injury
- Use or exhibition of a deadly weapon or dangerous instrument
- Certain sex offenses
- Driving under the influence
- Civil traffic violations

Additionally, a person cannot have an adjudication set aside if he or she (ARIZ. REV. STAT. § 8-348):

- Has been convicted of a criminal offense
- Has a pending criminal charge
- Has not successfully completed all of the terms and conditions of probation or been discharged from the department of juvenile corrections on successful completion of the individual treatment plan
- Has not paid all restitution and monetary assessments in full. ARIZ. REV. STAT. § 8-348.

Destruction: If a youth was 15-17 and convicted or adjudicated of any of the following offenses, those records cannot be destroyed (ARIZ. REV. STAT. § 8-349):

- First-degree murder
- Second-degree murder
- Forcible sexual assault
- Armed robbery
- Any other violent felony offense

If a youth was 14 or older and convicted or adjudicated of any of the following offenses, those records cannot be destroyed (ARIZ. REV. STAT. § 8-349):

- Class 1 felony
- Class 2 felony
- Class 3 felony in violation of ARIZ. REV. STAT. § 13-1001 to -1701, ARIZ. REV. STAT. § 13-1901 or ARIZ. REV. STAT. § 13-2301
- Class 3, 4, 5, or 6 felony involving a dangerous offense

If the youth is considered a “chronic felony offender,” he or she cannot have his or her record destroyed. Additionally, destruction of records is unavailable to persons convicted or adjudicated delinquent for an offense involving serious physical injury, use or exhibition of a deadly weapon, sex offenses, driving under the influence, driving with a suspended license, or traffic violations. ARIZ. REV. STAT. § 8-349.

Automatic (without application)

No information found.

Eligibility

Setting Aside: A person who is at least 18 years of age who has been adjudicated delinquent or incorrigible and who has fulfilled the conditions of probation and discharge ordered by the court or who is discharged from the department of juvenile corrections on successful completion of the individual treatment plan may apply to the juvenile court to set aside the adjudication. ARIZ. REV. STAT. § 8-348.

Destruction: Persons who are over 18 and whose referrals resulted in diversion, adjudication as delinquent for most misdemeanor offenses, for some felony offenses, or whose referrals resulted in no further action may petition for the destruction of their juvenile court and juvenile corrections records. ARIZ. REV. STAT. § 8-349. The person also must not have any felony convictions or pending charges, have never been adjudicated of certain violent offenses, successfully completed his or her probation, and paid restitution. “The destruction of the records [must also be] in the interests of justice,” and “further the rehabilitative process of the applicant.” ARIZ. REV. STAT. § 8-349(C).

Youth who were adjudicated delinquent or incorrigible, but have fulfilled the conditions of probation and discharge or been discharged from the Department of Juvenile Corrections on successful completion of the individual treatment plan, as well as satisfied those requirements listed below, can also petition the court to set aside the adjudication. ARIZ. REV. STAT. § 8-348.

The person or, if authorized in writing, the person’s attorney, probation officer or parole officer, may apply to set aside the adjudication. A copy of the application must be served on the prosecutor. If the court orders the adjudication set aside, the person will be released from all penalties and disabilities resulting from the adjudication except those imposed by the department of transportation. Similarly, even if the adjudication is set aside, it can be used for certain law enforcement purposes, including for drivers’ license revocation or suspension or other motor vehicle related requirements. ARIZ. REV. STAT. § 8-348.

A youth adjudicated delinquent for most felony offenses or driving under the influence (those juveniles not eligible for the above process) can have their records destroyed if he or she meets the following conditions (ARIZ. REV. STAT. §§ 8-349(E), (F)):

- Is at least 25 years old;
- Has not been convicted of a felony in adult court;
- Has no criminal charges pending;
- Has successfully completed any terms and conditions of probation or received a discharge from the department of juvenile corrections; and
- Has paid all restitution and monetary assessments.

Additionally, individuals with juvenile records may apply for the restoration of their civil rights to carry a firearm. Those convicted of certain violent offenses (e.g. murder, burglary, arson, kidnapping) must be 30 years old at the time of the application; those adjudicated delinquent or convicted of another felony must wait two years from their discharge from placement or probation. The juvenile must submit the application to the court in which he or she was adjudicated and also serve a copy on the county attorney, and the clerk of the superior court will process the application. ARIZ. REV. STAT. § 13-912.01.

Notification

When a juvenile is discharged from court supervision, the court or the department of juvenile corrections shall inform him or her of the right to have his or her adjudication set aside. ARIZ. REV. STAT. § 8-348.

Petition/Application

In Arizona, one must file an Application and Affidavit for Destruction of Records. Maricopa County provides a petition with detailed instructions with citations to the relevant statutes. The form is available online.

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY, *Affidavit and Application for Destruction of Delinquency Records, Setting Aside Adjudication, and/or Restoration of Civil Rights*, available at <http://www.superiorcourt.maricopa.gov/sscDocs/packets/jvdor.pdf>.

Hearing

No information found.

Court Process

The juvenile court will order a record destroyed if it finds that the requirements set out in ARIZ. REV. STAT. §§ 8-349(E) and (F) have been met, and if, after 90 days of notice of the application, the county attorney does not object. ARIZ. REV. STAT. § 8-349(E). A similar process must take place before a record is set aside. ARIZ. REV. STAT. § 8-348.

Effect

A defendant's juvenile records can be considered in determining whether to place a defendant on probation and whether to impose a sentence other than the presumptive one, although prior adjudications cannot be used to enhance a sentence. *See State v. Levitt*, 747 P.2d 607 (Ariz. Ct. App. 1987). *See also State v. Fierro*, 416 P.2d 551 (Ariz. 1966) (information from county probation officers regarding petitioner's juvenile record was properly considered by trial court in sentencing determination). Even if the adjudication is set aside, it can be used for certain law enforcement purposes, including for drivers' license revocation or suspension or to otherwise restrict other motor vehicle related privileges. ARIZ. REV. STAT. § 8-348. Additionally, the juvenile court and the department of juvenile corrections can store any records for research purposes. ARIZ. REV. STAT. § 8-349.

Fee

No information found.

Consequences for Sharing Sealed/Expunged Information

No information found.