

KANSAS

Juveniles are not convicted as adults, but rather are adjudicated youthful offenders. KAN. STAT. § 38-2356(b).

Juvenile Record Contents

The “official file” consists of “the complaint, process, service of process, orders, writs and journal entries reflecting hearings held, judgments and decrees entered by the court.” The juvenile’s “social file” consists of reports and information other than those contained in the official file. KAN. STAT. § 38-2356(a).

Confidentiality of Law Enforcement Records

All records of law enforcement officers and agencies and municipal courts concerning an offense committed or alleged to have been committed by a juvenile age 14 or older shall be subject to the same disclosure restrictions as the records of adults. KAN. STAT. § 38-210(c). All records maintained by law enforcement officers, agencies and municipal courts concerning an offense committed or alleged to have been committed by a juvenile under 14 years old shall be kept readily distinguishable from criminal and other records and shall generally not be disclosed to anyone. KAN. STAT. § 38-210(a).

Exceptions: The following parties may examine a juvenile’s law enforcement records even if the child is below the age of 14 (KAN. STAT. § 38-210(a)):

- A judge of the district court and members of the staff of the court designated by the judge
- Parties to the proceedings and their attorneys
- The Department of Social and Rehabilitation Services
- Child’s court appointed special advocate
- Any officer of a public or private agency or institution or any individual having custody of a juvenile under court order or providing educational, medical or mental health services to a juvenile
- Any educational institution, to the extent necessary to enable the educational institution to provide the safest possible environment for its pupils and employees
- Any educator, to the extent necessary to enable the educator to protect the personal safety of the educator and the educator’s pupils
- Law enforcement officers or county or district attorneys, or their staff, when necessary for the discharge of their official duties
- The central repository, as defined by KAN. STAT. § 22-4701, for use only as a part of the juvenile offender information system

- Juvenile intake and assessment workers
- The juvenile justice authority
- Juvenile community corrections officers
- Any other person when authorized by a court order, subject to any conditions imposed by the order

Confidentiality of Court Records

The official file for all juvenile cases is open for public inspection, unless a judge determines that opening the official file for public inspection is not in the best interests of a juvenile who is under 14 years of age. KAN. STAT. § 38-2309(a).

Exceptions: The following parties are able to inspect the official file of a juvenile under 14 years of age (KAN. STAT. § 38-2309(b)):

- Any placement provider or potential placement provider as determined by the commissioner or court services officer
- Law enforcement officers
- County or district attorneys and their staff, when necessary for the discharge of their official duties
- A judge and court staff designated by the judge
- Parties to the proceedings and their attorneys
- Any individual providing educational, medical or mental health services to the juvenile
- The Kansas Racing Commission, upon written request of the Commission chairperson, with the exception of information that identifies the victim, for the purpose of excluding persons who have been adjudicated delinquent for an act that, if committed by an adult, would constitute a violation of racing or gambling laws (KAN. STAT. § 74-8804)
- Juvenile intake and assessment workers
- Commissioner
- Commission on Judicial Performance
- Child’s court appointed special advocate
- Any other party, upon authorization by court order, subject to any conditions imposed by the order

Exceptions to Confidentiality

Age of Juvenile: Juvenile court records for juveniles aged 14 and older, or those under 14 without the protection of a court order, are treated in the same manner as adult criminal records. KAN. STAT. § 38-2309(b).

Availability of Records Online or in Commercial Background Reports

For juveniles 14 and over, or those under 14 without the protection of a court order, records are treated the same as adults and are available here: KANSAS BUREAU OF INVESTIGATION, *Kansas Criminal History Record Check*, <http://www.kansas.gov/kbi/criminalhistory/>.

Consequences for Unlawfully Sharing Confidential Information

No information found.

Sealing or Expungement

Expungement: KAN. STAT. § 38-2312

Excluded Offenses

Acts that, if committed by an adult, would constitute any of the following series felonies, are not eligible for expungement (KAN. STAT. § 38-2312(b)):

- First-degree murder
- Second-degree murder
- Voluntary manslaughter
- Involuntary manslaughter while driving under the influence of alcohol or drugs
- Rape
- Aggravated indecent liberties with a child
- Aggravated criminal sodomy
- Aggravated indecent solicitation of a child
- Sexual exploitation
- Aggravated incest
- Endangering a child, abuse of a child, or attempt to commit any of these offenses
- Attempt to commit any of the above offenses

Note: In addition, if a person has a record that requires him or her to register as a sex offender, that record cannot be expunged. KAN. STAT. § 38-2312(c).

Automatic (without application)

No information found.

Eligibility

A person may petition for expungement of juvenile records or files if they are 18 years of age or older. If the child is under 18 years old, his or her parent or friend may petition for expungement. KAN. STAT. § 38-2312(a).

Notification

Pursuant to KAN. STAT. § 38-2312(h), the court shall inform any juvenile who has been adjudicated delinquent of the provisions of the expungement statute.

Petition/Application

The petition for expungement must include the following information about the person seeking expungement of his or her juvenile records:

- Full name
- Name as reflected in the court record, if different than above
- Sex and date of birth
- Offense for which the juvenile was adjudicated
- Date of the trial
- Identity of the trial court

KANSAS JUDICIAL COUNCIL, *Petition for Expungement*, available at http://www.kansasjudicialcouncil.org/408_Petition_Expungement.pdf.

For instructions specific to Johnson County, see JOHNSON COUNTY DISTRICT ATTORNEY, *Juvenile Expungement Records*, <http://da.jocogov.org/expungement>.

Hearing

After one files a petition for expungement, the court sets a date for the hearing and provides notice to the county or district attorney. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner. KAN. STAT. § 38-2312(d).

Court Process

After the hearing, the court shall order the expungement of the petitioner's records and files if the court finds that (KAN. STAT. § 38-2312(e)):

- The juvenile has reached 23 years old, or two years have elapsed since his or her final discharge
- Since the final discharge of the juvenile, the juvenile has not been convicted of a felony or misdemeanor other than a traffic offense, or adjudicated as a juvenile offender under the revised Kansas juvenile justice code and no proceedings are pending seeking such a conviction or adjudication
- The circumstances and behavior of the petitioner warrant expungement. KAN. STAT. § 38-2312(e)(1).

Note: The court may require that all court costs, fees and restitution shall be paid before the petition for expungement is granted. KAN. STAT. § 38-2312(e)(2).

Effect

Once records or files have been expunged, the offense that the records or files concern shall be treated as if it never occurred, except that upon conviction of a crime or adjudication in a subsequent action under this code the offense may be considered in determining the sentence to be imposed. KAN. STAT. § 38-2312(f).

Inspection of the expunged files or records thereafter may be permitted by order of the court upon petition by the person who is the subject thereof. The inspection shall be limited to inspection by the person who is the subject of the files or records and the person's designees. KAN. STAT. § 38-2312(f). Additionally, a certified copy of any expungement order shall be sent to the Kansas Bureau of Investigation, which shall notify every juvenile or criminal justice agency which may possess records or files ordered to be expunged. KAN. STAT. § 38-2312(f). If the agency fails to comply with the order within a reasonable time after its receipt, such agency may be adjudged in contempt of court and punished accordingly. KAN. STAT. § 38-2312(g). Records may, however, be kept, if they are done so in a manner that does not identify the juvenile. KAN. STAT. § 38-2312(i).

Expunged records may only be disclosed to the person whose record they are, or to any of the following parties (KAN. STAT. § 38-2312(k)):

- A private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged
- A court, upon a showing of a subsequent conviction of the person whose record has been expunged
- Secretary of Social and Rehabilitation Services, or a designee of the Secretary, for the purpose of obtaining information relating to employment in a state institution or agency
- A person entitled to such information pursuant to the terms of the expungement order
- The Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas as deemed appropriate by the executive director of the Kansas Lottery

- The Governor or the Kansas Racing Commission, or a designee of the Commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing (betting) as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission
- The Kansas Sentencing Commission or Kansas Bureau of Investigation, for the purposes of completing a person's criminal history record information within the central repository or providing information or documentation to the federal bureau of investigation in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

Fee

Except as otherwise provided by law, a petition for expungement must be accompanied by a docket fee in the amount of \$100. Through June 30, 2013, the supreme court could impose an additional charge, not to exceed \$19 per case, to fund the costs of non-judicial personnel. Various bills that extend the existence of this additional expungement fee and raise the docket fee for expungement have been proposed, but none have passed yet. *See, e.g.*, S.B. 313, 85th Leg., Reg. Sess. (Kan. 2014).

Consequences for Sharing Sealed/Expunged Information

If an agency fails to comply with the order to expunge a juvenile's record within a reasonable time after its receipt, such agency may be adjudged in contempt of court and punished accordingly. KAN. STAT. § 38-2312(g).