

# NEW MEXICO

A child who has been adjudicated delinquent is not considered to be a convicted criminal. N.M. STAT. § 32A-2-18.

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## Juvenile Record Contents

Juvenile records include legal and social files and records of the court, probation services, and any other agency involved in the case. N.M. STAT. § 32A-2-26. If requested in the motion, the court will also order law enforcement files and records sealed. N.M. STAT. § 32A-2-26.

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## Confidentiality of Law Enforcement Records

There is no distinction between law enforcement and court records.

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## Confidentiality of Court Records

Juvenile records are generally confidential and cannot be disclosed to the public. N.M. STAT. § 32A-2-32.

**Exceptions** (N.M. STAT. § 32A-2-32):

- Law enforcement officials and corrections department personnel for the purpose of investigating a crime
- Court personnel
- School personnel if the records concern the child's educational needs, but this only includes information necessary for the planning of the child's education
- Persons in a child's Indian tribe who are specifically authorized to view the records according to the Indian Child Welfare Act of 1978
- Tribal juvenile justice system and social service representatives
- Health care or mental health professionals involved in the evaluation or treatment of the child or the child's family members
- District attorneys, children's court attorneys, and state government social service agencies
- Child's attorney
- Child's parent or guardian, but only information that is necessary and relevant to the child's treatment and care can be released
- Child if he or she is at least 14 years old
- Juvenile records are available to any other person or entity, by order of the court, having a legitimate interest in the case or the work of the court who agrees not to otherwise release the records

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## Exceptions to Confidentiality

There are no exceptions to confidentiality.

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## Availability of Records Online or in Commercial Background Reports

Information pertaining to a child's arrest cannot be disclosed on a public access website. N.M. STAT. § 32A-2-32.1.

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## Consequences for Unlawfully Sharing Confidential Information

Whoever intentionally and unlawfully releases any information or records closed to the public or releases or makes other unlawful use of records is guilty of a petty misdemeanor. N.M. STAT. § 32A-2-32.

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## Sealing or Expungement

**Sealing:** N.M. STAT. § 32A-2-26

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## Excluded Offenses

None.

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## Automatic (without application)

Juvenile records are automatically sealed when a child turns 18, or at the expiration of legal custody and supervision, whichever occurs later.

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## Eligibility

For those who are 18, records will automatically be sealed, unless legal custody and supervision has yet to expire. N.M. STAT. § 32A-2-26.

A young person who is under age 18 may have his records sealed if several conditions are met: (1) two years have elapsed since the final release of the individual from custody and supervision or two years have elapsed since the entry of any other judgment; (2) the individual has not been convicted of a felony or misdemeanor or been found delinquent by a court within the previous two years and no proceeding is pending; and (3) the court determines that good cause exists to seal the records before the individual's 18th birthday. N.M. STAT. § 32A-2-26(A).

Additionally, if the court determines that a child is not delinquent, the juvenile's files and records in the proceeding are eligible to be sealed immediately upon motion by the prosecutor at the conclusion of the proceeding. N.M. STAT. § 32A-2-26(H). The burden is on the prosecutor, not the juvenile's attorney, to file the motion. N.M. STAT. § 32A-2-26(H).

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## Notification

The child must be notified in writing when he or she turns 18, or at the expiration of legal custody and supervision, whichever occurs later, that the department's records have been sealed and that the court, the children's court attorney, the child's attorney and the referring law enforcement agency have been notified that the child's records are subject to sealing. N.M. STAT. § 32A-2-26(F).

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## Petition/Application

If the child meets the criteria for sealing before his or her 18th birthday, the child or the child's attorney must file a motion to seal the record, or the court may decide to seal on its own motion. N.M. STAT. § 32A-2-26(A). Reasonable notice of the motion must be given to: (1) the juvenile's attorney; (2) the authority granting the release; (3) the law enforcement officer and agency having custody of the files and records; and (4) any other agency having custody of the records. N.M. STAT. § 32A-2-26(B).

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## Hearing

See "Eligibility" and "Petition/Application."

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## Court Process

See "Eligibility" and "Petition/Application."

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## Effect

When the sealing order is entered, proceedings in the case will be treated as if they never happened and all references will be deleted. N.M. STAT. § 32A-2-26(C). After the records are sealed, they can only be inspected or released by permission of the court upon motion by the person who is subject of the records or to a clinic, hospital, or agency that has the person under treatment. N.M. STAT. § 32A-2-26(D). The sealing order may be set aside if the juvenile is found delinquent, in need of services, or convicted of a crime after the sealing order is entered. N.M. STAT. § 32A-2-26(E).

After sealing, the department may store and use a person's records for research and reporting purposes. N.M. STAT. § 32A-2-26(I).

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## Fee

None found.

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## Consequences for Sharing Sealed/Expunged Information

None found.