

#### **IC 31-39-4**

#### Chapter 4. Persons Entitled to Access to Law Enforcement Records

##### **IC 31-39-4-1**

##### **Application of chapter**

Sec. 1. This chapter applies to all law enforcement records involving allegations that a child is a delinquent child or a child in need of services.

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

##### **IC 31-39-4-2**

##### **Law enforcement agency head or officer**

Sec. 2. The records of a law enforcement agency are available, without specific permission from the head of the agency, to a law enforcement officer acting within the scope of the officer's lawful duties.

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

##### **IC 31-39-4-3**

##### **Juvenile court judge or staff**

Sec. 3. The records of a law enforcement agency are available, without specific permission from the head of the agency, to the judge of the juvenile court or any authorized staff member.

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

##### **IC 31-39-4-4**

##### **Party or party's attorney in juvenile court proceedings**

Sec. 4. (a) The records of a law enforcement agency are available, without specific permission from the head of the agency, to any party to a juvenile court proceeding and the party's attorney. However, a:

- (1) child excluded from a hearing by IC 31-32-6 may be denied access to records pertaining to that subject matter; and
- (2) person who was denied access to a predispositional report or the records for a dispositional hearing may be denied access to that subject matter.

(b) The party and the party's attorney may only review the records applicable to the proceeding in which the person is a party.

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

##### **IC 31-39-4-5**

##### **Presentence investigations**

Sec. 5. The records of a law enforcement agency are available, without specific permission from the head of the agency, to the judge of a court having criminal jurisdiction or any authorized staff member if the record is to be used in a presentence investigation in that court.

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

##### **IC 31-39-4-6**

**Prosecuting attorney or staff**

Sec. 6. The records of a law enforcement agency are available, without specific permission from the head of the agency, to the prosecuting attorney or any authorized member of the staff of the prosecuting attorney.

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

**IC 31-39-4-7****Access to records by certain staff of department of child services and department of child services ombudsman**

Sec. 7. The records of a law enforcement agency are available, without specific permission from the head of the agency, to:

- (1) the attorney for the department of child services or any authorized staff member; or
- (2) any authorized staff member of the department of child services ombudsman established by IC 4-13-19-3.

*As added by P.L.1-1997, SEC.22. Amended by P.L.145-2006, SEC.361; P.L.182-2009(ss), SEC.385.*

**IC 31-39-4-8****Interested persons**

Sec. 8. (a) 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. In exercising discretion, the head of a law enforcement agency 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:

- (1) the identity of anyone charged with the alleged commission of any act that would be murder or a felony if committed by an adult; and
- (2) the identity of anyone charged with the alleged commission of an act that would be part of a pattern of less serious offenses.

(b) A person having access to records under this section is not bound by the confidentiality provisions of IC 31-39-3 and may disclose the contents of the records.

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

**IC 31-39-4-9****Researchers**

Sec. 9. The head of a law enforcement agency may grant any person involved in a legitimate research activity access to the agency's confidential records if:

- (1) the person conducting the research provides written information about:
  - (A) the purpose of the person's project, including any intent to publish the person's findings;
  - (B) the nature of the data the person seeks to collect and how the person intends to analyze the data;
  - (C) the records the person seeks to review; and

- (D) the safeguards the person will take to protect the identity of the persons whose records will be reviewed;
- (2) the proposed safeguards are adequate to protect the identity of each person whose records the researcher will review;
- (3) the agency informs the researcher of the provisions of this section including the criminal liability of a person who recklessly fails to protect the records; and
- (4) an agreement is executed between the agency and the person responsible for the research that specifies the terms of the researcher's use of the records.

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

#### **IC 31-39-4-10**

##### **Party to criminal or juvenile delinquency proceedings**

Sec. 10. (a) The head of the law enforcement agency shall grant any party to a criminal or juvenile delinquency proceeding access to a person's records if the information may be used:

- (1) to impeach the person as a witness; or
- (2) to discredit the person's reputation if the person places reputation in issue.

(b) The information may only be used in criminal or juvenile delinquency proceedings in accordance with the law of evidence.

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

#### **IC 31-39-4-11**

##### **Victim of delinquent act**

Sec. 11. The victim of a delinquent act may ask a law enforcement agency if there is probable cause to believe that a specified child committed the act. The head of the agency shall release the child's name to the victim if the victim requires the name to proceed with a civil action for damages.

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

#### **IC 31-39-4-12**

##### **Filing of copies of access order or agreement with researcher**

Sec. 12. Whenever the head of a law enforcement agency grants access to the agency's records, that person shall place a copy of the access order in the file of each person to whose records the order applies. However, if the access order is a general access order or an agreement under section 9 of this chapter (or IC 31-6-8-1.2(d) before its repeal), the copy shall be placed in a general file containing all general access orders or agreements.

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

#### **IC 31-39-4-13**

##### **Waiver of restrictions**

Sec. 13. A person who is at least eighteen (18) years of age may waive the restrictions on access to the person's records if the person does so in writing, stating the terms of the waiver.

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

**IC 31-39-4-14**

**Limited jurisdiction and control of juvenile court over law enforcement records**

Sec. 14. A judge of a juvenile court or the judge's employees may not exercise any jurisdiction or control over:

- (1) records kept and maintained by law enforcement agencies relating to juveniles; and
- (2) the discretion granted to heads of law enforcement agencies to release, or to grant access to, records and information unless otherwise specifically provided in the juvenile law, including IC 31-37-4-3 and IC 31-39-9. Any specific authority that is granted does not imply the existence of any other jurisdiction or control.

*As added by P.L.1-1997, SEC.22. Amended by P.L.67-2007, SEC.3.*