

IC 35-38-8

Chapter 8. Restricted Access to Conviction Records

IC 35-38-8-1

Application; sex or violent offender

Sec. 1. This chapter does not apply to a sex or violent offender unless the offender's status as a sex or violent offender is solely due to the offender's conviction for sexual misconduct with a minor (IC 35-42-4-9) and the offender proves that the defense described in IC 35-42-4-9(e) applies to the offender.

As added by P.L.194-2011, SEC.2.

IC 35-38-8-2

Application

Sec. 2. This chapter applies only to a person:

- (1) convicted of a misdemeanor or a Class D felony that did not result in injury to a person; or
- (2) adjudicated a delinquent child for committing an offense that, if committed by an adult, would be a misdemeanor or Class D felony that did not result in injury to a person.

As added by P.L.194-2011, SEC.2.

IC 35-38-8-3

Petition

Sec. 3. Eight (8) years after the date a person completes the person's sentence and satisfies any other obligations imposed on the person as a part of the sentence, the person may petition a sentencing court to order the state police department to restrict access to the records concerning the person's arrest and involvement in criminal or juvenile court proceedings.

As added by P.L.194-2011, SEC.2.

IC 35-38-8-4

Granting of petition; court findings

Sec. 4. The court shall grant a petition under this chapter if the court finds:

- (1) the person is:
 - (A) not a sex or violent offender; or
 - (B) a sex or violent offender, but the offender's status as a sex or violent offender is solely due to the offender's conviction for sexual misconduct with a minor (IC 35-42-4-9) and the offender proved that the defense described in IC 35-42-4-9(e) applies to the offender;
- (2) the person was:
 - (A) convicted of a misdemeanor or a Class D felony that did not result in injury to a person; or
 - (B) adjudicated a delinquent child for committing an offense that, if committed by an adult, would be a misdemeanor or Class D felony not resulting in injury to a person;
- (3) eight (8) years have passed since the person completed the

person's sentence and satisfied any other obligation imposed on the person as part of the sentence; and

(4) the person has not been convicted of a felony since the person completed the person's sentence and satisfied any other obligation imposed on the person as part of the sentence.

As added by P.L.194-2011, SEC.2.

IC 35-38-8-5

Court order; restricted access to records

Sec. 5. If the court grants the petition of a person under this chapter, the court shall do the following:

(1) Order:

(A) the department of correction; and

(B) each:

(i) law enforcement agency; and

(ii) other person;

who incarcerated, provided treatment for, or provided other services for the person under an order of the court;

to prohibit the release of the person's records or information relating to the misdemeanor, nonviolent Class D felony, or juvenile adjudication described in section 2 of this chapter, in the person's records to a noncriminal justice agency without a court order.

(2) Order any:

(A) state;

(B) regional; or

(C) local;

central repository for criminal history information to prohibit the release of the person's records or information relating to the misdemeanor, nonviolent Class D felony, or juvenile adjudication described in section 2 of this chapter, in the person's records to a noncriminal justice agency without a court order.

As added by P.L.194-2011, SEC.2.

IC 35-38-8-6

Defense to civil action; restricted records

Sec. 6. (a) If a person whose records are restricted under this chapter brings a civil action that might be defended with the contents of the records, the defendant is presumed to have a complete defense to the action.

(b) For the plaintiff to recover in an action described in subsection (a), the plaintiff must show that the contents of the restricted records would not exonerate the defendant.

(c) In an action described in subsection (a), the plaintiff may be required to state under oath whether:

(1) the plaintiff had records in the criminal justice system; and

(2) those records were restricted.

(d) In an action described in subsection (a), 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.194-2011, SEC.2.

IC 35-38-8-7

Legal statement on applications for employment and other documents

Sec. 7. If a court orders a person's records to be restricted under this chapter, the person may legally state on an application for employment or any other document that the person has not been arrested for or convicted of the felony or misdemeanor recorded in the restricted records.

As added by P.L.194-2011, SEC.2.