

Senate Bill 563

By: Senators Mangham of the 55th, Wicks of the 34th, Kemp of the 38th and Jones II of the 22nd

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 9 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated,  
2 relating to access to hearing and records relative to the juvenile code, so as to provide for the  
3 automatic sealing of files and records in certain circumstances; to provide for exceptions; to  
4 provide a short title; to provide for related matters; to repeal conflicting laws; and for other  
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 This Act shall be known and may be cited as the "Juvenile Second Chance Record  
9 Confidentiality Act."

10 **SECTION 2.**

11 Article 9 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to  
12 access to hearing and records relative to juvenile code, is amended by revising Code Section  
13 15-11-701, relating to sealing of files and records, hearings, limitations on disclosure, and  
14 identity of victim, as follows:

15 "15-11-701.

16 (a) Upon dismissal of a petition or complaint alleging delinquency or that a child is a child  
17 in need of services or completion of the process in a case handled through informal  
18 adjustment, mediation, or other nonadjudicatory procedure, the court shall order the sealing  
19 of the files and records in the case.

20 ~~On application~~ Upon the completion of all court ordered sentencing requirements, or  
21 upon reaching 18 years of age, whichever is later, of a person who has been adjudicated for  
22 committing a delinquent act or as a child in need of services or on the court's own motion;  
23 ~~and after a hearing,~~ the court shall order the sealing of the files and records in the  
24 proceeding unless such person was adjudicated for a serious violent felony as defined in  
25 Code Section 17-10-6.1. if the court finds that:

26 (1) ~~Two years have elapsed since the final discharge of the person;~~

27 (2) ~~Since the final discharge of the person he or she has not been convicted of a felony~~  
28 ~~or of a misdemeanor involving moral turpitude or adjudicated for committing a~~  
29 ~~delinquent act or as a child in need of services and no proceeding seeking conviction or~~  
30 ~~adjudication is pending against the person; and~~

31 (3) ~~The person has been rehabilitated.~~

32 (c) ~~On application of a person who has been adjudicated for a delinquent act or on the~~  
33 ~~court's own motion, and after a hearing, the court shall order the sealing of the files and~~  
34 ~~records in the proceeding, including those specified in Code Sections 15-11-702 and~~  
35 ~~15-11-708, if the court finds that the child was adjudicated for a delinquent act for a sexual~~  
36 ~~crime as defined in Code Section 16-3-6 and such crime resulted from the child being:~~

37 (1) ~~Trafficked for sexual servitude in violation of Code Section 16-5-46; or~~

38 (2) ~~A victim of sexual exploitation as defined in Code Section 49-5-40.~~

39 (d) ~~Reasonable notice of the hearing required by subsection (b) and (c) of this Code~~  
40 ~~section shall be given to:~~

41 (1) ~~The prosecuting attorney;~~

42 ~~(2) DJJ, when appropriate;~~

43 ~~(3) The authority granting the discharge if the final discharge was from an institution or~~  
44 ~~from parole; and~~

45 ~~(4) The law enforcement officers or department having custody of the files and records~~  
46 ~~if the files and records specified in Code Sections 15-11-702 and 15-11-708 are included~~  
47 ~~in the application or motion.~~

48 ~~(e)~~(c) Upon the entry of the order the proceeding shall be treated as if it had never  
49 occurred. All index references shall be deleted and the person, the court, the law  
50 enforcement officers, and the departments shall properly reply that no record exists  
51 pertaining to the person upon inquiry in any matter. Copies of the order shall be sent to  
52 each agency or designated official and shall also be sent to the deputy director of the  
53 Georgia Crime Information Center of the Georgia Bureau of Investigation. Inspection of  
54 the sealed files and records thereafter may be permitted by an order of the court upon  
55 petition by the person who is the subject of the records and otherwise only by those persons  
56 named in the order or to criminal justice officials upon petition to the court for official  
57 judicial enforcement or criminal justice purposes.

58 ~~(f)~~(d) The court may seal any record containing information identifying a victim of an act  
59 which, if done by an adult, would constitute a sexual offense under Chapter 6 of Title 16."

60 **SECTION 3.**

61 All laws and parts of laws in conflict with this Act are repealed.