

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Second Extraordinary Session, 1994**  
4 **By: Senators Bell, Everett, Hoofman and Holiman**

**Call Item 3**  
**ACT 70 OF 1994**  
**SENATE BILL 6**

# **A Bill**

## **For An Act To Be Entitled**

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §9-27-309  
9 REGARDING THE CONFIDENTIALITY OF JUVENILE RECORDS; TO  
10 AMEND ARKANSAS CODE ANNOTATED §9-27-339 TO PROVIDE A LOWER  
11 BURDEN OF PROOF BY THE STATE IN A JUVENILE PROBATION  
12 REVOCATION PROCEEDING; TO AMEND ARKANSAS CODE ANNOTATED  
13 §9-27-320 (a) AND (b) TO PROVIDE UNDER WHAT CIRCUMSTANCES  
14 JUVENILES SHOULD BE FINGERPRINTED AND PHOTOGRAPHED AND TO  
15 AUTHORIZE THE A.C.I.C. AND PROSECUTING ATTORNEYS TO HAVE  
16 ACCESS TO FINGERPRINTS AND PHOTOGRAPHS; TO DECLARE AN  
17 EMERGENCY; AND FOR OTHER PURPOSES."

## **Subtitle**

19 "REGARDING THE CONFIDENTIALITY OF  
20 JUVENILE RECORDS; TO PROVIDE A LOWER  
21 BURDEN OF PROOF IN JUVENILE PROBATION  
22 REVOCATION PROCEEDINGS; TO PERMIT  
23 FINGERPRINTING AND PHOTOGRAPHS OF  
24 JUVENILES UNDER CERTAIN CIRCUMSTANCES."

26  
27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

28  
29 SECTION 1. Arkansas Code Annotated §9-27-309 is amended to read as  
30 follows:

31 "9-27-309. Confidentiality of records.

32 (a) All records may be closed and confidential within the discretion of  
33 the court, except:

34 (1) adoption records shall be closed and confidential as provided  
35 in the Revised Uniform Adoption Act, as amended, §9-9-201 et seq.; and

36 (2) records of delinquency adjudications for which a juvenile

1 could have been tried as an adult shall be made available to prosecuting  
2 attorneys for use at sentencing if the juvenile is subsequently tried as an  
3 adult or to determine if the juvenile should be tried as an adult.

4 (b) Records of delinquency adjudications for which a juvenile could  
5 have been tried as an adult shall be kept for ten (10) years after the last  
6 adjudication of delinquency or the date of a plea of guilty or nolo contendere  
7 or finding of guilt as an adult. Thereafter they may be expunged. The court  
8 may expunge other juvenile records at any time and shall expunge all the  
9 records of a juvenile upon his twenty-first birthday, in other types of  
10 delinquency, dependency-neglect, or families in need of services cases. For  
11 purposes of this section, expunge means to destroy.

12 (c) Nothing in this section applies to or restricts the use or  
13 publication of statistics, data, or other materials which summarize or refer  
14 to any records, reports, statements, notes, or other information in the  
15 aggregate and which do not refer to or disclose the identity of any juvenile  
16 defendant in any proceeding when used only for the purpose of research and  
17 study.

18 (d) Nothing in this subchapter shall preclude prosecuting attorneys or  
19 the juvenile court from providing information, upon written request,  
20 concerning the disposition of juveniles who have been adjudicated delinquent  
21 to:

22 (1) the victim or his next of kin; or

23 (2) the school superintendent of the school district in which the  
24 juvenile is currently enrolled.

25 (e) When a juvenile is adjudicated delinquent for an offense for which  
26 he could have been charged as an adult or for unlawful possession of a  
27 handgun, the prosecuting attorney shall notify the school superintendent of  
28 the school district in which the juvenile is currently enrolled.

29 (f) Information provided pursuant to subsections (d) and (e) shall not  
30 be released in violation of any state or federal law protecting the privacy of  
31 the juvenile."

32

33 SECTION 2. Arkansas Code §9-27-339 is amended to read as follows:

34 "9-27-339. Probation - Revocation.

35 (a) After an adjudication of delinquency, the court may place a

1 juvenile on probation. The conditions of probation shall be given to the  
2 juvenile in writing and explained to him and to his parent, guardian, or  
3 custodian by the probation officer in the initial conference following the  
4 disposition hearing.

5 (b) Any violation of a condition of probation may be reported to the  
6 prosecuting attorney, who may initiate a petition in the court for revocation  
7 of probation. A petition for revocation of probation shall contain specific  
8 factual allegations constituting each violation of a condition of probation.

9 (c) The petition alleging violation of a condition of probation and  
10 seeking revocation of probation shall be served upon the juvenile, his  
11 attorney, and his parent, guardian, or custodian.

12 (d) A revocation hearing shall be set within a reasonable time after  
13 the filing of the petition, or within fourteen (14) days if the juvenile has  
14 been detained as a result of the filing of the petition for revocation.

15 (e) If the court finds by a preponderance of the evidence that the  
16 juvenile violated the terms and conditions of probation, the court may:

17 (1) Extend probation;

18 (2) Impose additional conditions of probation;

19 (3) Make any disposition that could have been made at the time  
20 probation was imposed; or

21 (4) Commit the juvenile to a juvenile detention facility for an  
22 indeterminate period not to exceed ninety (90) days. The court may further  
23 order that the juvenile be eligible for work release or to attend school or  
24 other educational or vocational training.

25 (f) (1) Nonpayment of restitution, fines, or court costs may constitute  
26 a violation of probation unless the juvenile shows that his default was not  
27 attributable to a purposeful refusal to obey the sentence of the court or was  
28 not due to a failure on his part to make a good faith effort to obtain the  
29 funds required for payment.

30 (2) In determining whether to revoke probation, the court shall  
31 consider the juvenile's employment status, earning ability, financial  
32 resources, the willfulness of the juvenile's failure to pay, and any other  
33 special circumstances that may have a bearing on the juvenile's ability to  
34 pay.

35 (3) If the court determines that the default in payment of a fine,

1 costs or restitution is excusable under subsection (f) (1) of this section, the  
2 court may enter an order allowing the juvenile additional time for payment,  
3 reducing the amount of each installment, or revoking the fine, costs, or  
4 restitution or unpaid portion thereof in whole or in part."

5

6 SECTION 3. Arkansas Code Annotated §9-27-320(a) and (b) are amended to  
7 read as follows:

8 " (a) (1) *When a juvenile is arrested for any offense which, if*  
9 *committed by an adult, would constitute a felony, or a Class A misdemeanor*  
10 *wherein violence or the use of a weapon was involved, the juvenile shall be*  
11 *photographed and fingerprinted by the law enforcement agency.*

12 (2) *In the case of an allegation of delinquency, a juvenile shall*  
13 *not be photographed or fingerprinted under this subchapter by any law*  
14 *enforcement agency unless he has been taken into custody for the commission of*  
15 *an offense which, if committed by an adult, would constitute a felony or a*  
16 *Class A misdemeanor wherein violence or the use of a weapon was involved."*

17 (b) (1) Copies of a juvenile's fingerprints and photograph shall be made  
18 available only to other law enforcement agencies, the Arkansas Crime  
19 Information Center, prosecuting attorneys, and the juvenile court.

20 (2) Photographs and fingerprints of juveniles adjudicated  
21 delinquent for offenses for which they could have been tried as adults shall  
22 be made available to prosecuting attorneys and circuit courts for use at  
23 sentencing in subsequent adult criminal proceedings against those same  
24 individuals."

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26 SECTION 4. All provisions of this act of a general and permanent nature  
27 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
28 Revision Commission shall incorporate the same in the Code.

29

30 SECTION 5. If any provision of this act or the application thereof to  
31 any person or circumstance is held invalid, such invalidity shall not affect  
32 other provisions or applications of the act which can be given effect without  
33 the invalid provision or application, and to this end the provisions of this  
34 act are declared to be severable.

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1 SECTION 6. All laws and parts of laws in conflict with this act are  
2 hereby repealed.

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4 SECTION 7. EMERGENCY. It is hereby found and determined by the  
5 Seventy-Ninth General Assembly of the State of Arkansas meeting in the Second  
6 Extraordinary Session of 1994 that serious criminal offenses committed by  
7 juveniles have increased to an alarming level and that to deal effectively  
8 with serious juvenile crime prosecuting attorneys have any urgent need to  
9 learn of previous juvenile adjudications for which a juvenile could have been  
10 charged as an adult, that records of serious juvenile offenses need to be  
11 retained for an increased period of time, that school officials and victims  
12 need to be allowed to have information concerning the disposition of juvenile  
13 offenders, that the burden of proof necessary to revoke a juvenile  
14 delinquent\_s probation should be lessened and the court\_s dispositional  
15 alternatives upon revocation of parole broadened, and that the Arkansas Crime  
16 Information Center needs immediate authority to maintain fingerprints and  
17 other records of juvenile delinquency adjudications. Therefore, in order to  
18 immediately accomplish the above-listed objectives, an emergency is hereby  
19 declared to exist and this act being necessary for the immediate preservation  
20 of the public peace, health, and safety, shall be in full force and effect  
21 from and after its passage and approval.

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*/s/Bell, et al.*

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APPROVED: 8-26-94

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***As Engrossed: 8/16/94 8/19/94 8/22/94***

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