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February 13, 2013

Opinion No. 13-10

Juvenile Court Files and Records

QUESTION

May a judge, member of the court's staff, or clerk initiate disclosure of the offenses enumerated in Tenn. Code Ann. § 37-1-153(b)(2), or is disclosure authorized only upon request?

OPINION

Under Tenn. Code Ann. § 37-1-153(b), a judge, member of the court's staff, or clerk would not be prohibited from initiating disclosure of the offenses listed in (b)(2) if the offenses are identified in the pertinent petitions and orders that are open to public inspection.

ANALYSIS

Tennessee Code Ann. § 37-1-153 governs the confidentiality of court files and records in juvenile cases, and provides, in pertinent part:

> (a) Except in cases arising under § 37-1-146 [juvenile traffic offenders], all files and records of the court in a proceeding under this part are open to inspection only by:
> (1) The judge, officers and professional staff of the court;
> (2) The parties to the proceeding and their counsel and representatives;
> (3) A public or private agency or institution providing supervision or having custody of the child under order of the court;
> (4) A court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who prior thereto had been a party to the proceeding in juvenile court; and
> (5) With permission of the court, any other person or agency or institution having a legitimate interest in the proceeding or in the work of the court.
> (b) Notwithstanding the provisions of subsection (a), petitions and orders of the

> court in a delinquency proceeding under this part shall be opened to public inspection and their content subject to disclosure to the public if:
> (1) The juvenile is fourteen (14) or more years of age at the time of the alleged act; and
> (2) The conduct constituting the delinquent act, if committed by an adult, would constitute first degree murder, second degree murder, rape, aggravated rape, rape of a child, aggravated rape of a child, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping or especially aggravated kidnapping.
> (c) Notwithstanding the provisions of this section, if a court file or record contains any documents other than petitions and orders, including, but not limited to, a medical report, psychological evaluation or any other document, such document or record shall remain confidential.
> (d)(1) Except as otherwise permitted in this section, it is an offense for a person to intentionally disclose or disseminate to the public the files and records of the juvenile court, including the child's name and address.
> (2) A violation of this subsection (d) shall be punished as criminal contempt of court as otherwise authorized by law.

Subsection (b) provides that petitions and orders of the court in a delinquency proceeding that meet the requirements of subsection (b)(1) and (2) "shall be opened to public inspection and their content subject to disclosure." This provision removes the confidentiality of the pertinent petitions and records and their contents and makes them a public record open to public inspection. *See Friedmann v Corrections Corp. of* America, 310 S.W.3d 366, 376 (Tenn. Ct. App. 2009) (recognizing that Tennessee's Public Records Act makes state, county, and municipal records open to the public unless otherwise provided by state law). The statute does not provide for a judicial determination that the petitions and orders meet the requirements of subsection (b)(2), nor does it require that a demand or request precede the disclosure of the petitions, orders, or their contents. Therefore, if the offense or offenses that are the subject of the delinquency proceeding are identified in the petitions and orders that are a matter of public record and open to inspection, a judge, member of the court's staff, or clerk would not be prohibited from initiating disclosure of those offenses.

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