

STATE OF NEW YORK

4381

2025-2026 Regular Sessions

IN SENATE

February 4, 2025

Introduced by Sen. BAILEY -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the family court act, in relation to providing for the confidentiality, sealing, and expungement of juvenile delinquency records; and to repeal section 375.3 of the family court act relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The family court act is amended by adding a new section
2 301.5 to read as follows:

3 § 301.5. Juvenile delinquency records. 1. An officer of the court with
4 whom the proceedings pursuant to this article are filed, or their clerk,
5 either before or after the conclusion of said proceeding, shall not
6 permit a copy of any of the documents relating to such proceeding to be
7 taken or seen by any person other than the respondent, the attorney for
8 the child, an attorney employed by the presentment agency, or an offi-
9 cial employed by the probation service, except by order of the court.

10 2. Notwithstanding the provisions of subdivision one of this section,
11 an officer of the court, or their clerk, shall not permit access of any
12 person to a record which has been sealed pursuant to section 375.1,
13 375.2, or 375.3.

14 § 2. Section 375.1 of the family court act, as added by chapter 920 of
15 the laws of 1982, subdivision 1 as amended by chapter 41 of the laws of
16 2010, paragraphs (d), (f) and (h) of subdivision 2 and subdivision 3 as
17 amended and paragraph (i) of subdivision 2 as added by chapter 398 of
18 the laws of 1983, is amended to read as follows:

19 § 375.1. Order upon termination of a delinquency action in favor of
20 the respondent. 1. Upon termination of a delinquency proceeding against
21 a respondent in favor of such respondent, pursuant to subdivision three
22 except paragraphs (g) and (h) of such subdivision, unless the present-
23 ment agency upon written motion with not less than eight days notice to

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 such respondent demonstrates to the satisfaction of the court that the
2 interests of justice require otherwise or the court on its own motion
3 with not less than eight days notice to such respondent determines that
4 the interest of justice require otherwise and states the reason for such
5 determination on the record, [~~the clerk of~~] the court shall [~~immediately~~
6 ~~notify the counsel for the child, the director of the appropriate~~
7 ~~presentment agency, and the heads of the appropriate probation depart-~~
8 ~~ment and police department or other law enforcement agency, that the~~
9 ~~proceeding has terminated in favor of the respondent and, unless the~~
10 ~~court has directed otherwise, that the records of such action or~~
11 ~~proceeding, other than those destroyed pursuant to section 354.1 [of~~
12 ~~this act]~~, shall be sealed. Upon receipt of such notification all offi-
13 cial records and papers, including judgments and orders of the court,
14 but not including public court decisions or opinions or records and
15 briefs on appeal, relating to the arrest, the prosecution and the
16 probation service proceedings, including all duplicates or copies there-
17 of, on file with the court, police agency, probation service and
18 presentment agency shall be sealed and not made available to any person
19 or public or private agency. Such records shall remain sealed during the
20 pendency of any motion made pursuant to this subdivision] enter an order
21 sealing the appropriate records.

22 2. Upon entry of an order pursuant to subdivision one or pursuant to
23 section 375.2 or 375.3 the clerk of court shall immediately seal the
24 relevant court records and shall immediately notify the director of the
25 appropriate presentment agency, and the heads of the appropriate
26 probation department, detention facility, police department or other law
27 enforcement agency that, unless the court has directed otherwise, the
28 records of such action or proceeding, other than those destroyed pursu-
29 ant to section 354.1, shall be sealed.

30 3. For the purposes of subdivision one, a delinquency proceeding shall
31 be considered terminated in favor of a respondent where:

- 32 (a) the petition is withdrawn; or
33 (b) the petition is dismissed under section 315.1 or 315.2 and the
34 presentment agency has not appealed from such order or the determination
35 of an appeal or appeals from such order has been against the presentment
36 agency; or
37 (c) the petition has been deemed to have been dismissed under section
38 315.3 and the presentment agency has not appealed from such order or the
39 determination of an appeal or appeals from such order has been against
40 the presentment agency; or
41 (d) the petition is dismissed without prejudice under subdivision four
42 of section 325.3 and the presentment agency has not appealed from such
43 order or the determination of an appeal or appeals from such order has
44 been against the presentment agency; or
45 (e) the entire petition has been dismissed under subdivision two of
46 section 345.1; or
47 (f) the petition is dismissed under subdivision two of section 352.1;
48 or
49 (g) prior to the filing of a petition, the probation department has
50 adjusted the case or terminated the case without adjustment; or
51 (h) prior to the filing of a petition the presentment agency chooses
52 not to proceed to petition; or
53 (i) the petition is dismissed pursuant to a motion made in accordance
54 with subdivision eight, nine or ten of section 332.1.

55 [~~3-~~] 4. Records sealed pursuant to subdivision one shall be made
56 available to the respondent or [~~his~~] their designated agent and the

1 records and papers of a probation service shall be available to any
2 probation service for the purpose of complying with subdivision four of
3 section 308.1.

4 ~~[4-]~~ 5. If prior to the filing of a petition the presentment agency
5 elects not to commence a delinquency action it shall serve a certifi-
6 cation of such disposition upon the appropriate probation service and
7 the appropriate police department or law enforcement agency, which, upon
8 receipt thereto, shall comply with the provision of subdivision one in
9 the same manner as is required with respect to an order of the court.

10 ~~[5-]~~ 6. If the probation service adjusts a delinquency case it shall
11 serve a certification of such disposition upon the appropriate police
12 department or law enforcement agency which, upon receipt thereof, shall
13 comply with the provisions of subdivision one in the same manner as is
14 required thereunder with respect to an order of a court.

15 ~~[6-]~~ 7. A respondent in whose favor a delinquency proceeding was
16 terminated prior to the effective date of this section may upon motion
17 apply to the court, upon not less than twenty days notice to the
18 presentment agency, for an order granting ~~[him]~~ ~~them~~ the relief set
19 forth in subdivision one, and such order shall be granted unless the
20 presentment agency demonstrates to the satisfaction of the court that
21 the interests of justice require otherwise. A respondent in whose favor
22 a delinquency action or proceeding was terminated as defined by subdivi-
23 sions ~~[four and]~~ five ~~and six~~, prior to the effective date of this
24 section, may apply to the appropriate presentment agency or probation
25 service for a certification as described in such subdivisions granting
26 ~~[him]~~ ~~them~~ the relief set forth therein and such certification shall be
27 granted by such presentment agency or probation service.

28 § 3. Subdivisions 1, 5 and 6 of section 375.2 of the family court act,
29 subdivisions 1 and 5 as added by chapter 920 of the laws of 1982, and
30 subdivision 6 as amended by section 77 of part WWW of chapter 59 of the
31 laws of 2017, are amended to read as follows:

32 1. If an action has resulted in a finding of delinquency pursuant to
33 subdivision one of section 352.1, ~~[other than a finding that the~~
34 ~~respondent committed a designated felony act,]~~ and the records have not
35 been sealed pursuant to section 375.1 or 375.3, the court may, in the
36 interest of justice and upon motion of the respondent, order the sealing
37 of appropriate records pursuant to subdivision one of section 375.1.

38 5. The court shall not order the sealing of any record except as
39 prescribed by this section or section 375.1 or 375.3.

40 6. ~~[Such a motion cannot be filed until the respondent's sixteenth~~
41 ~~birthday, or, commencing October first, two thousand eighteen, the~~
42 ~~respondent's seventeenth birthday, or commencing October first, two~~
43 ~~thousand nineteen, the respondent's eighteenth birthday]~~ If the finding
44 relates to an act committed before the respondent attained age sixteen
45 such a motion cannot be filed until the respondent's sixteenth birthday.
46 If the finding related to an act committed subsequent to the respond-
47 ent's sixteenth birthday, such motion cannot be filed until the respond-
48 ent has attained age eighteen.

49 § 4. Section 375.3 of the family court act is REPEALED and a new
50 section 375.3 is added to read as follows:

51 § 375.3. Post-finding sealing. 1. If an action has resulted in a find-
52 ing of delinquency pursuant to subdivision one of section 352.1 and
53 every specific count of the petition upon which the fact-finding order
54 entered pursuant to section 345.1 constitutes a misdemeanor if committed
55 by an adult, and four years have elapsed since the finding was entered,
56 the court shall enter an order sealing the appropriate records pursuant

1 to subdivision one of section 375.1 and the clerk shall immediately
2 transmit the notifications pursuant to subdivision two of section 375.1,
3 and section 375.4.

4 2. If after an action has resulted in a finding of delinquency pursu-
5 ant to subdivision one of section 352.1 and every specific count or
6 counts of the petition upon which the order entered pursuant to section
7 345.1 constitute a misdemeanor or a non-violent felony if committed by
8 an adult, and: (a) five years have elapsed since the finding was
9 entered; (b) the respondent has had no subsequent adjudication of juve-
10 nile delinquency or a criminal conviction; and (c) no juvenile delin-
11 quency or criminal proceeding is then pending, the court shall, upon
12 motion of the respondent, order the sealing of appropriate records
13 pursuant to subdivision one of section 375.1 and the clerk of court
14 shall immediately transmit the notifications pursuant to subdivision two
15 of section 375.1, and section 375.4.

16 § 5. The family court act is amended by adding a new section 375.4 to
17 read as follows:

18 § 375.4. Notice of sealing. Upon entering an order sealing appropriate
19 records pursuant to sections 375.1, 375.2 and 375.3 the clerk of court
20 shall serve the respondent and the attorney for the child with a copy of
21 such order by ordinary mail sent to the last known address of the
22 respondent and the attorney for the child.

23 § 6. The family court act is amended by adding a new section 375.5 to
24 read as follows:

25 § 375.5. Expungement. 1. The court shall order the expungement of
26 court records, and the records of the appropriate presentment agency and
27 probation department, when the entire petition has been dismissed under
28 subdivision two of section 345.1.

29 2. Upon expiration of one year after termination of a delinquency
30 proceeding in favor of a child under paragraph (g) or (h) of subdivision
31 three of section 375.1 the director of the appropriate presentment agen-
32 cy, and/or the head of the appropriate probation department, shall
33 destroy the agency's records of such proceeding when the highest charge
34 made by the police department is a class E felony or a misdemeanor, and
35 the child was less than thirteen years of age when the alleged act
36 occurred. As appropriate, the presentment agency shall serve a certif-
37 ication of disposition upon the appropriate probation service, which
38 shall destroy the probation service's records in the same manner
39 required with respect to an order for the court.

40 3. Upon the filing of a written motion by the respondent on notice to
41 the appropriate presentment agency, the court shall order the expunge-
42 ment of court records, and/or the records of the appropriate presentment
43 agency or probation department, when:

44 (a) the respondent has no juvenile delinquency or criminal history
45 aside from the proceeding in which the motion is made;

46 (b) the proceeding did not result in a felony finding; and

47 (c) respondent has reached the age of twenty-one.

48 4. In all other cases except those in which a designated felony find-
49 ing was made, the court, upon the filing of a written motion by the
50 respondent on notice to the appropriate presentment agency, has the
51 authority to order in its discretion and in the interests of justice,
52 the expungement of court records, and/or the records of the appropriate
53 presentment agency or probation department.

54 § 7. This act shall take effect on the ninetieth day after it shall
55 have become a law.