

1 **Senate Bill No. 601**

2 (By Senators Cookman, Walters and Stollings)

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4 [Introduced March 22, 2013; referred to the Committee on the
5 Judiciary.]
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10 A BILL to amend and reenact §49-5-18 of the Code of West Virginia,
11 1931, as amended, relating to keeping the records of a
12 juvenile proceeding confidential; and removing the requirement
13 of sealing the records.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §49-5-18 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

17 **ARTICLE 5. JUVENILE PROCEEDINGS.**

18 **§49-5-18. Confidentiality of juvenile records.**

19 (a) One year after the juvenile's eighteenth birthday, or one
20 year after personal or juvenile jurisdiction has terminated,
21 whichever is later, the records of a juvenile proceeding conducted
22 under this chapter, including, but not limited to, law-enforcement
23 files and records, ~~shall be~~ may be ~~sealed by operation of law~~ kept

1 in a separate secure confidential place and the records may not be
2 inspected except by order of the circuit court.

3 (b) The records of a juvenile proceeding in which a juvenile
4 was transferred to criminal jurisdiction pursuant to the provisions
5 of section ten of this article shall be ~~sealed by operation of law~~
6 kept in a separate secure confidential place and the records may
7 not be inspected except by order of the circuit court if the
8 juvenile is subsequently acquitted or found guilty only of an
9 offense other than an offense upon which the waiver or order of
10 transfer was based, or if the offense upon which the waiver or
11 order of transfer was based is subsequently dismissed.

12 (c) To ~~seal~~ keep the confidentiality of juvenile records, they
13 shall be returned to the circuit court in which the case was
14 pending and be kept in a separate confidential file. The records
15 shall be physically marked to show that they ~~have been sealed~~ are
16 to remain confidential and shall be securely ~~sealed~~ kept and filed
17 in ~~such~~ a manner so that no one can have access to determine the
18 identity of the juvenile, except upon order of the circuit court.

19 ~~(d) Sealed records may not be opened except upon order of the~~
20 ~~circuit court.~~

21 ~~(e) Sealing of juvenile records~~

22 (d) Marking the juvenile records to show they are to remain
23 confidential has the legal effect of extinguishing the offense as
24 if it never occurred.

1 ~~(f)~~ (e) The records of a juvenile convicted under the criminal
2 jurisdiction of the circuit court pursuant to subdivision (1),
3 subsection (d), section ten of this article may not be ~~sealed~~
4 marked and kept as confidential.

5 ~~(g)~~ (f) Any person who willfully violates this section ~~shall~~
6 ~~be~~ is guilty of a misdemeanor and, upon conviction thereof, shall
7 be fined not more than \$1,000, or confined in ~~the county or~~
8 ~~regional~~ jail for not more than six months, or both so fined and
9 confined, and ~~shall be~~ is liable for damages in the amount of \$300
10 or actual damages, whichever is greater.

(NOTE: The purpose of this bill is to remove the requirement of sealing the records of a juvenile proceeding while still maintaining the confidentiality of the records.)

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)