

AMENDMENTS TO LB954

Introduced by Krist, 10.

1 1. Insert the following new section:

2 Sec. 2. Section 43-2,108.05, Revised Statutes Supplement, 2015, is
3 amended to read:

4 43-2,108.05 (1) If the court orders the record of a juvenile sealed
5 pursuant to section 43-2,108.04, the court shall:

6 (a) Order that all records, including any information or other data
7 concerning any proceedings relating to the offense, including the arrest,
8 taking into custody, petition, complaint, indictment, information, trial,
9 hearing, adjudication, correctional supervision, dismissal, or other
10 disposition or sentence, be deemed never to have occurred;

11 (b) Send notice of the order to seal the record (i) to the Nebraska
12 Commission on Law Enforcement and Criminal Justice, (ii) if the record
13 includes impoundment or prohibition to obtain a license or permit
14 pursuant to section 43-287, to the Department of Motor Vehicles, (iii) if
15 the juvenile whose record has been ordered sealed was a ward of the state
16 at the time the proceeding was initiated or if the Department of Health
17 and Human Services was a party in the proceeding, to such department, and
18 (iv) to law enforcement agencies, county attorneys, and city attorneys
19 referenced in the court record;

20 (c) Order all notified under subdivision (1)(b) of this section to
21 seal all records pertaining to the offense;

22 (d) If the case was transferred from district court to juvenile
23 court or was transferred under section 43-282, send notice of the order
24 to seal the record to the transferring court; and

25 (e) Explain to the juvenile what sealing the record means verbally
26 if the juvenile is present in the court at the time the court issues the
27 sealing order or by written notice sent by regular mail to the juvenile's

1 last-known address if the juvenile is not present in the court at the
2 time the court issues the sealing order.

3 (2) The effect of having a record sealed under section 43-2,108.04
4 is that thereafter no person is allowed to release any information
5 concerning such record, except as provided by this section. After a
6 record is sealed, the person whose record was sealed can respond to any
7 public inquiry as if the offense resulting in such record never occurred.
8 A government agency and any other public office or agency shall reply to
9 any public inquiry that no information exists regarding a sealed record.
10 Except as provided in subsection (3) of this section, an order to seal
11 the record applies to every government agency and any other public office
12 or agency that has a record relating to the offense, regardless of
13 whether it receives notice of the hearing on the sealing of the record or
14 a copy of the order. Upon the written request of a person whose record
15 has been sealed and the presentation of a copy of such order, a
16 government agency or any other public office or agency shall seal all
17 records pertaining to the offense.

18 (3) A sealed record is accessible to law enforcement officers,
19 county attorneys, and city attorneys in the investigation, prosecution,
20 and sentencing of crimes, to the sentencing judge in the sentencing of
21 criminal defendants, to a judge making a determination whether to
22 transfer a case to or from juvenile court, ~~and~~ to any attorney
23 representing the subject of the sealed record, and to the Inspector
24 General of Nebraska Child Welfare pursuant to an investigation conducted
25 under the Office of Inspector General of Nebraska Child Welfare Act.
26 Inspection of records that have been ordered sealed under section
27 43-2,108.04 may be made by the following persons or for the following
28 purposes:

29 (a) By the court or by any person allowed to inspect such records by
30 an order of the court for good cause shown;

31 (b) By the court, city attorney, or county attorney for purposes of

1 collection of any remaining parental support or obligation balances under
2 section 43-290;

3 (c) By the Nebraska Probation System for purposes of juvenile intake
4 services, for presentence and other probation investigations, and for the
5 direct supervision of persons placed on probation and by the Department
6 of Correctional Services, the Office of Juvenile Services, a juvenile
7 assessment center, a criminal detention facility, a juvenile detention
8 facility, or a staff secure juvenile facility, for an individual
9 committed to it, placed with it, or under its care;

10 (d) By the Department of Health and Human Services for purposes of
11 juvenile intake services, the preparation of case plans and reports, the
12 preparation of evaluations, compliance with federal reporting
13 requirements, or the supervision and protection of persons placed with
14 the department or for licensing or certification purposes under sections
15 71-1901 to 71-1906.01, the Child Care Licensing Act, or the Children's
16 Residential Facilities and Placing Licensure Act;

17 (e) Upon application, by the person who is the subject of the sealed
18 record and by persons authorized by the person who is the subject of the
19 sealed record who are named in that application;

20 (f) At the request of a party in a civil action that is based on a
21 case that has a sealed record, as needed for the civil action. The party
22 also may copy the sealed record as needed for the civil action. The
23 sealed record shall be used solely in the civil action and is otherwise
24 confidential and subject to this section;

25 (g) By persons engaged in bona fide research, with the permission of
26 the court, only if the research results in no disclosure of the person's
27 identity and protects the confidentiality of the sealed record; or

28 (h) By a law enforcement agency if a person whose record has been
29 sealed applies for employment with the law enforcement agency.

30 (4) Nothing in this section prohibits the Department of Health and
31 Human Services from releasing information from sealed records in the

1 performance of its duties with respect to the supervision and protection
2 of persons served by the department.

3 (5) In any application for employment, bonding, license, education,
4 or other right or privilege, any appearance as a witness, or any other
5 public inquiry, a person cannot be questioned with respect to any offense
6 for which the record is sealed. If an inquiry is made in violation of
7 this subsection, the person may respond as if the offense never occurred.
8 Applications for employment shall contain specific language that states
9 that the applicant is not obligated to disclose a sealed record.
10 Employers shall not ask if an applicant has had a record sealed. The
11 Department of Labor shall develop a link on the department's web site to
12 inform employers that employers cannot ask if an applicant had a record
13 sealed and that an application for employment shall contain specific
14 language that states that the applicant is not obligated to disclose a
15 sealed record.

16 (6) Any person who violates this section may be held in contempt of
17 court.

18 2. Renumber the remaining sections and correct the repealer
19 accordingly.