

Cherokee Nation Code Annotated
Title 10A: Cherokee Nation Juvenile Code
Article 2

Chapter 6: Records

**§ 2-6-108. Effect of adjudication--Sealing of records--Order unsealing sealed records--
Destruction of records**

Cite as: 10A CNCA § 2-6-108

A. No adjudication by the court upon the status of a child in a juvenile proceeding shall operate to impose any of the civil disabilities ordinarily resulting from conviction of a crime, nor shall a child be deemed a criminal by reason of a juvenile adjudication.

B. The court may sua sponte, upon motion by the state or upon motion by the alleged delinquent, order the records of a person alleged to be delinquent to be sealed as follows:

1. When the person has been alleged to be delinquent and:

a. one (1) year has elapsed from the later of:

(1) dismissal or closure of the case by the court, or

(2) notice to the court by the Department of Juvenile Justice, and

b. the person has not been found guilty of or admitted to the commission of a subsequent criminal offense in either a juvenile or adult proceeding, and

c. no juvenile or adult proceeding for a criminal offense is pending;

2. When a juvenile court intake has been completed and:

a. the case has been dismissed, or

b. no petition has been filed pending fulfillment of conditions of a voluntary probation, or

c. a petition has been filed but no adjudication has occurred pending the fulfillment of conditions of a preadjudicatory probation;

3. When a juvenile participates in a court-approved alternative diversion program for first-time offenders and:

a. the juvenile presents satisfactory evidence to the court that the juvenile has successfully completed the program, and

b. the court dismisses the case at the conclusion of the deferral period; or

4. When a juvenile participates in a court-approved military mentor program and:

- a. the juvenile presents satisfactory evidence to the court that the juvenile has successfully completed the program, and
- b. the court dismisses the case at the conclusion of the deferral period.

The records may be sealed one (1) year after such dismissal or completion of the conditions of a voluntary or pre-adjudicatory probation, alternative diversion program for first-time offenders, or military mentor program or upon the person attaining the age of eighteen (18) years in the discretion of the court. Upon the sealing of any record of a person alleged to be delinquent pursuant to this title, the record and official actions subject to the order shall be deemed never to have occurred, and the person who is the subject of the record and all juvenile justice agencies may properly reply upon any inquiry in the matter that no such action ever occurred and no such record exists with respect to such person.

C. The Cherokee Courts shall establish a system for sealing records as required by subsection B of this section and records shall be sealed in accordance with the procedures established pursuant to said system.

D. 1. The court clerk shall seal the juvenile court record indicated in the court's order, except that a confidential index shall be maintained for the purpose of locating records subject to inspection or release pursuant to subsection F of this section.

2. When notified by the court clerk of a court order sealing a juvenile court record, the law enforcement agency having records pertaining to the person shall seal the records as ordered, except basic identification information shall be maintained.

3. Except where such documents are necessary to maintain state or federal funding, the juvenile court personnel records pertaining to the person shall be sealed.

E. Members of the judiciary, the Attorney General, the defendant, the defendant's counsel, the Department of Juvenile Justice assigned juvenile court intake responsibilities, and the contracted detention facility may access records that have been sealed pursuant to this section without a court order for the purpose of determining whether to dismiss an action, seek a voluntary probation, file a petition, or for purposes of sentencing or placement in a case where the person who is the subject of the sealed record is alleged to have committed a subsequent juvenile delinquent act or any adult criminal offense. Provided, any record sealed pursuant to this section may be used in a subsequent juvenile delinquent or adult prosecution only after the issuance of a court order unsealing the record.

F. The court may issue an order unsealing sealed juvenile court records, for use for the following purposes:

1. In subsequent cases against the same child pursuant to this title;

2. In an adult criminal proceeding pursuant to Section 2-2-403 or 2-5-101 of this title;
3. Upon conviction of a criminal offense in an adult proceeding, in connection with the sentencing of such person;
4. If the person is placed in the custody or under the supervision of the contracted detention facility;
5. For the purpose of a criminal investigation; or
6. When the court finds that there is a compelling reason and it is in the interest of justice to order the record unsealed.

G. Any person or agency having a legitimate interest in a delinquency case or proceeding may petition the court for an order unsealing a juvenile court record. Upon the filing of a petition to unseal any juvenile court record, the court shall set a date for a hearing and shall provide thirty (30) days of notice to all interested parties. The hearing may be closed at the discretion of the court. If, after a hearing, the court determines that there is any reason enumerated in subsection F of this section and it is necessary for the protection of a legitimate public or private interest to unseal the record, the court shall order the record unsealed.

H. Any record ordered to be sealed pursuant to this section, if not unsealed within ten (10) years of the order, shall be obliterated or destroyed at the end of the ten-year period.

Historical Data

LA 11-21, eff. March 15, 2021.