

ACCESS TO JUVENILE COURT RECORDS

Juvenile court records are required to be kept confidential unless: (1) a party has provided a written authorization, (2) there is a statutory exception, or (3) there is a court order. There are special procedures for adoption records – see the Adoption Records section below. When applying the legal requirements, it is important to note that disclosure, inspection, and copying of records are distinct concepts.

WRITTEN AUTHORIZATION

- A child/juvenile (14 years or older), parent, guardian, legal custodian, expectant mother (14 years or older), or a guardian ad litem for the unborn child can request to inspect or authorize another individual to inspect juvenile court records.
 - The subject of the records will complete the Request and Authorization to Open Juvenile Court Records for Inspection - [JD-1739A](#).
 - Copies of court records must be specifically requested.
- The court will issue the Order to Open Court Records for Inspection - [JD-1739B](#).
 - Court must find that release would not result in imminent danger to anyone.
 - Copies of court records must be specifically ordered.
- See § [48.396\(2\)\(ag\)-\(am\)](#) and § [938.396\(2g\)\(ag\)-\(am\)](#).

STATUTORY EXCEPTION

- There are several statutory exceptions that allow inspection of juvenile court records – without a court order - for specific purposes.
 - The person seeking access will complete the Request to Inspect Juvenile Court Records - [JD-1738A](#).
 - Copies of court records must be specifically requested.
 - If the Serious Juvenile Offender or Repeat Offender exception applies, the requester cannot have access to dispositional reports, physical, psychological, mental or developmental examinations, and any other sensitive personal information of the juvenile and the juvenile's family.
- The court may issue the Order on Request to Inspect Juvenile Court Records - [JD-1738B](#).
 - Copies of court records must be specifically ordered unless the request is made under section #2 on JD-1738A.
- See § [48.396\(2\)\(b\)-\(h\)](#) and § [938.396\(2g\)\(b\)-\(L\)](#).

COURT ORDER

- If there is not a written authorization or a statutory exception that applies, a court order is required to release juvenile court, agency, or law enforcement records using the following procedures.
 - 1. The person seeking disclosure of the records must file a request describing:**
 - Information sought,
 - Basis for the belief that the information is contained in the records,
 - Its relevance to the action,
 - The probable admissibility of the information as evidence at trial, and
 - Efforts made to obtain the information elsewhere.

2. The subjects of the record (e.g., child, juvenile, parents) must be notified that the records are being sought and they must be given an opportunity to respond.

- A hearing (or an alternative process) is scheduled in front of the juvenile court to determine whether there is an objection and to allow the parties to present their arguments.¹
 - ❖ The juvenile court must provide notice of the request and hearing, if scheduled, to everyone who is a subject of the record.
 - ❖ The juvenile court may appoint a guardian ad litem for the subject of the records sought.
 - The subject of the record may also hire their own counsel.

3. The juvenile court must conduct an in-camera inspection of the records.

- If the court determines that the information sought is for good cause and that it cannot be obtained from other sources with reasonable effort, the court shall then determine whether the petitioner's need for the information outweighs society's interest in protecting the subject's confidentiality.
 - ❖ In making this determination, the court shall balance the interest of the petitioner in obtaining access to the record against the interest of the child/juvenile, parent, or expectant mother in avoiding the stigma that might result from disclosure.
 - If the court determines that disclosure is warranted, the court shall order the disclosure of only as much information as is necessary to meet the petitioner's need for the information.
 - The court shall record the reasons for the court's decision to disclose or not to disclose the records. All records related to this decision as to whether or not to release juvenile court records are also confidential.
- If the records are not associated with an existing CHIPS, JIPS, delinquency, TPR, or juvenile guardianship case, a Group Juvenile (GJ) case should be opened.
 - See *State ex rel. Herget v. Waukesha County Circuit Court*, [84 Wis. 2d 435, 267 N.W.2d 309 \(1978\)](#), *Courtney F. v. Ramiro M.C.*, [2004 WI App 36](#), *State v. Bellows*, [218 Wis. 2d 614, 582 N.W.2d 53 \(Ct. App. 1998\)](#), and *In the Interest of KKC (DeLeu)*, [143 Wis.2d 142 \(Ct. App. 1988\)](#).

ADOPTION RECORDS

- The disclosure of adoption records is governed by a separate statute and requires a court order.
 - The person seeking access will complete the Request to Disclose Adoption Court Records - [JD-1740](#).
 - The court will issue the Order on Request to Disclose Adoption Court Records - [JD-1741](#).
- The Department of Children and Families is allowed to provide information to certain individuals through the [Adoption Records Search Program](#).
 - Identifying information is only available if all known birth parents have provided a notarized affidavit consenting to the release of information or are deceased.
 - The court must find good cause exists to disclose the records.
- See § [48.93\(1d\)](#).

¹ Case law does not specifically require that a hearing be held. An alternative process could be used to determine whether there is an objection and to allow the parties to present their arguments, provided that the process enables the court to make an informed decision while protecting the rights of all parties.