



Ohio Revised Code

Section 2151.313 Fingerprints, photographs require consent of juvenile judge.

Effective: October 9, 2006

Legislation: House Bill 137 - 126th General Assembly

(A)(1) Except as provided in division (A)(2) of this section and in sections 109.57, 109.60, and 109.61 of the Revised Code, no child shall be fingerprinted or photographed in the investigation of any violation of law without the consent of the juvenile judge.

(2) Subject to division (A)(3) of this section, a law enforcement officer may fingerprint and photograph a child without the consent of the juvenile judge when the child is arrested or otherwise taken into custody for the commission of an act that would be an offense, other than a traffic offense or a minor misdemeanor, if committed by an adult, and there is probable cause to believe that the child may have been involved in the commission of the act. A law enforcement officer who takes fingerprints or photographs of a child under division (A)(2) of this section immediately shall inform the juvenile court that the fingerprints or photographs were taken and shall provide the court with the identity of the child, the number of fingerprints and photographs taken, and the name and address of each person who has custody and control of the fingerprints or photographs or copies of the fingerprints or photographs.

(3) This section does not apply to a child to whom either of the following applies:

(a) The child has been arrested or otherwise taken into custody for committing, or has been adjudicated a delinquent child for committing, an act that would be a felony if committed by an adult or has been convicted of or pleaded guilty to committing a felony.

(b) There is probable cause to believe that the child may have committed an act that would be a felony if committed by an adult.

(B)(1) Subject to divisions (B)(4), (5), and (6) of this section, all fingerprints and photographs of a child obtained or taken under division (A)(1) or (2) of this section, and any records of the arrest or custody of the child that was the basis for the taking of the fingerprints or photographs, initially may be retained only until the expiration of thirty days after the date taken, except that the court may limit



the initial retention of fingerprints and photographs of a child obtained under division (A)(1) of this section to a shorter period of time and except that, if the child is adjudicated a delinquent child for the commission of an act described in division (B)(3) of this section or is convicted of or pleads guilty to a criminal offense for the commission of an act described in division (B)(3) of this section, the fingerprints and photographs, and the records of the arrest or custody of the child that was the basis for the taking of the fingerprints and photographs, shall be retained in accordance with division (B)(3) of this section. During the initial period of retention, the fingerprints and photographs of a child, copies of the fingerprints and photographs, and records of the arrest or custody of the child shall be used or released only in accordance with division (C) of this section. At the expiration of the initial period for which fingerprints and photographs of a child, copies of fingerprints and photographs of a child, and records of the arrest or custody of a child may be retained under this division, if no complaint, indictment, or information is pending against the child in relation to the act for which the fingerprints and photographs originally were obtained or taken and if the child has neither been adjudicated a delinquent child for the commission of that act nor been convicted of or pleaded guilty to a criminal offense based on that act subsequent to a transfer of the child's case for criminal prosecution pursuant to section 2152.12 of the Revised Code, the fingerprints and photographs of the child, all copies of the fingerprints and photographs, and all records of the arrest or custody of the child that was the basis of the taking of the fingerprints and photographs shall be removed from the file and delivered to the juvenile court.

(2) If, at the expiration of the initial period of retention set forth in division (B)(1) of this section, a complaint, indictment, or information is pending against the child in relation to the act for which the fingerprints and photographs originally were obtained or the child either has been adjudicated a delinquent child for the commission of an act other than an act described in division (B)(3) of this section or has been convicted of or pleaded guilty to a criminal offense for the commission of an act other than an act described in division (B)(3) of this section subsequent to transfer of the child's case, the fingerprints and photographs of the child, copies of the fingerprints and photographs, and the records of the arrest or custody of the child that was the basis of the taking of the fingerprints and photographs may further be retained, subject to division (B)(4) of this section, until the earlier of the expiration of two years after the date on which the fingerprints or photographs were taken or the child attains eighteen years of age, except that, if the child is adjudicated a delinquent child for the commission of an act described in division (B)(3) of this section or is convicted of or pleads guilty to a criminal offense for the commission of an act described in division (B)(3) of this section, the



fingerprints and photographs, and the records of the arrest or custody of the child that was the basis for the taking of the fingerprints and photographs, shall be retained in accordance with division (B)(3) of this section.

Except as otherwise provided in division (B)(3) of this section, during this additional period of retention, the fingerprints and photographs of a child, copies of the fingerprints and photographs of a child, and records of the arrest or custody of a child shall be used or released only in accordance with division (C) of this section. At the expiration of the additional period, if no complaint, indictment, or information is pending against the child in relation to the act for which the fingerprints originally were obtained or taken or in relation to another act for which the fingerprints were used as authorized by division (C) of this section and that would be a felony if committed by an adult, the fingerprints of the child, all copies of the fingerprints, and all records of the arrest or custody of the child that was the basis of the taking of the fingerprints shall be removed from the file and delivered to the juvenile court, and, if no complaint, indictment, or information is pending against the child concerning the act for which the photographs originally were obtained or taken or concerning an act that would be a felony if committed by an adult, the photographs and all copies of the photographs, and, if no fingerprints were taken at the time the photographs were taken, all records of the arrest or custody that was the basis of the taking of the photographs shall be removed from the file and delivered to the juvenile court. In either case, if, at the expiration of the applicable additional period, such a complaint, indictment, or information is pending against the child, the photographs and copies of the photographs of the child, or the fingerprints and copies of the fingerprints of the child, whichever is applicable, and the records of the arrest or custody of the child may be retained, subject to division (B)(4) of this section, until final disposition of the complaint, indictment, or information, and, upon final disposition of the complaint, indictment, or information, they shall be removed from the file and delivered to the juvenile court, except that, if the child is adjudicated a delinquent child for the commission of an act described in division (B)(3) of this section or is convicted of or pleads guilty to a criminal offense for the commission of an act described in division (B)(3) of this section, the fingerprints and photographs, and the records of the arrest or custody of the child that was the basis for the taking of the fingerprints and photographs, shall be retained in accordance with division (B)(3) of this section.

(3) If a child is adjudicated a delinquent child for violating section 2923.42 of the Revised Code or for committing an act that would be a misdemeanor offense of violence if committed by an adult, or



is convicted of or pleads guilty to a violation of section 2923.42 of the Revised Code, a misdemeanor offense of violence, or a violation of an existing or former municipal ordinance or law of this state, another state, or the United States that is substantially equivalent to section 2923.42 of the Revised Code or any misdemeanor offense of violence, both of the following apply:

(a) Originals and copies of fingerprints and photographs of the child obtained or taken under division (A)(1) of this section, and any records of the arrest or custody that was the basis for the taking of the fingerprints or photographs, may be retained for the period of time specified by the juvenile judge in that judge's grant of consent for the taking of the fingerprints or photographs. Upon the expiration of the specified period, all originals and copies of the fingerprints, photographs, and records shall be delivered to the juvenile court or otherwise disposed of in accordance with any instructions specified by the juvenile judge in that judge's grant of consent. During the period of retention of the photographs and records, all originals and copies of them shall be retained in a file separate and apart from all photographs taken of adults. During the period of retention of the fingerprints, all originals and copies of them may be maintained in the files of fingerprints taken of adults. If the juvenile judge who grants consent for the taking of fingerprints and photographs under division (A)(1) of this section does not specify a period of retention in that judge's grant of consent, originals and copies of the fingerprints, photographs, and records may be retained in accordance with this section as if the fingerprints and photographs had been taken under division (A)(2) of this section.

(b) Originals and copies of fingerprints and photographs taken under division (A)(2) of this section, and any records of the arrest or custody that was the basis for the taking of the fingerprints or photographs, may be retained for the period of time and in the manner specified in division (B)(3)(b) of this section. Prior to the child's attainment of eighteen years of age, all originals and copies of the photographs and records shall be retained and shall be kept in a file separate and apart from all photographs taken of adults. During the period of retention of the fingerprints, all originals and copies of them may be maintained in the files of fingerprints taken of adults. Upon the child's attainment of eighteen years of age, all originals and copies of the fingerprints, photographs, and records shall be disposed of as follows:

(i) If the juvenile judge issues or previously has issued an order that specifies a manner of disposition of the originals and copies of the fingerprints, photographs, and records, they shall be delivered to the juvenile court or otherwise disposed of in accordance with the order.



(ii) If the juvenile judge does not issue and has not previously issued an order that specifies a manner of disposition of the originals and copies of the fingerprints not maintained in adult files, photographs, and records, the law enforcement agency, in its discretion, either shall remove all originals and copies of them from the file in which they had been maintained and transfer them to the files that are used for the retention of fingerprints and photographs taken of adults who are arrested for, otherwise taken into custody for, or under investigation for the commission of a criminal offense or shall remove them from the file in which they had been maintained and deliver them to the juvenile court. If the originals and copies of any fingerprints of a child who attains eighteen years of age are maintained in the files of fingerprints taken of adults or if pursuant to division (B)(3)(b)(ii) of this section the agency transfers the originals and copies of any fingerprints not maintained in adult files, photographs, or records to the files that are used for the retention of fingerprints and photographs taken of adults who are arrested for, otherwise taken into custody for, or under investigation for the commission of a criminal offense, the originals and copies of the fingerprints, photographs, and records may be maintained, used, and released after they are maintained in the adult files or after the transfer as if the fingerprints and photographs had been taken of, and as if the records pertained to, an adult who was arrested for, otherwise taken into custody for, or under investigation for the commission of a criminal offense.

(4) If a sealing or expungement order issued under sections 2151.356 to 2151.358 of the Revised Code requires the sealing or destruction of any fingerprints or photographs of a child obtained or taken under division (A)(1) or (2) of this section or of the records of an arrest or custody of a child that was the basis of the taking of the fingerprints or photographs prior to the expiration of any period for which they otherwise could be retained under division (B)(1), (2), or (3) of this section, the fingerprints, photographs, and arrest or custody records that are subject to the order and all copies of the fingerprints, photographs, and arrest or custody records shall be sealed or destroyed in accordance with the order.

(5) All fingerprints of a child, photographs of a child, records of an arrest or custody of a child, and copies delivered to a juvenile court in accordance with division (B)(1), (2), or (3) of this section shall be destroyed by the court, provided that, if a complaint is filed against the child in relation to any act to which the records pertain, the court shall maintain all records of an arrest or custody of a child so delivered for at least three years after the final disposition of the case or after the case becomes



inactive.

(6)(a) All photographs of a child and records of an arrest or custody of a child retained pursuant to division (B) of this section and not delivered to a juvenile court shall be kept in a file separate and apart from fingerprints, photographs, and records of an arrest or custody of an adult. All fingerprints of a child retained pursuant to division (B) of this section and not delivered to a juvenile court may be maintained in the files of fingerprints taken of adults.

(b) If a child who is the subject of photographs or fingerprints is adjudicated a delinquent child for the commission of an act that would be an offense, other than a traffic offense or a minor misdemeanor, if committed by an adult or is convicted of or pleads guilty to a criminal offense, other than a traffic offense or a minor misdemeanor, all fingerprints not maintained in the files of fingerprints taken of adults and all photographs of the child, and all records of the arrest or custody of the child that is the basis of the taking of the fingerprints or photographs, that are retained pursuant to division (B) of this section and not delivered to a juvenile court shall be kept in a file separate and apart from fingerprints, photographs, and arrest and custody records of children who have not been adjudicated a delinquent child for the commission of an act that would be an offense, other than a traffic offense or a minor misdemeanor, if committed by an adult and have not been convicted of or pleaded guilty to a criminal offense other than a traffic offense or a minor misdemeanor.

(C) Until they are delivered to the juvenile court or sealed, transferred in accordance with division (B)(3)(b) of this section, or destroyed pursuant to a sealing or expungement order, the originals and copies of fingerprints and photographs of a child that are obtained or taken pursuant to division (A)(1) or (2) of this section, and the records of the arrest or custody of the child that was the basis of the taking of the fingerprints or photographs, shall be used or released only as follows:

(1) During the initial thirty-day period of retention, originals and copies of fingerprints and photographs of a child, and records of the arrest or custody of a child, shall be used, prior to the filing of a complaint or information against or the obtaining of an indictment of the child in relation to the act for which the fingerprints and photographs were originally obtained or taken, only for the investigation of that act and shall be released, prior to the filing of the complaint, only to a court that would have jurisdiction of the child's case under this chapter. Subsequent to the filing of a complaint



or information or the obtaining of an indictment, originals and copies of fingerprints and photographs of a child, and records of the arrest or custody of a child, shall be used or released during the initial thirty-day period of retention only as provided in division (C)(2)(a), (b), or (c) of this section.

(2) Originals and copies of fingerprints and photographs of a child, and records of the arrest or custody of a child, that are retained beyond the initial thirty-day period of retention subsequent to the filing of a complaint or information or the obtaining of an indictment, a delinquent child adjudication, or a conviction of or guilty plea to a criminal offense shall be used or released only as follows:

(a) Originals and copies of photographs of a child, and, if no fingerprints were taken at the time the photographs were taken, records of the arrest or custody of the child that was the basis of the taking of the photographs, may be used only as follows:

(i) They may be used for the investigation of the act for which they originally were obtained or taken; if the child who is the subject of the photographs is a suspect in the investigation, for the investigation of any act that would be an offense if committed by an adult; and for arresting or bringing the child into custody.

(ii) If the child who is the subject of the photographs is adjudicated a delinquent child for the commission of an act that would be a felony if committed by an adult or is convicted of or pleads guilty to a criminal offense that is a felony as a result of the arrest or custody that was the basis of the taking of the photographs, a law enforcement officer may use the photographs for a photo line-up conducted as part of the investigation of any act that would be a felony if committed by an adult, whether or not the child who is the subject of the photographs is a suspect in the investigation.

(b) Originals and copies of fingerprints of a child, and records of the arrest or custody of the child that was the basis of the taking of the fingerprints, may be used only for the investigation of the act for which they originally were obtained or taken; if a child is a suspect in the investigation, for the investigation of another act that would be an offense if committed by an adult; and for arresting or bringing the child into custody.

(c) Originals and copies of fingerprints, photographs, and records of the arrest or custody that was



the basis of the taking of the fingerprints or photographs shall be released only to the following:

(i) Law enforcement officers of this state or a political subdivision of this state, upon notification to the juvenile court of the name and address of the law enforcement officer or agency to whom or to which they will be released;

(ii) A court that has jurisdiction of the child's case under Chapters 2151. and 2152. of the Revised Code or subsequent to a transfer of the child's case for criminal prosecution pursuant to section 2152.12 of the Revised Code.

(D) No person shall knowingly do any of the following:

(1) Fingerprint or photograph a child in the investigation of any violation of law other than as provided in division (A)(1) or (2) of this section or in sections 109.57, 109.60, and 109.61 of the Revised Code;

(2) Retain fingerprints or photographs of a child obtained or taken under division (A)(1) or (2) of this section, copies of fingerprints or photographs of that nature, or records of the arrest or custody that was the basis of the taking of fingerprints or photographs of that nature other than in accordance with division (B) of this section;

(3) Use or release fingerprints or photographs of a child obtained or taken under division (A)(1) or (2) of this section, copies of fingerprints or photographs of that nature, or records of the arrest or custody that was the basis of the taking of fingerprints or photographs of that nature other than in accordance with division (B) or (C) of this section.