

JUVENILE COURT
POLICY/PROCEDURE

RECORDS RELATED TO EXAMINATIONS UNDER §48.295 or §938.295

POLICY

Records relating to an examination under §48.295 or §938.295 are juvenile court records subject to the provisions of §48.396(2) or §938.396(2) and are not subject to §51.30 nor 42 C.F.R Part 2. An examination under this section is neither a treatment service within the meaning of Chapter 51 nor a drug or alcohol abuse prevention functions as defined by federal law.

An examination ordered under this section which is made part of the court record is not subject to privilege, i.e. the examined party is without authority to allow or prohibit disclosure of the examination record, for the purpose of communicating the examination record to the court, district attorney, and counsel for or the child or other party, in preparing the court report under §48.33 or §938.33 and, subject to the decisions of the court, for use in proceedings related to the juvenile court petition.

Copies of and references to examination records which are contained in the juvenile's county department file continue to be a juvenile court record and are not subject to the exchange provision of §48.78 or §938.78. All such copies and references shall be clearly identified as a confidential juvenile as a confidential juvenile court record which may not be disclosed except as authorized by Court Policy or Order.

Unless otherwise prohibited by the court or by other policies, the county department may share copies of evaluation records with day treatment programs, group homes, child caring institutions, Family Court Counseling staff, therapists, court-ordered evaluators/therapists, a Court Appointed Special Advocate (CASA) volunteer, and CCF Case Coordinators/Supervisors for the purpose of assisting the county agency in the development of a treatment plan and in implementing the court's dispositional order. CCF Case Coordinators/Supervisors may also release copies of court ordered evaluations to the above with the documented consent of the assigned county social worker for the purpose of facilitating court ordered placement or implementing supervision plans. Evaluators may provide a copy of the evaluation to third-party payers for purposes of seeking reimbursement as may be required by agreement with the Department. Further release of the evaluations by the third party is prohibited, and information indicating this prohibition must be included with the evaluation. Under no circumstances may any of the persons authorized to receive copies or the assigned evaluator further release the assessment to any other persons, including parents, children, attorneys, and other treatment providers without approval of Court Policy or Order of the assigned juvenile judge.

The court shall cause copies to be transmitted to the district attorney or corporation counsel, to counsel or guardian ad litem for the child, counsel for the

parent(s), and to the court-appointed special advocate for the child. If applicable, the court shall also cause copies to be transmitted to counsel or guardian ad litem for the unborn child and the unborn child's expectant mother. At no time, without specific court approval, shall a copy of the evaluation be given to the parent(s), child, or other persons by the parties above to be read, retained, or removed from the presence of the court. For parents not represented by counsel, the court, if requested, may order release of the report. It is preferable, however, in all cases that the evaluator or worker interpret the results of evaluation to the parties.

All copies of evaluation records covered under this section and/or disclosed under this section shall be stamped "**Further disclosure of this record or information is prohibited under penalty of contempt**".

PROCEDURE

Unless otherwise provided by Policy or Statute, records of examinations/evaluations ordered by the juvenile court pursuant to §48.295 or §938.295 may only be inspected or copied upon written order/authorization of the court. The order shall contain the name(s) of persons and agencies who may have access to the records. Further disclosure to other persons or agencies is prohibited under penalty of contempt unless the judge amends the original order to specifically allow such further disclosure.

Any person requesting an opportunity to inspect or (only for school personnel) receive a copy of an examination/evaluation report ordered by the juvenile court must file the following written documents with the clerk of the assigned juvenile court branch:

1. A statement explaining the purpose for examining the record and the name, address and professional affiliation of the individual requesting access to the record.
2. An informed consent signed by the child's parent or guardian, and by the child if the child is 14 years of age or older. The consent must identify the requester by name, address and professional affiliation, describe the purpose for the disclosure, include a notice to the parent/guardian/child of their right to withhold their consent and include a time limit within which the requestor may have access to the record.

The assigned branch will forward a copy of the request and the informed consent to the attorney or guardian ad litem for the child and provide 10-days within which counsel may object to the disclosure. If no objection is received within the ten-day notice period and/or if the court determines that disclosure is appropriate, the court may order the inspection or copy of the requested record or portions thereof. The court's order shall include any necessary and appropriate restrictions on the further disclosure of information by the requester. Any record or information copied shall be stamped "**Except by court order, dispersal of this document is prohibited under penalty of contempt**".