

**Juvenile Adjudication Set Aside Workgroup  
Proposed Statutory Changes and Reasons**

**ARS § 8-348**

The Juvenile Adjudication Set Aside workgroup reviewed A.R.S. § 8-348 and proposes the following change:

**Change proposed:**

Prohibit a person currently subject to retained jurisdiction under A.R.S. § 8-202 from being eligible for an adjudication set-aside.

**Reason:**

A person still under the jurisdiction of the juvenile court should complete treatment before an adjudication is set aside.

**ARS § 8-349**

The Juvenile Adjudication Set Aside workgroup reviewed A.R.S. § 8-349 and proposes the following changes:

**Change proposed:**

End destruction of juvenile records in favor of sealing.

**Reason:**

Sealing records instead of destroying them will enable an individual to access their own records in the future for employment or other purposes.

**Change proposed:**

Create two categories of records sealing: age 18, for those who complete probation or earn an absolute discharge from ADJC, and age 21 for those who aren't eligible to apply at age 18. (additional specific limitations apply to each category). The court would be required to seal the records of those who meet the criteria for age 18 records sealing, but has discretion for those applying for age 21 records sealing.

**Reason:**

If an individual has met the higher criteria for age 18 records destruction, it means they have complied with the treatment ordered by the court, and they have not been found delinquent for any of the more serious offenses. Therefore, sealing the records should be automatic upon application.

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Proposed Statutory Changes and Reasons**

For individuals who are ineligible at age 18 because they didn't complete probation or earn an absolute discharge, or because they committed a more serious offense, three years of time in the community is sufficient to warrant review of whether the individual has remained crime-free and should be permitted to seal juvenile court records. The court would have discretion to determine whether sealing the records is in the interest of justice.

**Change proposed:**

Remove complete payment of restitution as a barrier to records sealing, if an individual provides sufficient evidence to support a finding of special circumstances, and sealing the records is in the interest of justice. Also, remove payment of fines and fees as a barrier to sealing records.

**Reason:**

Some youth owe a significant amount of restitution, and will be unable to obtain employment that allows them to repay the restitution, if their records are not sealed. In addition, fines and fees are owed by the parents of the youth, so the youth should not be barred from having records sealed simply because their parent didn't pay those obligations. Any restitution, fines or fees that remain outstanding when the records are sealed will still be owed by the individual, and are subject to the ordinary remedies under A.R.S. §§ 8-344 and 8-345 until the obligations are paid.

**Change proposed:**

Restrict access to sealed records to the person whose records are sealed, or the person's conservator or guardian, if the person is deceased or has been adjudicated incapacitated.

**Reason:**

Currently, when records are destroyed, no one can access them for any reason. By sealing the records, they still exist; therefore, access should be strictly limited so that the person can experience the full benefit and purpose of sealing records: to remove the records from public view and eliminate any continuing negative consequences for juvenile behavior.

**Change proposed:**

Specify that when a person's records are sealed, that person cannot be required to disclose the existence of the records for any purpose.

**Reason:**

This change will enable the person to experience the full benefit of having their records sealed, by relieving them of any obligation to disclose their delinquency history.

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Proposed Statutory Changes and Reasons**

**Change proposed:**

Within 6 months of notification that a person's juvenile delinquency records are sealed, DCS shall destroy all delinquency court, juvenile probation, and ADJC records produced in the delinquency matter which reside in their files.

**Reason:**

Records maintained by DCS can be used in future DCS investigations or dependency proceedings. If the court has sealed the records, they should not be used against the person in the future.