

# Understanding All of the Consequences of an Adjudication

{ Exploring the Direct and Collateral Consequences  
of Juvenile Adjudications

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## The Consequences of Juvenile Adjudications



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## Counsel's Obligation to be Informed

"The court may accept a waiver of counsel by a juvenile only after finding on the record, based on a dialogue conducted with the juvenile, that:

...

(V) The juvenile understands the possible consequences that may result from an adjudication or conviction of the offense with which the juvenile is charged, which consequences may occur in addition to the actual adjudication or conviction itself."

Colo. Rev. Stat. § 19-2-706(2)(c)(V)

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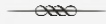
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## Counsel's Obligation to be Informed



### ☞ Juvenile Defender's Obligation:

A juvenile is required to receive the effective assistance of counsel pursuant to the Sixth Amendment to the United States Constitution.

### ☞ Guardian ad Litem's Obligation:

A Guardian ad Litem is required to act in the child's best interest.

### ☞ How is an attorney required to advise a juvenile regarding direct consequences?

### ☞ How do collateral consequences factor into these obligations?

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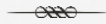
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## Learning Objectives



### DIRECT CONSEQUENCES:

Probation Requirements  
Detention  
Commitment  
Parole  
20 ½ Hearing

### COLLATERAL CONSEQUENCES:

The Juvenile Record  
School  
Jobs and the Military  
Immigration  
Public Benefits and Housing  
Possessing Weapons  
DNA Databases  
Sex Offender Registration  
Voting and Jury Service  
Driver's Licenses  
Civil Judgments

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## The Juvenile Record



Who can look at my juvenile record?

Can my juvenile record be used against me in later juvenile or adult criminal cases?

How can I keep people from looking at my juvenile record?

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## The Juvenile Record



Who can look at my juvenile record?	Most juvenile records are confidential, but there are many exceptions to this rule.
Can my juvenile record be used against me in later juvenile or adult criminal cases?	Maybe. Having a juvenile record can sometimes lead to more severe charges and consequences in a later case.
How can I keep people from looking at my juvenile record?	You can apply to get your juvenile record expunged, and in some cases it can be automatically expunged.

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## The Juvenile Record - Expungement



- ☞ A juvenile record does not exist for most purposes if it is expunged.
- ☞ "Upon the entry of an expungement order, the person who is the subject of the record that has been expunged may assert that he or she has no juvenile delinquency record. Further, the person who is the subject of the record that has been expunged may lawfully deny that he or she has ever been arrested, charged, adjudicated, convicted, or sentenced in regard to the expunged case, matter, or charge."
- ☞ Colo. Rev. Stat. § 19-1-306(1)(a)

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## The Juvenile Record



- ☞ Colo. Rev. Stat. § 19-1-304 generally applies to the confidentiality of juvenile records. However, the statute lists a number of exceptions. These records are always available to the following:
  - ☞ The State Department of Human Services;
  - ☞ Members of a Child Protection Team;
  - ☞ The Department of Corrections;
  - ☞ The principal and superintendent of a school where the juvenile will attend;
  - ☞ The Department of Education.
- ☞ Colo. Rev. Stat. § 19-1-304(1)(a)

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## The Juvenile Record



- ☞ Juvenile records are **public information** if they relate to a juvenile who:
  - ☞ Is charged with or adjudicated for Possession of a Handgun by a Juvenile;
  - ☞ Is charged with or adjudicated for a class 1, 2, 3, or 4 felony;
  - ☞ Is charged with or adjudicated for any offense involving the use or possession of a weapon.
- ☞ However, this information cannot include the juvenile's name, date of birth, or photograph.
- ☞ Colo. Rev. Stat. § 19-1-304(1)(b.5), (b.7)

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## The Juvenile Record



- ☞ Juvenile records are **public information** if they relate to a juvenile who:
  - ☞ Is charged with an offense constituting unlawful sexual behavior;
  - ☞ Is charged with a crime of violence;
  - ☞ Is charged by direct filing into adult court.
- ☞ This information **does** include "the name, birth date, last-known address" and "a juvenile's physical description."
- ☞ Colo. Rev. Stat. §§ 19-1-304(5); 24-72-302(1)

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## The Juvenile Record



- ☞ The District Attorney is **required to notify the principal** whenever a juvenile is charged with committing:
  - ☞ A class 1, 2, 3, or 4 felony;
  - ☞ A level 1, 2, or 3 drug felony;
  - ☞ An offense involving unlawful sexual behavior;
  - ☞ A crime of violence;
  - ☞ Burglary, arson, aggravated motor vehicle theft; hazing; possession of a handgun by a juvenile; felony menacing; harassment;
  - ☞ Any crime involving a student or staff member at the same school;
  - ☞ Any crime involving the use of a deadly weapon.
- ☞ Colo. Rev. Stat. § 19-1-304(5.5)

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## School



Will my juvenile record affect my ability to go to my local public school?	
Can I get accepted into college if I have a juvenile record?	
Can I get a student loan to help pay for college?	

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## School



Will my juvenile record affect my ability to go to my local public school?	Juvenile adjudications and pending delinquency cases are shared with public schools and can affect admission.
Can I get accepted into college if I have a juvenile record?	Yes, but you may need to disclose the juvenile record, which could affect the school's decision to accept you.
Can I get a student loan to help pay for college?	Your juvenile record should not impact your ability to get federal college loans to help pay for school.

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## School



- ☞ A student may be suspended or expelled from public school for committing any of the following on school grounds, in a school vehicle, or at a school activity:
- ☞ Possession of a dangerous weapon;
  - ☞ Use/possession/sale of a controlled substance;
  - ☞ Robbery or felony assault.
- ☞ Colo. Rev. Stat. § 22-33-106(1)(d)

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## School



- ☞ A student may be suspended or expelled from public school for any other "behavior on or off school property" that is:
  - ☞ Detrimental to the welfare or safety of other pupils or of school personnel;
  - ☞ This automatically includes any petition alleging unlawful sexual behavior or a crime of violence.
- ☞ Colo. Rev. Stat. § § 22-33-106(1)(c); 22-33-105(5)(a)

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## School



- ☞ A juvenile can still be admitted to college, but many applications require the person to disclose if he or she has ever been adjudicated delinquent for any misdemeanor or felony offense. If the case has not been expunged, then the person must answer the question affirmatively, which could affect admission.
- ☞ A person with a juvenile record is still able to apply for FAFSA (federal student aid).
- ☞ 20 U.S.C. 1091

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## Jobs and the Military



Can I get a job if I have a juvenile record?

Can I join the military if I have a juvenile record?

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## Jobs and the Military

Can I get a job if I have a juvenile record?	Yes, but juvenile records for certain serious offenses may show up on a background check.
Can I join the military if I have a juvenile record?	Maybe. Your juvenile record might make it harder for you to enlist in the military.

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## Jobs and the Military

- ☞ A juvenile record can make it harder to join the military.
- ☞ Any crime involving a felony sexual offense or requires the person to register as a sex offender is a complete bar to enlistment.
- ☞ Other offenses involving controlled substances, domestic violence, or any other felony normally require a waiver to enlist.

☞ 32 C.F.R. 66.6(8)(ii), (iii); 32 C.F.R. 96.3; 10 U.S.C. § 504

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## Jobs and the Military

- ☞ Many jobs which require special licensing or access to a vulnerable population can deny employment based on juvenile adjudications. This includes:
  - ☞ Jobs which require a government license;
  - ☞ Jobs working with students, the mentally ill, or prisoners;
  - ☞ Any job relating to the education of children (Department of Education);
  - ☞ Any job relating to providing child care services (Department of Human Services).

☞ Colo. Rev. Stat. § § 22-60.5-103; 22-60.5-107; 26-6-104

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## Jobs and the Military



- Private employers are legally allowed to consider a person's juvenile arrest or delinquency record when making hiring decisions.

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## Immigration



Will my juvenile record affect my immigration status?

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## Immigration



Will my juvenile record affect my immigration status?

It's complicated. Your juvenile record might affect your ability to remain in the United States.

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## Immigration



- ☞ Many juvenile adjudications can have an effect on a person's ability to stay in the United States or to gain lawful status here. It will be more difficult to gain legal immigration status if the person is adjudicated for any of the following offenses:
  - ☞ Crimes of moral turpitude;
  - ☞ Felony offenses;
  - ☞ Failure to register as a sex offender;
  - ☞ Offenses involving controlled substances;
  - ☞ Offenses involving firearms, domestic violence; stalking, violation of protection orders; or crimes against children.
- ☞ 8 U.S.C. § 1227(a)(2), 1182(a)(2)

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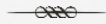
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## Public Benefits and Housing



Can I get public benefits with a juvenile record? What if I am in detention?	
Can I live in public housing or rent an apartment if I have a juvenile record?	

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## Public Benefits and Housing



Can I get public benefits with a juvenile record? What if I am in detention?	You should be able to get public benefits with a juvenile record, but detention could affect your receipt of the benefits.
Can I live in public housing or rent an apartment if I have a juvenile record?	Maybe. Depending on the type of offense, a juvenile record may limit your housing options.

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Public Benefits and Housing



- Public Housing Assistance can be affected if any household member is "engaged in" any of the following:
  - Drug-related activity;
  - Violent criminal activity;
  - Or any other criminal activity that may threaten the health or safety of the owner, staff, or any other resident.
- The denial of most other state benefits apply only to adult convictions.
- 42 U.S.C. § 1437f; 24 C.F.R. § § 966.4, 982.553; 9 C.C.R. 2503-6.3.604

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Other Consequences



Can I own or carry a firearm or other weapon?	
Can I vote and serve on a jury?	
Will my juvenile record have any effect on my ability to get a driver's license?	

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Other Consequences



Can I own or carry a firearm or other weapon?	Maybe. Any felony adjudication will bar a person for life from possessing firearms and many weapons.
Can I vote and serve on a jury?	Yes, you can vote (except while detained serving a sentence), and serve on a jury.
Will my juvenile record have any effect on my ability to get a driver's license?	Yes, many different types of juvenile adjudications can affect your ability to get your driver's license.

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## Public Benefits and Housing



- ☞ A person commits the crime of Possession of a Weapon by a Previous Offender if he or she knowingly possesses a firearm or other weapon subsequent to an adjudication for any felony offense.
- ☞ A person's driver's license can be suspended or revoked for any of the following:
  - ☞ Vehicular homicide/assault, DUI, MIP;
  - ☞ Any felony where a motor vehicle was used;
  - ☞ Aggravated motor vehicle theft; Trespass to a motor vehicle.
- ☞ Colo. Rev. Stat. § § 18-12-108; 42-2-125

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## Other Consequences



What happens if I don't pay court fines, fees, or restitution?	
What happens to my DNA after my case is closed?	
Do I have to continue to register as a sex offender after my juvenile case is closed?	

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## Other Consequences



What happens if I don't pay court fines, fees, or restitution?	Unpaid fines, fees, and restitution can be converted to a civil judgment, which can affect your credit.
What happens to my DNA after my case is closed?	DNA records will be kept in a state database and can be shared with the FBI.
Do I have to continue to register as a sex offender after my juvenile case is closed?	Maybe. The Court can issue an order discontinuing sex offender registration, but it is not guaranteed.

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## Direct Consequences – Sentencing

Sex-Offender De-Registration	Juvenile Expungement	Sentencing
Most juveniles can petition to de-register once the case is over.	Most juvenile cases are eligible for immediate and automatic expungement.	Mandatory Sentence Offender: 3 <sup>rd</sup> adjudication – presumptive one-year out of home
A juvenile who has more than one adjudication is subject to lifetime registration.	A repeat or mandatory sentence offender is eligible 36 months after "unconditional release" from the sentence.	Repeat Juvenile Offender: 2 <sup>nd</sup> adjudication which is felony – presumptive one-year out of home
	AJO, VJO, homicide, and felony sex offenses may never be expunged.	Violent Juvenile Offender: any crime of violence – mandatory one-year out of home
		Aggravated Juvenile Offender: (F1), (F2), 2 <sup>nd</sup> adjudication which is COV, felony sex offense – up to five years OOH.

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## Direct Consequences – 20 ½ Hearing

- ☞ If commitment will extend beyond a person's 21<sup>st</sup> birthday, the Court is required to hold a 20 ½ hearing, where it will do one of the following:
- ☞ Convert the balance of the sentence to an adult DOC or Community Corrections sentence;
  - ☞ Convert the balance of the sentence to a five-year adult parole sentence;
  - ☞ Vacate the balance of the sentence.

☞ Colo. Rev. Stat. § 19-2-601(8)(b)

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## Understanding Juvenile Adjudications



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