

By: Wu

H.B. No. 1193

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the jurisdiction of a juvenile court over certain
3 persons and to the sealing and nondisclosure of certain juvenile
4 and criminal records.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 51.0412, Family Code, is amended to read
7 as follows:

8 Sec. 51.0412. JURISDICTION OVER INCOMPLETE PROCEEDINGS.
9 The court retains jurisdiction over a person, without regard to the
10 age of the person, who is a respondent in an adjudication
11 proceeding, a disposition proceeding, a proceeding to modify
12 disposition, a proceeding for waiver of jurisdiction and transfer
13 to criminal court under Section 54.02(a), or a motion for transfer
14 of determinate sentence probation to an appropriate district court
15 if:

16 (1) the petition or motion was filed while the
17 respondent was younger than 18 or 19 years of age, as applicable;

18 (2) the proceeding is not complete before the
19 respondent becomes 18 or 19 years of age, as applicable; and

20 (3) the court enters a finding in the proceeding that:

21 (A) the prosecuting attorney exercised due
22 diligence in an attempt to complete the proceeding before the
23 respondent became 18 or 19 years of age, as applicable; or

24 (B) the proceeding has been delayed through no

1 fault of the state.

2 SECTION 2. Section 58.008(c), Family Code, is amended to
3 read as follows:

4 (c) Except as prohibited by a court order issued under
5 Section 411.0739, Government Code, the [The] law enforcement
6 records of a person with a determinate sentence who is transferred
7 to the Texas Department of Criminal Justice may be transferred to a
8 central state or federal depository for adult records after the
9 date of transfer and may be shared in accordance with the laws
10 governing the adult records in the depository.

11 SECTION 3. Section 58.256, Family Code, is amended by
12 amending Subsections (d) and (e) and adding Subsection (f) to read
13 as follows:

14 (d) Except as provided by Subsection (f), a [A] court may
15 not order the sealing of the records of a person who:

16 (1) ~~[received a determinate sentence for engaging in:~~
17 ~~[(A) delinquent conduct that violated a penal law~~
18 ~~listed under Section 53.045; or~~

19 ~~[(B) habitual felony conduct as described by~~
20 ~~Section 51.031;~~

21 ~~[(2)]~~ is currently required to register as a sex
22 offender under Chapter 62, Code of Criminal Procedure; or

23 (2) [(3)] was committed to the Texas Juvenile Justice
24 Department or to a post-adjudication secure correctional facility
25 under former Section 54.04011, unless the person:

26 (A) was not transferred to district court under
27 Section 54.11; and

1 (B) has been discharged from the agency to which
2 the person was committed.

3 (e) On receipt of an application under this section from a
4 person other than a person who received a determinate sentence and
5 was transferred to district court under Section 54.051 or 54.11,
6 the court may:

7 (1) order the sealing of the person's records
8 immediately, without a hearing; or

9 (2) hold a hearing under Section 58.257 at the court's
10 discretion to determine whether to order the sealing of the
11 person's records.

12 (f) On receipt of an application under this section from a
13 person who received a determinate sentence and was transferred to a
14 district court under Section 54.051 or 54.11, the court may hold a
15 hearing under Section 58.257 to determine whether it is in the best
16 interest of the person and of justice to order the sealing of the
17 person's records and may order the records to be sealed. The court
18 may not order the sealing of the records of the person unless the
19 person has completed the person's term of community supervision or
20 is released from prison, as applicable.

21 SECTION 4. Section 58.258(b), Family Code, is amended to
22 read as follows:

23 (b) Not later than the 60th day after the date of the entry
24 of the order, the court shall provide a copy of the order to:

25 (1) the Department of Public Safety;

26 (2) the Texas Juvenile Justice Department, if the
27 person was committed to the department;

- 1 (3) the clerk of court;
- 2 (4) the juvenile probation department serving the
3 court;
- 4 (5) the prosecutor's office;
- 5 (6) each law enforcement agency that had contact with
6 the person in relation to the conduct that is the subject of the
7 sealing order;
- 8 (7) each public or private agency that had custody of
9 or that provided supervision or services to the person in relation
10 to the conduct that is the subject of the sealing order;
- 11 (8) if the person was transferred to a district court
12 under Section 54.051 or 54.11, the district court to which the
13 person was transferred; and
- 14 (9) [~~8~~] each official, agency, or other entity that
15 the court has reason to believe has any record containing
16 information that is related to the conduct that is the subject of
17 the sealing order.

18 SECTION 5. Subchapter E-1, Chapter 411, Government Code, is
19 amended by adding Section 411.0739 to read as follows:

20 Sec. 411.0739. PROCEDURE FOR CERTAIN PERSONS TRANSFERRED
21 FROM JUVENILE COURT. (a) This section applies only to a person:

22 (1) who was transferred to a district court under
23 Section 54.051 or 54.11, Family Code; and

24 (2) whose juvenile records were ordered sealed under
25 Section 58.256(f), Family Code.

26 (b) Notwithstanding any other provision of this subchapter
27 or Subchapter F, a district court that receives a copy of an order

1 sealing juvenile records of a person described by Subsection (a)
2 from a juvenile court under Section 58.258(b)(8), Family Code,
3 shall issue an order of nondisclosure of criminal history record
4 information under this subchapter prohibiting criminal justice
5 agencies from disclosing to the public criminal history record
6 information related to the conduct for which the person was
7 transferred to the district court by the juvenile court.

8 SECTION 6. Section 411.074, Government Code, is amended by
9 adding Subsection (c) to read as follows:

10 (c) This section does not apply to an order of nondisclosure
11 of criminal history record information under Section 411.0739.

12 SECTION 7. The changes in law made by this Act apply only to
13 conduct violating a penal law of this state that occurs on or after
14 the effective date of this Act. Conduct violating a penal law of
15 this state that occurs before the effective date of this Act is
16 governed by the law in effect on the date the conduct occurred, and
17 the former law is continued in effect for that purpose. For
18 purposes of this section, conduct occurred before the effective
19 date of this Act if any element of the conduct occurred before that
20 date.

21 SECTION 8. This Act takes effect September 1, 2021.