

By: Miles

S.B. No. 1492

A BILL TO BE ENTITLED

AN ACT

relating to the expunction of records and files related to certain conduct or offenses committed by a child.

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

SECTION 1. The heading to Subchapter C-1, Chapter 58, Family Code, is amended to read as follows:

SUBCHAPTER C-1. SEALING, EXPUNCTION, AND DESTRUCTION OF JUVENILE RECORDS

SECTION 2. Subchapter C-1, Chapter 58, Family Code, is amended by adding Section 58.2645 to read as follows:

Sec. 58.2645. EXPUNCTION OF CERTAIN RECORDS. (a) Notwithstanding any other law, a person who was adjudicated by a juvenile court for conduct constituting a misdemeanor may on or after the person's 18th birthday apply to the juvenile court to have the adjudication expunged.

(b) Not later than the 30th day after the date a juvenile court receives an application for expunction under Subsection (a), the juvenile court shall issue an order of expunction.

(c) The Texas Juvenile Justice Department by rule shall establish the application process for expunction under this section.

SECTION 3. Section 58.265, Family Code, is amended to read as follows:

Sec. 58.265. JUVENILE RECORDS NOT SUBJECT TO EXPUNCTION.

1 Except as provided by Section 58.2645, records [~~Records~~] to which
2 this chapter applies are not subject to an order of expunction
3 issued by any court.

4 SECTION 4. Title 1, Code of Criminal Procedure, is amended
5 by adding Chapter 55A to read as follows:

6 CHAPTER 55A. JUVENILE EXPUNCTION PROGRAM

7 Art. 55A.001. APPLICABILITY. This chapter applies only to
8 a person who:

9 (1) was convicted for an offense that is a state jail
10 felony or a felony of the third degree other than an:

11 (A) offense involving violence, as defined by
12 Article 17.03; or

13 (B) offense for which an element of the offense
14 involves offensive or provocative sexual contact with another;

15 (2) at the time of the offense, was a child, as defined
16 by Section 51.02, Family Code;

17 (3) was transferred to a criminal court for
18 prosecution as provided by Section 54.02, Family Code; and

19 (4) has completed the person's sentence, including any
20 term of confinement imposed and payment of all fines, costs, and
21 restitution imposed.

22 Art. 55A.002. EXPUNCTION PROGRAM. (a) The Texas
23 Department of Criminal Justice shall, in consultation with the
24 Texas Juvenile Justice Department and juvenile probation
25 departments, develop and implement a juvenile expunction program
26 under which a person subject to this chapter may have a conviction
27 described by Article 55A.001(1) expunged after completion of the

1 program. The program must:

- 2 (1) be age-appropriate and research-based;
- 3 (2) provide models for positive behavior; and
- 4 (3) provide behavior management strategies,

5 including:

- 6 (A) positive behavioral intervention and
- 7 support;
- 8 (B) trauma-informed practices;
- 9 (C) social and emotional learning; and
- 10 (D) a referral for services, as necessary.

11 (b) The program described by Subsection (a) must be offered
12 in every county in this state. A person may only complete the
13 program in the county in which the person was convicted.

14 Art. 55A.003. EXPUNCTION AFTER PROGRAM COMPLETION. (a)
15 Notwithstanding any other law, an eligible person who completes the
16 program described by Article 55A.002 is entitled to have all
17 records and files related to a conviction described by Article
18 55A.001(1) expunged.

19 (b) A person described by Subsection (a) must apply in
20 writing to the court in which the person was convicted to have the
21 conviction expunged on or after the person's 19th birthday.

22 (c) The request under Subsection (b) must be made under oath
23 and include evidence of completion of the program described by
24 Article 55A.002.

25 (d) The court shall order all complaints, verdicts,
26 sentences, and prosecutorial and law enforcement records and any
27 other document relating to the offense expunged from the person's

1 record if the court finds that the person completed the program
2 described by Article 55A.002.

3 Art. 55A.004. RULES. The Texas Department of Criminal
4 Justice shall adopt rules and procedures to implement this chapter.

5 SECTION 5. As soon as practicable after the effective date
6 of this Act:

7 (1) the Texas Juvenile Justice Department shall
8 establish the application process described by Section 58.2645,
9 Family Code, as added by this Act; and

10 (2) the Texas Department of Criminal Justice shall
11 adopt rules and procedures necessary to implement Chapter 55A, Code
12 of Criminal Procedure, as added by this Act.

13 SECTION 6. The changes in law made by this Act apply to the
14 expunction of records and files relating to a criminal offense or
15 conduct constituting a criminal offense regardless of whether the
16 offense occurred before, on, or after the effective date of this
17 Act.

18 SECTION 7. This Act takes effect September 1, 2023.