

BILL ANALYSIS

C.S.H.B. 2386
By: Castro
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, juvenile offenders may apply to have their records sealed by the juvenile court if they meet certain criteria. Current law requires such juveniles to wait at least two years after the final discharge or action in their case, or in the case of a felony offense until after reaching the age of 21, to apply for the sealing of an eligible record. This process allows juveniles to put past mistakes behind them and to begin adult lives with a clean slate.

Often, a record that remains unsealed interferes with a juvenile's ability to secure employment or housing and can hinder a juvenile's opportunity to join the military or attend college. An unsealed record makes it difficult for these young people to make the transition to a normal and productive lifestyle. Juveniles who made a bad decision should not be penalized for the rest of their lives if a clear effort is made to correct their behavior. Although the current process provides a way for juveniles eventually to seal eligible records, time constraints mean that many juveniles' records remain open while they are between the ages of 16 and 20, which is a pivotal transition time during which they may be attempting to get a job, join the military, or enroll in an institution of higher education. Allowing a juvenile court to seal a juvenile's records immediately, or after a hearing on the matter, would give the judge the discretion needed to encourage a juvenile to participate in a successful intervention program in the juvenile's community and provide the court another tool to encourage the rehabilitation of juvenile offenders, most of whom are nonviolent first-time offenders.

C.S.H.B. 2386 allows a juvenile court to seal the record of an eligible juvenile immediately, or after holding a hearing on the matter, if the child successfully completes a drug court program.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2386 amends the Family Code to authorize a juvenile court, either immediately and without a hearing or after holding a hearing to determine whether the records should be sealed, to order the sealing of records concerning a child adjudicated as having engaged in delinquent conduct or conduct indicating a need for supervision that violated a penal law of the grade of misdemeanor or felony if the child successfully completed a drug court program. The bill authorizes the court to grant such relief at any time after final discharge of the child or after the last official action in the case if there was no adjudication. The bill clarifies that, on entry of an order sealing records, a verification from the appropriate person possessing any records, including an agency or other entity, stating that all specified records ordered sealed have been sealed, rather than all of the actual records ordered sealed, must be sent to the court issuing the order within a specified time period. The bill requires a juvenile court, on request of the Department of Public Safety, to reopen and allow DPS inspection of those sealed records belonging to an agency, institution, or other entity, in addition to the juvenile court's files and records.

C.S.H.B. 2386 makes its provisions applicable to the sealing of records in the adjudication of a juvenile case on or after September 1, 2009, regardless of whether the adjudication occurred before, on, or after September 1, 2009.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2386 removes a provision contained in the original authorizing a juvenile court to seal the records concerning a child adjudicated as having engaged in delinquent conduct or conduct indicating a need for supervision that violated a penal law of the grade of misdemeanor or felony if the child successfully completed a special program ordered by the court as an alternative to completing a drug court program. The substitute adds a provision not in the original authorizing the court to hold a hearing to determine whether to seal the record before issuing an order to seal the records.