

By: Turner of Harris

H.B. No. 2245

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the sealing of and restricted access to juvenile
3 records of adjudications of delinquent conduct or conduct
4 indicating a need for supervision.

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

6 SECTION 1. Section 58.003(c), Family Code, is amended to
7 read as follows:

8 (c) Subject to Subsection (b), a court may order the sealing
9 of records concerning a person adjudicated as having engaged in
10 delinquent conduct that violated a penal law of the grade of felony
11 only if:

12 (1) the person is 19 [~~21~~] years of age or older;

13 (2) the person was not transferred by a juvenile court
14 under Section 54.02 to a criminal court for prosecution;

15 (3) the records have not been used as evidence in the
16 punishment phase of a criminal proceeding under Section 3(a),
17 Article 37.07, Code of Criminal Procedure; and

18 (4) the person has not been convicted of a penal law of
19 the grade of felony after becoming age 17.

20 SECTION 2. Section 58.203(a), Family Code, is amended to
21 read as follows:

22 (a) The department shall certify to the juvenile probation
23 department to which a referral was made that resulted in
24 information being submitted to the juvenile justice information

1 system that the records relating to a person's juvenile case are
2 subject to automatic restriction of access if:

3 (1) the person is at least 17 [~~21~~] years of age;

4 (2) the juvenile case did not include violent or
5 habitual felony conduct resulting in proceedings in the juvenile
6 court under Section 53.045; and

7 (3) the juvenile case was not certified for trial in
8 criminal court under Section 54.02 [~~and~~

9 [~~(4) the department has not received a report in its
10 criminal history system that the person was granted deferred
11 adjudication for or convicted of a felony or a misdemeanor
12 punishable by confinement in jail for an offense committed after
13 the person became 17 years of age].~~

14 SECTION 3. Section 58.208, Family Code, is amended to read
15 as follows:

16 Sec. 58.208. INFORMATION TO CHILD ON DISCHARGE. On the
17 final discharge of a child from the juvenile system or on the last
18 official action in the case, if there is no adjudication, the
19 appropriate juvenile justice official shall provide to the child:

20 (1) a written explanation of how automatic restricted
21 access under this subchapter works;

22 (2) a copy of this subchapter; and

23 (3) a statement that if the child wishes to receive
24 notification of an action restricting access to the child's records
25 under Section 58.207(a), the child must before the child's 17th
26 [~~21st~~] birthday provide the juvenile probation department with a
27 current address where the child can receive notification.

1 SECTION 4. Section 58.209(a), Family Code, is amended to
2 read as follows:

3 (a) When a child is placed on probation for an offense that
4 may be eligible for automatic restricted access at age 17 [~~21~~] or
5 when a child is received by the Texas Youth Commission on an
6 indeterminate commitment, a probation officer or an official at the
7 Texas Youth Commission reception center, as soon as practicable,
8 shall explain the substance of the following information to the
9 child:

10 (1) if the child was adjudicated as having committed
11 delinquent conduct for a felony or jailable misdemeanor, that the
12 child probably has a juvenile record with the department and the
13 Federal Bureau of Investigation;

14 (2) that the child's juvenile record is a permanent
15 record that is not destroyed or erased unless the record is eligible
16 for sealing and the child or the child's family hires a lawyer and
17 files a petition in court to have the record sealed;

18 (3) that the child's juvenile record, other than
19 treatment records made confidential by law, can be accessed by
20 police, sheriff's officers, prosecutors, probation officers,
21 correctional officers, and other criminal and juvenile justice
22 officials in this state and elsewhere;

23 (4) that the child's juvenile record, other than
24 treatment records made confidential by law, can be accessed by
25 employers, educational institutions, licensing agencies, and other
26 organizations when the child applies for employment or educational
27 programs;

1 (5) if the child's juvenile record is placed on
2 restricted access when the child becomes 17 [~~21~~] years of age, that
3 access will be denied to employers, educational institutions, and
4 others except for criminal justice agencies; and

5 (6) [~~that to have the child's juvenile record placed on~~
6 ~~restricted access at age 21, the child must not:~~

7 [~~(A) commit a felony or jailable misdemeanor; and~~

8 [~~(B) receive deferred adjudication for or be~~
9 ~~convicted in adult court of a felony or jailable misdemeanor; and~~

10 [~~(7)~~] that restricted access does not require any
11 action by the child or the child's family, including the filing of a
12 petition or hiring of a lawyer, but occurs automatically at age 17
13 [~~21 if the child does not commit a criminal offense in the future~~].

14 SECTION 5. The change in law made by this Act applies to the
15 sealing of and restricting access to records in the adjudication of
16 a juvenile case on or after the effective date of this Act,
17 regardless of whether the adjudication occurred before, on, or
18 after the effective date of this Act.

19 SECTION 6. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2009.