

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 21 years of age or older,~~

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

15 (2) ~~(3)]~~ the records have not been used as evidence
16 in the punishment phase of a criminal proceeding under Section
17 3(a), Article 37.07, Code of Criminal Procedure; and

18 (3) ~~(4)]~~ the person has not been convicted of a penal
19 law of 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 19 [~~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;

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 58.209(a), Family Code, is amended to
15 read as follows:

16 (a) When a child is placed on probation for an offense that
17 may be eligible for automatic restricted access at age 19 [~~21~~] or
18 when a child is received by the Texas Youth Commission on an
19 indeterminate commitment, a probation officer or an official at the
20 Texas Youth Commission reception center, as soon as practicable,
21 shall explain the substance of the following information to the
22 child:

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

27 (2) that the child's juvenile record is a permanent

1 record that is not destroyed or erased unless the record is eligible
2 for sealing and the child or the child's family hires a lawyer and
3 files a petition in court to have the record sealed;

4 (3) that the child's juvenile record, other than
5 treatment records made confidential by law, can be accessed by
6 police, sheriff's officers, prosecutors, probation officers,
7 correctional officers, and other criminal and juvenile justice
8 officials in this state and elsewhere;

9 (4) that the child's juvenile record, other than
10 treatment records made confidential by law, can be accessed by
11 employers, educational institutions, licensing agencies, and other
12 organizations when the child applies for employment or educational
13 programs;

14 (5) if the child's juvenile record is placed on
15 restricted access when the child becomes 19 [~~21~~] years of age, that
16 access will be denied to employers, educational institutions, and
17 others except for criminal justice agencies;

18 (6) that to have the child's juvenile record placed on
19 restricted access at age 19 [~~21~~], the child must not:

20 (A) commit a felony or jailable misdemeanor; and

21 (B) receive deferred adjudication for or be
22 convicted in adult court of a felony or jailable misdemeanor; and

23 (7) that restricted access does not require any action
24 by the child or the child's family, including the filing of a
25 petition or hiring of a lawyer, but occurs automatically at age 19
26 [~~21~~] if the child does not commit a criminal offense in the future.

27 SECTION 4. The change in law made by this Act applies to the

1 sealing of and restricting access to records in the adjudication of
2 a juvenile case on or after the effective date of this Act,
3 regardless of whether the adjudication occurred before, on, or
4 after the effective date of this Act.

5 SECTION 5. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2009.