

By: Castro, et al.

H.B. No. 2386

A BILL TO BE ENTITLED

AN ACT

relating to the sealing of juvenile records.

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

SECTION 1. Section 58.003, Family Code, is amended by adding Subsections (c-1) and (c-2) and amending Subsections (d) and (e) to read as follows:

(c-1) Notwithstanding Subsections (a) and (c) and subject to Subsection (b), a juvenile court may 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 under Chapter 469, Health and Safety Code. The court may:

(1) order the sealing of the records immediately and without a hearing; or

(2) hold a hearing to determine whether to seal the records.

(c-2) If the court orders the sealing of a child's records under Subsection (c-1), a prosecuting attorney or juvenile probation department may maintain until the child's 17th birthday a separate record of the child's name and date of birth and the date the child successfully completed the drug court program. The prosecuting attorney or juvenile probation department, as applicable, shall send the record to the court as soon as

1 practicable after the child's 17th birthday to be added to the
2 child's other sealed records.

3 (d) The court may grant the relief authorized in Subsection
4 (a) or (c-1) at any time after final discharge of the person or
5 after the last official action in the case if there was no
6 adjudication, subject to Subsection (e). If the child is referred
7 to the juvenile court for conduct constituting any offense and at
8 the adjudication hearing the child is found to be not guilty of each
9 offense alleged, the court shall immediately and without any
10 additional hearing order the sealing of all files and records
11 relating to the case.

12 (e) The court shall hold a hearing before sealing a person's
13 records under Subsection (a) or (c) unless the applicant waives the
14 right to a hearing in writing and the court and the prosecuting
15 attorney for the juvenile court consent. Reasonable notice of the
16 hearing shall be given to:

17 (1) the person who made the application or who is the
18 subject of the records named in the motion;

19 (2) the prosecuting attorney for the juvenile court;

20 (3) the authority granting the discharge if the final
21 discharge was from an institution or from parole;

22 (4) the public or private agency or institution having
23 custody of records named in the application or motion; and

24 (5) the law enforcement agency having custody of files
25 or records named in the application or motion.

26 SECTION 2. The change in law made by this Act applies to the
27 sealing of records in the adjudication of a juvenile case on or

1 after the effective date of this Act, regardless of whether the
2 adjudication occurred before, on, or after the effective date of
3 this Act.

4 SECTION 3. This Act takes effect September 1, 2009.