

By: Castro

H.B. No. 2386

Substitute the following for H.B. No. 2386:

By: McReynolds

C.S.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 Subsection (c-1) and amending Subsections (d), (e), (g), and (m) 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.

(d) The court may grant the relief authorized in Subsection (a) or (c-1) at any time after final discharge of the person or after the last official action in the case if there was no adjudication. If the child is referred to the juvenile court for conduct constituting any offense and at the adjudication hearing the child is found to be not guilty of each offense alleged, the court shall immediately order the sealing of all files and records

1 relating to the case.

2 (e) If a hearing is required, reasonable [~~Reasonable~~]  
3 notice of the hearing shall be given to:

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

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

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

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

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

13 (g) On entry of an [~~the~~] order sealing records under this  
14 section:

15 (1) a verification from the appropriate person,  
16 including an agency or other entity, stating that all law  
17 enforcement, prosecuting attorney, clerk of court, and juvenile  
18 court records ordered sealed have been sealed shall be sent before  
19 the 61st day after the date the order is received to the court  
20 issuing the order;

21 (2) a verification from the appropriate agency or  
22 institution stating that all records of a public or private agency  
23 or institution ordered sealed have been sealed shall be sent before  
24 the 61st day after the date the order is received to the court  
25 issuing the order;

26 (3) all index references to the records ordered sealed  
27 shall be deleted before the 61st day after the date the order is

1 received, and verification of the deletion shall be sent before the  
2 61st day after the date of the deletion to the court issuing the  
3 order;

4 (4) the juvenile court, clerk of court, prosecuting  
5 attorney, public or private agency or institution, and law  
6 enforcement officers and agencies shall properly reply that no  
7 record exists with respect to the person on inquiry in any matter;  
8 and

9 (5) the adjudication shall be vacated and the  
10 proceeding dismissed and treated for all purposes other than a  
11 subsequent capital prosecution, including the purpose of showing a  
12 prior finding of delinquent conduct, as if it had never occurred.

13 (m) On request of the Department of Public Safety, a  
14 juvenile court shall reopen and allow the department to inspect the  
15 files and records of the juvenile court, and records described by  
16 Subsections (g)(1) and (2), relating to an applicant for a license  
17 to carry a concealed handgun under Subchapter H, Chapter 411,  
18 Government Code.

19 SECTION 2. The change in law made by this Act applies to the  
20 sealing of records in the adjudication of a juvenile case on or  
21 after the effective date of this Act, regardless of whether the  
22 adjudication occurred before, on, or after the effective date of  
23 this Act.

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