

1-1 By: Castro, et al. (Senate Sponsor - Uresti) H.B. No. 2386
1-2 (In the Senate - Received from the House May 5, 2009;
1-3 May 5, 2009, read first time and referred to Committee on Criminal
1-4 Justice; May 6, 2009, reported favorably by the following vote:
1-5 Yeas 6, Nays 0; May 6, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the sealing of juvenile records.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 58.003, Family Code, is amended by
1-11 adding Subsections (c-1) and (c-2) and amending Subsections (d) and
1-12 (e) to read as follows:

1-13 (c-1) Notwithstanding Subsections (a) and (c) and subject
1-14 to Subsection (b), a juvenile court may order the sealing of records
1-15 concerning a child adjudicated as having engaged in delinquent
1-16 conduct or conduct indicating a need for supervision that violated
1-17 a penal law of the grade of misdemeanor or felony if the child
1-18 successfully completed a drug court program under Chapter 469,
1-19 Health and Safety Code. The court may:

1-20 (1) order the sealing of the records immediately and
1-21 without a hearing; or

1-22 (2) hold a hearing to determine whether to seal the
1-23 records.

1-24 (c-2) If the court orders the sealing of a child's records
1-25 under Subsection (c-1), a prosecuting attorney or juvenile
1-26 probation department may maintain until the child's 17th birthday a
1-27 separate record of the child's name and date of birth and the date
1-28 the child successfully completed the drug court program. The
1-29 prosecuting attorney or juvenile probation department, as
1-30 applicable, shall send the record to the court as soon as
1-31 practicable after the child's 17th birthday to be added to the
1-32 child's other sealed records.

1-33 (d) The court may grant the relief authorized in Subsection
1-34 (a) or (c-1) at any time after final discharge of the person or
1-35 after the last official action in the case if there was no
1-36 adjudication, subject to Subsection (e). If the child is referred
1-37 to the juvenile court for conduct constituting any offense and at
1-38 the adjudication hearing the child is found to be not guilty of each
1-39 offense alleged, the court shall immediately and without any
1-40 additional hearing order the sealing of all files and records
1-41 relating to the case.

1-42 (e) The court shall hold a hearing before sealing a person's
1-43 records under Subsection (a) or (c) unless the applicant waives the
1-44 right to a hearing in writing and the court and the prosecuting
1-45 attorney for the juvenile court consent. Reasonable notice of the
1-46 hearing shall be given to:

1-47 (1) the person who made the application or who is the
1-48 subject of the records named in the motion;

1-49 (2) the prosecuting attorney for the juvenile court;

1-50 (3) the authority granting the discharge if the final
1-51 discharge was from an institution or from parole;

1-52 (4) the public or private agency or institution having
1-53 custody of records named in the application or motion; and

1-54 (5) the law enforcement agency having custody of files
1-55 or records named in the application or motion.

1-56 SECTION 2. The change in law made by this Act applies to the
1-57 sealing of records in the adjudication of a juvenile case on or
1-58 after the effective date of this Act, regardless of whether the
1-59 adjudication occurred before, on, or after the effective date of
1-60 this Act.

1-61 SECTION 3. This Act takes effect September 1, 2009.

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