

By: Rios Ybarra, et al.

H.B. No. 4136

A BILL TO BE ENTITLED

AN ACT

relating to sealing court records containing medical information for children who are victims of certain offenses.

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

SECTION 1. Title 1, Code of Criminal Procedure, is amended by adding Chapter 57C to read as follows:

CHAPTER 57C. SEALING OF COURT RECORDS CONTAINING MEDICAL INFORMATION FOR CERTAIN CHILD VICTIMS

Art. 57C.01. DEFINITIONS. In this chapter:

(1) "Child" means a person who is younger than 18 years of age.

(2) "Medical records" means any information used or generated by health care providers, including records relating to emergency room treatment, rehabilitation therapy, or counseling.

Art. 57C.02. SEALING OF RECORDS. (a) Except as provided by Subsection (c), on a motion filed by a person described by Subsection (b), the court shall seal the medical records of a child who is a victim of an offense described by Section 1, Article 38.071.

(b) A motion under this article may be filed on the court's own motion or by:

(1) the attorney representing the state;

(2) the defendant; or

1 (3) the parent or guardian of the victim or, if the
2 victim is no longer a child, the victim.

3 (c) The court is not required to seal the records described
4 by this article on a finding of good cause after a hearing held
5 under Subsection (d).

6 (d) The court shall grant the motion without a hearing
7 unless the motion is contested not later than the seventh day after
8 the date the motion is filed.

9 (e) Medical records sealed under this chapter are not open
10 for inspection by any person except:

11 (1) on further order of the court after:

12 (A) notice to a parent or guardian of the victim
13 whose information is sealed or, if the victim is no longer a child,
14 notice to the victim; and

15 (B) a finding of good cause;

16 (2) in connection with a criminal or civil proceeding
17 as otherwise provided by law; or

18 (3) on request of a parent or legal guardian of the
19 victim whose information is being sealed or, if the victim is no
20 longer a child, on request of the victim.

21 (f) A clerk of court is not liable for any failure to seal
22 medical records after a motion under this chapter is granted,
23 except on a showing of bad faith.

24 SECTION 2. The change in law made by this Act applies only
25 to a motion to seal medical records that is made on or after the
26 effective date of this Act. A motion to seal medical records that
27 is made before the effective date of this Act is governed by the law

1 in effect immediately before the effective date of this Act, and the
2 former law is continued in effect for that purpose.

3 SECTION 3. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2009.