

1 AN ACT

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

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

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

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

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

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

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

16 Art. 57C.02. SEALING OF RECORDS. (a) Except as provided by  
17 Subsection (c), on a motion filed by a person described by  
18 Subsection (b), the court shall seal the medical records of a child  
19 who is a victim of an offense described by Section 1, Article  
20 38.071.

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

23 (1) the attorney representing the state;

24 (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.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 4136 was passed by the House on May 4, 2009, by the following vote: Yeas 122, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 4136 was passed by the Senate on May 26, 2009, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor