

1-1 By: Rios Ybarra, et al. H.B. No. 4136
1-2 (Senate Sponsor - Van de Putte)
1-3 (In the Senate - Received from the House May 5, 2009;
1-4 May 6, 2009, read first time and referred to Committee on Criminal
1-5 Justice; May 20, 2009, reported favorably by the following vote:
1-6 Yeas 7, Nays 0; May 20, 2009, sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to sealing court records containing medical information
1-10 for children who are victims of certain offenses.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Title 1, Code of Criminal Procedure, is amended
1-13 by adding Chapter 57C to read as follows:

1-14 CHAPTER 57C. SEALING OF COURT RECORDS CONTAINING MEDICAL
1-15 INFORMATION FOR CERTAIN CHILD VICTIMS

1-16 Art. 57C.01. DEFINITIONS. In this chapter:

1-17 (1) "Child" means a person who is younger than 18
1-18 years of age.

1-19 (2) "Medical records" means any information used
1-20 or generated by health care providers, including records relating
1-21 to emergency room treatment, rehabilitation therapy, or
1-22 counseling.

1-23 Art. 57C.02. SEALING OF RECORDS. (a) Except as provided by
1-24 Subsection (c), on a motion filed by a person described by
1-25 Subsection (b), the court shall seal the medical records of a child
1-26 who is a victim of an offense described by Section 1, Article
1-27 38.071.

1-28 (b) A motion under this article may be filed on the court's
1-29 own motion or by:

1-30 (1) the attorney representing the state;

1-31 (2) the defendant; or

1-32 (3) the parent or guardian of the victim or, if the
1-33 victim is no longer a child, the victim.

1-34 (c) The court is not required to seal the records described
1-35 by this article on a finding of good cause after a hearing held
1-36 under Subsection (d).

1-37 (d) The court shall grant the motion without a hearing
1-38 unless the motion is contested not later than the seventh day after
1-39 the date the motion is filed.

1-40 (e) Medical records sealed under this chapter are not open
1-41 for inspection by any person except:

1-42 (1) on further order of the court after:

1-43 (A) notice to a parent or guardian of the victim
1-44 whose information is sealed or, if the victim is no longer a child,
1-45 notice to the victim; and

1-46 (B) a finding of good cause;

1-47 (2) in connection with a criminal or civil proceeding
1-48 as otherwise provided by law; or

1-49 (3) on request of a parent or legal guardian of the
1-50 victim whose information is being sealed or, if the victim is no
1-51 longer a child, on request of the victim.

1-52 (f) A clerk of court is not liable for any failure to seal
1-53 medical records after a motion under this chapter is granted,
1-54 except on a showing of bad faith.

1-55 SECTION 2. The change in law made by this Act applies only
1-56 to a motion to seal medical records that is made on or after the
1-57 effective date of this Act. A motion to seal medical records that
1-58 is made before the effective date of this Act is governed by the law
1-59 in effect immediately before the effective date of this Act, and the
1-60 former law is continued in effect for that purpose.

1-61 SECTION 3. This Act takes effect immediately if it receives
1-62 a vote of two-thirds of all the members elected to each house, as
1-63 provided by Section 39, Article III, Texas Constitution. If this
1-64 Act does not receive the vote necessary for immediate effect, this

2-1 Act takes effect September 1, 2009.

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