

BILL ANALYSIS

S.B. 394
By: West
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

H.B. 961, 82nd Legislature, Regular Session, 2011, established that the records of minors convicted of certain fine-only Class C misdemeanors are confidential. Although this bill provided needed protections for children, additional clarification is needed regarding the confidentiality of the records of those minors who are not adjudicated.

S.B. 394 seeks to put in place statutory suggestions of the Texas Judicial Council, which is the policy-making body of the judiciary in this state. This bill expands the confidentiality of records for all minors, including those who received deferred prosecution. It also expands existing confidentiality provisions to include municipal and justice courts.

As proposed, S.B. 394 amends current law relating to restricting access to records of children convicted of or receiving deferred disposition for certain fine-only misdemeanors.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Article 44.2811, Code of Criminal Procedure, as follows:

Art. 44.2811. New heading: RECORDS RELATING TO CHILDREN CONVICTED OF OR RECEIVING DEFERRED DISPOSITION FOR FINE-ONLY MISDEMEANORS. (a) Provides that this article applies only to a misdemeanor offense punishable by fine only, other than a traffic offense.

(b) Creates this subsection from existing text. Provides that all records and files and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is convicted of and has satisfied the judgment for or who has received a dismissal after deferral of disposition for an offense described by Subsection (a) are confidential and may not be disclosed to the public except as provided under Article 45.0217(b), rather than providing that records and files and information stored by electronic means relating to a child who is convicted of and has satisfied the judgment for a fine-only offense other than a traffic offense are confidential and may not be disclosed to the public except as provided under Article 45.0217(b). Deletes existing text providing that all records and files and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child whose conviction for a fine-only misdemeanor other than a traffic offense is affirmed are confidential upon satisfaction of the judgment and may not be disclosed to the public except as provided under Article 45.0217(b).

SECTION 2. Amends Article 45.0217, Code of Criminal Procedure, as follows:

Art. 45.0217. New heading: CONFIDENTIAL RECORDS RELATED TO THE CONVICTION OF OR DEFERRAL OF DISPOSITION FOR A CHILD. (a) Provides that this article applies only to a misdemeanor offense punishable by fine only, other than a traffic offense.

(a-1) Creates this subsection from existing text. Provides that, except as provided by Article 15.27 (Notification to Schools Required) and Subsection (b), all records and files, including those held by law enforcement, and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is convicted of and has satisfied the judgment for or who has received a dismissal after deferral of disposition for an offense described by Subsection (a), rather than relating to a child who is convicted of and has satisfied the judgment for a fine-only misdemeanor offense other than a traffic offense, are confidential and are prohibited from being disclosed to the public.

(b) Authorizes information subject to Subsection (a-1), rather than Subsection(a) to be open to inspection by certain persons and entities.

SECTION 3. Amends Section 58.00711, Family Code, as follows:

Sec. 58.00711. New heading: RECORDS RELATING TO CHILDREN CONVICTED OF OR RECEIVING DEFERRED DISPOSITION FOR FINE-ONLY MISDEMEANORS. (a) Provides that this section applies only to a misdemeanor offense punishable by fine only, other than a traffic offense.

(b) Creates this subsection from existing text. Provides that, except as provided by Article 45.0217(b), Code of Criminal Procedure, all records and files and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is convicted of and has satisfied the judgment for or who has received a dismissal after deferral of disposition for an offense described by Subsection (a), rather than relating to a child who is convicted of and has satisfied the judgment for a fine-only misdemeanor offense other than a traffic offense, are confidential and are prohibited from being disclosed to the public.

SECTION 4. Provides that Articles 44.2811 and 45.0217, Code of Criminal Procedure, and Section 58.00711, Family Code, as amended by this Act, apply only to the disclosure of a record or file on or after the effective date of this Act regardless of whether the offense that is the subject of the record or file was committed before, on, or after the effective date of this Act.

EFFECTIVE DATE

Effective date: September 1, 2013.