

By: Miles

H.B. No. 2854

A BILL TO BE ENTITLED

AN ACT

relating to the automatic sealing in certain cases of juvenile records of adjudications of delinquent conduct or conduct indicating a need for supervision.

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

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

(a) Except as provided by Subsections (b) and (c), ~~[on the application of a person who has been found to have engaged in delinquent conduct or conduct indicating a need for supervision, or a person taken into custody to determine whether the person engaged in delinquent conduct or conduct indicating a need for supervision,~~ on the juvenile court's own motion the court shall immediately order the sealing of the records in the case of a person who has been found to have engaged in delinquent conduct or conduct indicating a need for supervision or a person taken into custody to determine whether the person engaged in delinquent conduct or conduct indicating a need for supervision if the court finds that:

(1) the defendant is:

(A) 16 years of age or younger and two years have elapsed since final discharge of the person or since the last official action in the person's case if there was no adjudication;
or

1 (B) 17 years of age or older and, before the
2 person's 17th birthday, the person has been finally discharged or
3 the last official action in the person's case has occurred if there
4 was no adjudication; ~~and~~

5 (2) since the time specified in Subdivision (1)(A) or
6 the person's 17th birthday, as applicable ~~[(1)]~~, the person has not
7 been convicted of a felony or a misdemeanor involving moral
8 turpitude or found to have engaged in delinquent conduct or conduct
9 indicating a need for supervision and no proceeding is pending
10 seeking conviction or adjudication; and

11 (3) the prosecuting attorney does not object to the
12 sealing of the records under Subsection (a-1).

13 (a-1) On a person becoming eligible under Subsection
14 (a)(1), the court shall:

15 (1) determine whether the person meets the
16 requirements of Subsection (a)(2); and

17 (2) if the person meets the requirements of Subsection
18 (a)(2), provide notice to the prosecuting attorney for the juvenile
19 court in the case that the person's records will be sealed on the
20 expiration of 30 days if no objection is made by the attorney within
21 that time.

22 (a-2) If the prosecuting attorney for the juvenile court in
23 the case objects to sealing the person's records, the court shall
24 hold a hearing to determine if the records should be sealed.

25 (e) The court shall hold a hearing before sealing a person's
26 records under Subsection ~~[(a) or]~~ (c) unless the applicant waives
27 the right to a hearing in writing and the court and the prosecuting

1 attorney for the juvenile court consent. Reasonable notice of the
2 hearing shall be given to:

3 (1) the person who made the application or who is the
4 subject of the records named in the motion;

5 (2) the prosecuting attorney for the juvenile court;

6 (3) the authority granting the discharge if the final
7 discharge was from an institution or from parole;

8 (4) the public or private agency or institution having
9 custody of records named in the application or motion; and

10 (5) the law enforcement agency having custody of files
11 or records named in the application or motion.

12 SECTION 2. The change in law made by this Act applies to the
13 sealing of and restricting access to records in the adjudication of
14 a juvenile case on or after the effective date of this Act,
15 regardless of whether the adjudication occurred before, on, or
16 after the effective date of this Act.

17 SECTION 3. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2013.