

By: West

S.B. No. 1440

A BILL TO BE ENTITLED

AN ACT

relating to adjudication and disposition of juvenile conduct.

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

SECTION 1. Article 45.0216(f), Code of Criminal Procedure, is amended to read as follows:

(f) The court shall order the conviction, together with all complaints, verdicts, sentences, and prosecutorial and law enforcement records, and any other documents relating to the offense, expunged from the person's record if the court finds that:

(1) for a person applying for the expunction of a conviction for an offense described by Section 8.07(a)(4) or (5), Penal Code, the person was not convicted of any other offense described by Section 8.07(a)(4) or (5), Penal Code, while the person was a child; and

(2) for a person applying for the expunction of a conviction for an offense described by Section 43.261, Penal Code, the person was not found to have engaged in conduct indicating a need for supervision described by Section 51.03(b)(8) [~~51.03(b)(7)~~], Family Code, while the person was a child.

SECTION 2. Section 51.03(b), Family Code, as amended by Chapters 1150 (H.B. 2015) and 1322 (S.B. 407), Acts of the 82nd Legislature, Regular Session, 2011, is reenacted and amended to read as follows:

(b) Conduct indicating a need for supervision is:

1 (1) subject to Subsection (f), conduct, other than a
2 traffic offense, that violates:

3 (A) the penal laws of this state of the grade of
4 misdemeanor that are punishable by fine only; or

5 (B) the penal ordinances of any political
6 subdivision of this state;

7 (2) the absence of a child on 10 or more days or parts
8 of days within a six-month period in the same school year or on
9 three or more days or parts of days within a four-week period from
10 school;

11 (3) the voluntary absence of a child from the child's
12 home without the consent of the child's parent or guardian for a
13 substantial length of time or without intent to return;

14 (4) conduct prohibited by city ordinance or by state
15 law involving the inhalation of the fumes or vapors of paint and
16 other protective coatings or glue and other adhesives and the
17 volatile chemicals itemized in Section 485.001, Health and Safety
18 Code;

19 (5) an act that violates a school district's
20 previously communicated written standards of student conduct for
21 which the child has been expelled under Section 37.007(c),
22 Education Code;

23 (6) conduct that violates a reasonable and lawful
24 order of a court entered under Section 264.305; ~~[or]~~

25 (7) notwithstanding Subsection (a)(1), conduct
26 described by Section 43.02(a)(1) or (2), Penal Code; or

27 (8) notwithstanding Subsection (a)(1), ~~[(7)]~~ conduct

1 that violates Section 43.261, Penal Code.

2 SECTION 3. Section 51.0412, Family Code, is amended to read
3 as follows:

4 Sec. 51.0412. JURISDICTION OVER INCOMPLETE PROCEEDINGS.

5 The court retains jurisdiction over a person, without regard to the
6 age of the person, who is a respondent in an adjudication
7 proceeding, a disposition proceeding, a proceeding to modify
8 disposition, a proceeding for waiver of jurisdiction and transfer
9 to criminal court under Section 54.02(a), or a motion for transfer
10 of determinate sentence probation to an appropriate district court
11 if:

12 (1) the petition or motion [~~to modify~~] was filed while
13 the respondent was younger than 18 [~~years of age~~] or [~~the motion for~~
14 ~~transfer was filed while the respondent was younger than~~] 19 years
15 of age, as applicable;

16 (2) the proceeding is not complete before the
17 respondent becomes 18 or 19 years of age, as applicable; and

18 (3) the court enters a finding in the proceeding that
19 the prosecuting attorney exercised due diligence in an attempt to
20 complete the proceeding before the respondent became 18 or 19 years
21 of age, as applicable.

22 SECTION 4. Section 51.07, Family Code, is amended to read as
23 follows:

24 Sec. 51.07. TRANSFER TO ANOTHER COUNTY FOR DISPOSITION OR
25 MODIFICATION OF DISPOSITION. (a) When a child has been found to
26 have engaged in delinquent conduct or conduct indicating a need for
27 supervision under Section 54.03, the juvenile court may transfer

1 the case and transcripts of records and documents to the juvenile
2 court of the county where the child resides for disposition of the
3 case or a modification of disposition under Section 54.04 or 54.05,
4 respectively. Consent by the court of the county where the child
5 resides is not required.

6 (b) For purposes of Subsection (a), while a child is the
7 subject of a suit under Title 5, the child is considered to reside
8 in the county in which the court of continuing exclusive
9 jurisdiction over the child is located.

10 SECTION 5. Section 51.072, Family Code, is amended by
11 amending Subsection (f) and adding Subsections (f-2), (j-1), and
12 (j-2) to read as follows:

13 (f) Not later than 10 business days after a receiving county
14 has agreed to provide interim supervision of a child, the juvenile
15 probation department of the sending county shall provide the
16 juvenile probation department of the receiving county with a copy
17 of the following documents:

18 (1) the petition and the adjudication and disposition
19 orders for the child, including the child's thumbprint;

20 (2) the child's conditions of probation;

21 (3) the social history report for the child;

22 (4) any psychological or psychiatric reports
23 concerning the child;

24 (5) the Department of Public Safety CR 43J form or
25 tracking incident number concerning the child;

26 (6) any law enforcement incident reports concerning
27 the offense for which the child is on probation;

1 (7) any sex offender registration information
2 concerning the child;

3 (8) any juvenile probation department progress
4 reports concerning the child and any other pertinent documentation
5 for the child's probation officer;

6 (9) case plans concerning the child;

7 (10) the Texas Juvenile Justice Department [~~Probation~~
8 ~~Commission~~] standard assessment tool results for the child;

9 (11) the computerized referral and case history for
10 the child, including case disposition;

11 (12) the child's birth certificate;

12 (13) the child's social security number or social
13 security card, if available;

14 (14) the name, address, and telephone number of the
15 contact person in the sending county's juvenile probation
16 department;

17 (15) Title IV-E eligibility screening information for
18 the child, if available;

19 (16) the address in the sending county for forwarding
20 funds collected to which the sending county is entitled;

21 (17) any of the child's school or immunization records
22 that the juvenile probation department of the sending county
23 possesses; [~~and~~]

24 (18) any victim information concerning the case for
25 which the child is on probation; and

26 (19) if applicable, documentation that the sending
27 county has required the child to provide a DNA sample to the

1 Department of Public Safety under Section 54.0405 or 54.0409 or
2 under Subchapter G, Chapter 411, Government Code.

3 (f-2) On initiating a transfer of probation supervision
4 under this section, a sending county court that ordered a child to
5 submit a DNA sample as a condition of probation shall provide to the
6 receiving county documentation of compliance with the requirements
7 of Section 54.0405 or 54.0409 or of Subchapter G, Chapter 411,
8 Government Code, as applicable. If the sending county has not
9 provided the documentation required under this section within the
10 time provided by Subsection (f), the receiving county may refuse to
11 accept interim supervision until the sending county has provided
12 the documentation.

13 (j-1) Notwithstanding Subsection (j), the sending county
14 may request interim supervision from the receiving county that
15 issued a directive under Subsection (i)(2). Following the
16 conclusion of any judicial proceedings in the sending county or on
17 the completion of any residential placement ordered by the juvenile
18 court of the sending county, the sending and receiving counties may
19 mutually agree to return the child to the receiving county. The
20 sending and receiving counties may take into consideration whether:

21 (1) the person having legal custody of the child
22 resides in the receiving county;

23 (2) the child has been ordered by the juvenile court of
24 the sending county to reside with a parent, guardian, or other
25 person who resides in the sending county or any other county; and

26 (3) the case meets the statutory requirements for
27 collaborative supervision.

1 (j-2) The period of interim supervision under Subsection
2 (j-1) may not exceed the period under Subsection (m).

3 SECTION 6. Sections 51.13(d) and (e), Family Code, are
4 amended to read as follows:

5 (d) An adjudication under Section 54.03 that a child engaged
6 in conduct that occurred on or after January 1, 1996, and that
7 constitutes a felony offense resulting in commitment to the Texas
8 Juvenile Justice Department [~~Youth Commission~~] under Section
9 54.04(d)(2), (d)(3), or (m) or 54.05(f) is a final felony
10 conviction only for the purposes of Sections 12.42(a), (b), and
11 (c)(1), [~~and (e),~~] Penal Code.

12 (e) A finding that a child engaged in conduct indicating a
13 need for supervision as described by Section 51.03(b)(8)
14 [~~51.03(b)(7)~~] is a conviction only for the purposes of Sections
15 43.261(c) and (d), Penal Code.

16 SECTION 7. Section 54.0404(a), Family Code, is amended to
17 read as follows:

18 (a) If a child is found to have engaged in conduct
19 indicating a need for supervision described by Section 51.03(b)(8)
20 [~~51.03(b)(7)~~], the juvenile court may enter an order requiring the
21 child to attend and successfully complete an educational program
22 described by Section 37.218, Education Code, or another equivalent
23 educational program.

24 SECTION 8. Section 58.003(c-3), Family Code, as added by
25 Chapter 1322 (S.B. 407), Acts of the 82nd Legislature, Regular
26 Session, 2011, is redesignated as Section 58.003(c-5), Family Code,
27 to read as follows:

1 (c-5) [~~(c-3)~~] Notwithstanding Subsections (a) and (c) and
2 subject to Subsection (b), a juvenile court may order the sealing of
3 records concerning a child found to have engaged in conduct
4 indicating a need for supervision that violates Section 43.261,
5 Penal Code, or taken into custody to determine whether the child
6 engaged in conduct indicating a need for supervision that violates
7 Section 43.261, Penal Code, if the child attends and successfully
8 completes an educational program described by Section 37.218,
9 Education Code, or another equivalent educational program. The
10 court may:

11 (1) order the sealing of the records immediately and
12 without a hearing; or

13 (2) hold a hearing to determine whether to seal the
14 records.

15 SECTION 9. Section 58.003(c-4), Family Code, as added by
16 Chapter 1322 (S.B. 407), Acts of the 82nd Legislature, Regular
17 Session, 2011, is redesignated as Section 58.003(c-6), Family Code,
18 and amended to read as follows:

19 (c-6) [~~(c-4)~~] A prosecuting attorney or juvenile probation
20 department may maintain until a child's 17th birthday a separate
21 record of the child's name and date of birth and the date on which
22 the child successfully completed the educational program, if the
23 child's records are sealed under Subsection (c-5) [~~(c-3)~~]. The
24 prosecuting attorney or juvenile probation department, as
25 applicable, shall send the record to the court as soon as
26 practicable after the child's 17th birthday to be added to the
27 child's other sealed records.

1 SECTION 10. Section 58.003(d), Family Code, as amended by
2 Chapters 1150 (H.B. 2015) and 1322 (S.B. 407), Acts of the 82nd
3 Legislature, Regular Session, 2011, is reenacted and amended to
4 read as follows:

5 (d) The court may grant to a child the relief authorized in
6 Subsection (a), (c-1), [~~or~~] (c-3), or (c-5) at any time after final
7 discharge of the child or after the last official action in the case
8 if there was no adjudication, subject, if applicable, to Subsection
9 (e). If the child is referred to the juvenile court for conduct
10 constituting any offense and at the adjudication hearing the child
11 is found to be not guilty of each offense alleged, the court shall
12 immediately and without any additional hearing order the sealing of
13 all files and records relating to the case.

14 SECTION 11. Section 243.005, Human Resources Code, is
15 amended to read as follows:

16 Sec. 243.005. INFORMATION PROVIDED BY COMMITTING
17 COURT. In addition to the information provided under Section
18 243.004, a court that commits a child to the department shall
19 provide the department with a copy of the following documents:

20 (1) the petition and the adjudication and disposition
21 orders for the child, including the child's thumbprint;

22 (2) if the commitment is a result of revocation of
23 probation, a copy of the conditions of probation and the revocation
24 order;

25 (3) the social history report for the child;

26 (4) any psychological or psychiatric reports
27 concerning the child;

- 1 (5) the contact information sheet for the child's
2 parents or guardian;
- 3 (6) any law enforcement incident reports concerning
4 the offense for which the child is committed;
- 5 (7) any sex offender registration information
6 concerning the child;
- 7 (8) any juvenile probation department progress
8 reports concerning the child;
- 9 (9) any assessment documents concerning the child;
- 10 (10) the computerized referral and case history for
11 the child, including case disposition;
- 12 (11) the child's birth certificate;
- 13 (12) the child's social security number or social
14 security card, if available;
- 15 (13) the name, address, and telephone number of the
16 court administrator in the committing county;
- 17 (14) Title IV-E eligibility screening information for
18 the child, if available;
- 19 (15) the address in the committing county for
20 forwarding funds collected to which the committing county is
21 entitled;
- 22 (16) any of the child's school or immunization records
23 that the committing county possesses;
- 24 (17) any victim information concerning the case for
25 which the child is committed; ~~and~~
- 26 (18) any of the child's pertinent medical records that
27 the committing court possesses;

1 (19) the Texas Juvenile Justice Department standard
2 assessment tool results for the child;

3 (20) the Department of Public Safety CR 43J form or
4 tracking incident number concerning the child; and

5 (21) documentation that the committing court has
6 required the child to provide a DNA sample to the Department of
7 Public Safety.

8 SECTION 12. (a) Section 51.07, Family Code, as amended by
9 this Act, applies to a juvenile case transfer that occurs on or
10 after the effective date of this Act, regardless of whether the
11 delinquent conduct or conduct indicating a need for supervision
12 that is the basis of the case occurred before, on, or after the
13 effective date of this Act.

14 (b) Section 51.072, Family Code, as amended by this Act,
15 applies to a request for interim supervision that is initiated on or
16 after the effective date of this Act, regardless of whether the
17 child was placed on probation before, on, or after the effective
18 date of this Act.

19 (c) Section 243.005, Human Resources Code, as amended by
20 this Act, applies to a child who is committed to the Texas
21 Department of Juvenile Justice on or after the effective date of
22 this Act, regardless of whether the delinquent conduct or conduct
23 indicating a need for supervision for which the child was committed
24 occurred before, on, or after the effective date of this Act.

25 SECTION 13. To the extent of any conflict, this Act prevails
26 over another Act of the 83rd Legislature, Regular Session, 2013,
27 relating to nonsubstantive additions to and corrections in enacted

1 codes.

2 SECTION 14. This Act takes effect September 1, 2013.