BILL ANALYSIS

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under the Family Code, the only way for a juvenile who is eligible to have his or her records sealed is to petition the court two years after the date the judgment was entered. Fewer than one percent of eligible juveniles do this, either because they forget to petition the court, they do not know record sealing is an option, or they cannot afford an attorney to file the necessary paperwork. Records of these convictions then appear in employer background checks, hampering the redemptive goals of the juvenile system.

S.B. 1707 makes the sealing of juvenile records automatic two years after the date of judgment so long as the juvenile does not have any pending juvenile or criminal proceedings and hasn't been adjudicated in juvenile court or convicted in criminal court of other crimes. S.B. 1707 will not seal juvenile records in certain instances, such as aggravated, serious, or third degree offenses. Prosecutors would receive notice of the sealing of records and would be able to object to the sealing and initiate a hearing.

S.B. 1707 amends current law relating to the sealing of certain juvenile records.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 58.003(a), (e), (o), and (p), Family Code, as follows:

(a) Requires the juvenile court, except as provided by Subsections (b) (prohibiting a court from ordering the sealing of the records for certain conduct of a person), (c) (authorizing a court to order the sealing of records concerning a person who fulfills certain criteria), and (e), to 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 certain criteria has been met, rather than requires the juvenile court to, 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, order the sealing of the records in the case if the court finds that certain criteria have been met.

(e) Requires the court to give the prosecuting attorney for the juvenile court reasonable notice before a person's records become eligible for sealing under Subsection (a) or (c) and authorizes the court to hold a hearing before sealing the person's records if the prosecuting attorney requests a hearing, rather than requires the juvenile court to hold a hearing before sealing a person's records under Subsection (a) or (c) unless the applicant waives the right to a hearing in writing and the court and the prosecuting attorney for the juvenile court consent. Requires that reasonable notice of the hearing be given to:

(1) the person who is the subject of the records at issue, rather than the person who made the application or who is the subject of the records named in the motion;

(2) the authority granting the discharge if the final discharge was from an institution or from parole;

(3) the public or private agency or institution having custody of the person's records, rather than having custody of records named in the application or motion; and

(4) the law enforcement agency having custody of the person's files or records, rather than having custody of files or records named in the application or motion.

Deletes existing text requiring that reasonable notice of the hearing be given to the prosecuting attorney for the juvenile court. Makes nonsubstantive changes.

(o) Requires the court to notify the person who is the subject of the records at issue, rather than notify the person who made the application or who is the subject of the records named in the motion, or the attorney for that person, before the 61st day after the date the court receives the notice that the agency or official cannot seal the records because there is incorrect or insufficient information in the order.

(p) Requires that a sealing order entered under this section, rather than requires that the application and the sealing order on the application, include the following information or an explanation for why one or more of the following is not included:

(1) the person's, rather than the applicant's:

(A)-(F) Makes no change to these paragraphs;

(2) the offense charged against the person, rather than the applicant, or for which the person, rather than the applicant, was referred to the juvenile justice system;

(3) and (4) Makes no change to these subdivisions.

Deletes existing text authorizing a person who is eligible to seal records to file an application for the sealing of records in a juvenile court of the county in which the proceedings occurred.

SECTION 2. Provides that the changes in law made by this Act apply only to the records of a person who becomes eligible for sealing of records under Section 58.003, Family Code, as amended by this Act, on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2015.