

By: Miles, Guillen

H.B. No. 263

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the sealing in certain cases of juvenile records of
3 adjudications of delinquent conduct or conduct indicating a need
4 for supervision and access by certain persons to sealed juvenile
5 records.

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

7 SECTION 1. Section 58.003, Family Code, is amended by
8 amending Subsections (a), (e), (f), (g), and (h) and adding
9 Subsections (a-1), (a-2), and (a-3) to read as follows:

10 (a) Except as provided by Subsections (b) and (c), on the
11 application of a person who has been found to have engaged in
12 delinquent conduct or conduct indicating a need for supervision~~[7]~~
13 or who was ~~[a person]~~ taken into custody to determine whether the
14 person engaged in delinquent conduct or conduct indicating a need
15 for supervision or, if the court receives notice under Subsection
16 (a-1) that the person may be eligible to have the person's records
17 sealed, on the juvenile court's own motion, the court shall
18 immediately order the sealing of the person's records ~~[in the case]~~
19 if the court finds that:

20 (1) either:

21 (A) two years have elapsed since final discharge
22 of the person or since the last official action in the person's case
23 if there was no adjudication; or

24 (B) the person is 17 years of age or older and the

1 person has been finally discharged or the last official action in
2 the person's case has occurred if there was no adjudication; [and]

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

9 (3) the prosecuting attorney does not object to the
10 sealing of the records under Subsection (a-2).

11 (a-1) Notice to the court that a person may be eligible
12 under Subsection (a) to have the person's records sealed may be
13 provided by:

14 (1) the person or the person's attorney; or

15 (2) a juvenile probation officer or school attendance
16 officer, by signed statement or notarized affidavit.

17 (a-2) On a person becoming eligible under Subsection
18 (a)(1), the court shall:

19 (1) determine whether the person meets the
20 requirements of Subsection (a)(2); and

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

26 (a-3) If the prosecuting attorney for the juvenile court in
27 the case objects to sealing the person's records, the court shall

1 hold a hearing to determine if the records should be sealed.

2 (e) The court shall hold a hearing before sealing a person's
3 records under Subsection [~~(a) or~~] (c) unless the applicant waives
4 the right to a hearing in writing and the court and the prosecuting
5 attorney for the juvenile court consent. Reasonable notice of the
6 hearing shall be given to:

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

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

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

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

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

16 (f) A copy of the sealing order shall be sent to each agency
17 or official named in the order and to the Department of Public
18 Safety.

19 (g) On entry of the order:

20 (1) all law enforcement, prosecuting attorney, clerk
21 of court, and juvenile court records ordered sealed shall be sent
22 before the 61st day after the date the order is received to the
23 court issuing the order;

24 (2) all records of a public or private agency or
25 institution ordered sealed shall be sent before the 61st day after
26 the date the order is received to the court issuing the order;

27 (3) all index references to the records ordered sealed

1 shall be deleted before the 61st day after the date the order is
2 received, and verification of the deletion shall be sent before the
3 61st day after the date of the deletion to the court issuing the
4 order;

5 (4) the juvenile court, clerk of court, prosecuting
6 attorney, public or private agency or institution, and law
7 enforcement officers and agencies shall properly reply that no
8 record exists with respect to the person on inquiry in any matter;
9 ~~and~~

10 (5) the adjudication shall be vacated and the
11 proceeding dismissed and treated for all purposes other than a
12 subsequent capital prosecution, including the purpose of showing a
13 prior finding of delinquent conduct, as if it had never occurred;
14 and

15 (6) the Department of Public Safety shall certify the
16 records for restricted access under Section 58.203.

17 (h) Inspection or copying of the sealed records may be
18 permitted by an order of the juvenile court on the petition of the
19 person who is the subject of the records and only by those persons
20 named in the order.

21 SECTION 2. Section 58.203(a), Family Code, is amended to
22 read as follows:

23 (a) The department shall certify to the juvenile probation
24 department to which a referral was made that resulted in
25 information being submitted to the juvenile justice information
26 system that the records relating to a person's juvenile case are
27 subject to automatic restriction of access if:

1 (1) the person is at least 17 years of age, ~~+~~ +
2 ~~[(2)]~~ the juvenile case did not include conduct
3 resulting in determinate sentence proceedings in the juvenile court
4 under Section 53.045, ~~+~~ + and
5 ~~[(3)]~~ the juvenile case was not certified for trial in
6 criminal court under Section 54.02; or
7 (2) the person's records with respect to the juvenile
8 case were sealed under Section 58.003.

9 SECTION 3. The change in law made by this Act applies to the
10 sealing of and restricting or granting access to records in the
11 adjudication of a juvenile case on or after the effective date of
12 this Act, regardless of whether the adjudication occurred before,
13 on, or after the effective date of this Act.

14 SECTION 4. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2015.