

House Bill 263
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 58.003, Family Code, is amended by amending Subsections (a), (e), (f), (g), and (h) and adding Subsections (a-1), (a-2), and (a-3) 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 who was [a person] taken into custody to determine whether the person engaged in delinquent conduct or conduct indicating a need for supervision or, if the court receives notice under Subsection (a-1) that the person may be eligible to have the person's records sealed, on the juvenile court's own motion, the court shall immediately order the sealing of the person's records [in the case] if the court finds that:

(1) either:

(A) 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

(B) the person is 17 years of age or older and the person has been finally discharged or the last official action in the person's case has occurred if there was no adjudication; [and]

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

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

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

SENATE VERSION (CS)

SECTION 1. Sections 58.003(a), (e), (o), and (p), Family Code, are amended to read as follows:

(a) Except as provided by Subsections (b), ~~[and]~~ (c), and (e), the juvenile court shall order the sealing of the records in the case [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 order the sealing of the records in the case]~~ if ~~[the court finds that]~~:

(1) 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; and

(2) since the time specified in Subdivision (1), the person has not been convicted of a felony or a misdemeanor involving moral turpitude or found to have engaged in delinquent conduct or conduct indicating a need for supervision and no proceeding is pending seeking conviction or adjudication.

CONFERENCE

House Bill 263
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(1) the person or the person's attorney; or
(2) a juvenile probation officer or school attendance officer,
by signed statement or notarized affidavit.
(a-2) On a person becoming eligible under Subsection (a)(1),
the court shall:
(1) determine whether the person meets the requirements of
Subsection (a)(2); and
(2) if the person meets the requirements of Subsection (a)(2),
provide notice to the prosecuting attorney for the juvenile
court in the case that the person's records will be sealed on the
expiration of 30 days if no objection is made by the attorney
within that time.
(a-3) If the prosecuting attorney for the juvenile court in the
case objects to sealing the person's records, the court shall
hold a hearing to determine if the records should be sealed.

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

- (1) the person who made the application or who is the subject of the records named in the motion;
- (2) the prosecuting attorney for the juvenile court;
- (3) the authority granting the discharge if the final discharge was from an institution or from parole;
- (4) the public or private agency or institution having custody of records named in the application or motion; and

SENATE VERSION (CS)

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

- (1) the person who ~~made the application or who~~ is the subject of the records ~~at issue [named in the motion];~~
- (2) ~~the prosecuting attorney for the juvenile court;~~
- ~~[(3)]~~ the authority granting the discharge if the final discharge was from an institution or from parole;
- ~~(3) [(4)]~~ the public or private agency or institution having custody of ~~the person's~~ records ~~[named in the application or motion];~~ and

CONFERENCE

House Bill 263
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

(g) On entry of the order:

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

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

(3) all index references to the records ordered sealed shall be deleted before the 61st day after the date the order is received, and verification of the deletion shall be sent before the 61st day after the date of the deletion to the court issuing the order;

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

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

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

(h) Inspection or copying of the sealed records may be permitted by an order of the juvenile court on the petition of the person who is the subject of the records and only by those

SENATE VERSION (CS)

(4) ~~(5)~~ the law enforcement agency having custody of the person's files or records ~~[named in the application or motion].~~

No equivalent provision.

No equivalent provision.

No equivalent provision.

CONFERENCE

House Bill 263
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

persons named in the order.

No equivalent provision.

(o) An agency or official named in the order that cannot seal the records because the information required in the order under Subsection (p) is incorrect or insufficient shall notify the court issuing the order before the 61st day after the date the agency or official receives the order. The court shall notify the person who ~~[made the application or who]~~ is the subject of the records at issue ~~[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.

No equivalent provision.

(p) A ~~[person who is eligible to seal records may file an application for the sealing of records in a juvenile court of the county in which the proceedings occurred. The application and]~~ sealing order entered under this section ~~[on the application]~~ must include the following information or an explanation for why one or more of the following is not included:

- (1) the person's ~~[applicant's]~~:
 - (A) full name;
 - (B) sex;
 - (C) race or ethnicity;
 - (D) date of birth;
 - (E) driver's license or identification card number; and
 - (F) social security number;
- (2) the offense charged against the person ~~[applicant]~~ or for which the person ~~[applicant]~~ was referred to the juvenile justice system;

House Bill 263
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

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

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

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

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

- (3) the date on which and the county where the offense was alleged to have been committed; and
- (4) if a petition was filed in the juvenile court, the cause number assigned to the petition and the court and county in which the petition was filed.

No equivalent provision.

SECTION 2. 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. The records of a person who was eligible for sealing of records under that section before the effective date of this Act are governed by the law applicable to the records immediately before that date, and the former law is continued in effect for that purpose.

House Bill 263
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

SENATE VERSION (CS)

SECTION 3. This Act takes effect September 1, 2015.

CONFERENCE