

By: Perry, et al.
(White)

S.B. No. 1304

A BILL TO BE ENTITLED

AN ACT

relating to confidentiality, sharing, sealing, and destruction of
juvenile records.

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

SECTION 1. Article 62.007(e), Code of Criminal Procedure,
is amended to read as follows:

(e) Records [~~Notwithstanding Chapter 58, Family Code,~~
~~records~~] and files, including records that have been sealed under
Chapter 58, Family Code [~~Section 58.003 of that code~~], relating to a
person for whom a court, the Texas Department of Criminal Justice,
or the Texas Juvenile Justice Department is required under this
article to determine a level of risk shall be released to the court,
the Texas Department of Criminal Justice, or the Texas Juvenile
Justice Department, as appropriate, for the purpose of determining
the person's risk level.

SECTION 2. Section 54.04(h), Family Code, is amended to
read as follows:

(h) At the conclusion of the dispositional hearing, the
court shall inform the child of:

(1) the child's right to appeal, as required by Section
56.01; and

(2) the procedures for the sealing of the child's
records under Subchapter C-1, Chapter 58 [~~Section 58.003~~].

SECTION 3. Section 54.04012(d), Family Code, is amended to

1 read as follows:

2 (d) Following a child's successful completion of the
3 program, the court may order the sealing of the records of the case
4 in the manner provided by Subchapter C-1, Chapter 58 [~~Sections~~
5 ~~58.003(c-7) and (c-8)~~].

6 SECTION 4. The heading to Subchapter A, Chapter 58, Family
7 Code, is amended to read as follows:

8 SUBCHAPTER A. CREATION AND CONFIDENTIALITY OF JUVENILE RECORDS

9 SECTION 5. The heading to Section 58.001, Family Code, is
10 amended to read as follows:

11 Sec. 58.001. LAW ENFORCEMENT COLLECTION AND TRANSMITTAL OF
12 RECORDS OF CHILDREN.

13 SECTION 6. Sections 58.002(a), (b), and (c), Family Code,
14 are amended to read as follows:

15 (a) Except as provided by Chapter 63, Code of Criminal
16 Procedure, a child may not be photographed or fingerprinted without
17 the consent of the juvenile court unless the child is:

18 (1) taken into custody; or

19 (2) referred to the juvenile court for conduct that
20 constitutes a felony or a misdemeanor punishable by confinement in
21 jail, regardless of whether the child has been taken into custody.

22 (b) On or before December 31 of each year, the head of each
23 municipal or county law enforcement agency located in a county
24 shall certify to the juvenile board for that county that the
25 photographs and fingerprints required to be destroyed under Section
26 58.001 have been destroyed. The juvenile board may [~~shall~~] conduct
27 or cause to be conducted an audit of the records of the law

1 enforcement agency to verify the destruction of the photographs and
2 fingerprints and the law enforcement agency shall make its records
3 available for this purpose. If the audit shows that the
4 certification provided by the head of the law enforcement agency is
5 false, that person is subject to prosecution for perjury under
6 Chapter 37, Penal Code.

7 (c) This section does not prohibit a law enforcement officer
8 from photographing or fingerprinting a child who is not in custody
9 or who has not been referred to the juvenile court for conduct that
10 constitutes a felony or misdemeanor punishable by confinement in
11 jail if the child's parent or guardian voluntarily consents in
12 writing to the photographing or fingerprinting of the child.
13 Consent of the child's parent or guardian is not required to
14 photograph or fingerprint a child described by Subsection (a)(1) or
15 (2).

16 SECTION 7. Section 58.0021(b), Family Code, is amended to
17 read as follows:

18 (b) A law enforcement officer may take temporary custody of
19 a child to take the child's photograph, or may obtain a photograph
20 of a child from a juvenile probation department in possession of a
21 photograph of the child, if:

22 (1) the officer has probable cause to believe that the
23 child has engaged in delinquent conduct; and

24 (2) the officer has probable cause to believe that the
25 child's photograph will be of material assistance in the
26 investigation of that conduct.

27 SECTION 8. Section 58.004, Family Code, is amended to read

1 as follows:

2 Sec. 58.004. REDACTION OF VICTIM'S PERSONALLY IDENTIFIABLE
3 INFORMATION. (a) Notwithstanding any other law, before
4 disclosing any juvenile court record [~~or file~~] of a child as
5 authorized by this chapter or other law, the custodian of the record
6 [~~or file~~] must redact any personally identifiable information about
7 a victim of the child's delinquent conduct or conduct indicating a
8 need for supervision who was under 18 years of age on the date the
9 conduct occurred.

10 (b) This section does not apply to information that is:

11 (1) necessary for an agency to provide services to the
12 victim;

13 (2) necessary for law enforcement purposes; [~~or~~]

14 (3) shared within the statewide juvenile information
15 and case management system established under Subchapter E;

16 (4) shared with an attorney representing the child in
17 a proceeding under this title; or

18 (5) shared with an attorney representing any other
19 person in a juvenile or criminal court proceeding arising from the
20 same act or conduct for which the child was referred to juvenile
21 court.

22 SECTION 9. Section 58.005, Family Code, is amended to read
23 as follows:

24 Sec. 58.005. CONFIDENTIALITY OF FACILITY RECORDS.

25 (a) This section applies only to the inspection, copying, and
26 maintenance of a record [~~Records and files~~] concerning a child and
27 to the storage of information from which a record could be

1 generated, including personally identifiable information, [~~and~~
2 information obtained for the purpose of diagnosis, examination,
3 evaluation, or treatment of the child or for making a referral for
4 treatment of the [~~a~~] child, and other records or information,
5 created by or in the possession of:

- 6 (1) the Texas Juvenile Justice Department;
- 7 (2) an entity having custody of the child under a
8 contract with the Texas Juvenile Justice Department; or
- 9 (3) another [~~by a~~] public or private agency or
10 institution [~~providing supervision of a child by arrangement of the~~
11 ~~juvenile court or~~] having custody of the child under order of the
12 juvenile court, including a facility operated by or under contract
13 with a juvenile board or juvenile probation department.

14 (a-1) Except as provided by Article 15.27, Code of Criminal
15 Procedure, the records and information to which this section
16 applies may be disclosed only to:

- 17 (1) the professional staff or consultants of the
18 agency or institution;
- 19 (2) the judge, probation officers, and professional
20 staff or consultants of the juvenile court;
- 21 (3) an attorney for the child;
- 22 (4) a governmental agency if the disclosure is
23 required or authorized by law;
- 24 (5) a person or entity to whom the child is referred
25 for treatment or services if the agency or institution disclosing
26 the information has entered into a written confidentiality
27 agreement with the person or entity regarding the protection of the

1 disclosed information;

2 (6) the Texas Department of Criminal Justice and the
3 Texas Juvenile Justice Department for the purpose of maintaining
4 statistical records of recidivism and for diagnosis and
5 classification; or

6 (7) with permission from [~~leave of~~] the juvenile
7 court, any other person, agency, or institution having a legitimate
8 interest in the proceeding or in the work of the court.

9 (b) This section does not affect the collection,
10 dissemination, or maintenance of information as provided by
11 Subchapter B or [~~apply to information collected under Section~~
12 ~~58.104 or under Subchapter~~] D-1.

13 SECTION 10. Section 58.0052(b), Family Code, is amended to
14 read as follows:

15 (b) Subject to Subsection (c), at [~~At~~] the request of a
16 juvenile service provider, another juvenile service provider shall
17 disclose to that provider a multi-system youth's personal health
18 information or a history of governmental services provided to the
19 multi-system youth, including:

- 20 (1) identity records;
- 21 (2) medical and dental records;
- 22 (3) assessment or diagnostic test results;
- 23 (4) special needs;
- 24 (5) program placements; [~~and~~]
- 25 (6) psychological diagnoses; and
- 26 (7) other related records or information.

27 SECTION 11. The heading to Section 58.007, Family Code, is

1 amended to read as follows:

2 Sec. 58.007. CONFIDENTIALITY OF PROBATION DEPARTMENT,
3 PROSECUTOR, AND COURT [~~PHYSICAL~~] RECORDS [~~OR FILES~~].

4 SECTION 12. Section 58.007, Family Code, is amended by
5 amending Subsections (a), (b), (g), and (i) and adding Subsection
6 (b-1) to read as follows:

7 (a) This section applies only to the inspection, copying,
8 and maintenance of a [~~physical~~] record [~~or file~~] concerning a child
9 and the storage of information, by electronic means or otherwise,
10 concerning the child from which a [~~physical~~] record [~~or file~~] could
11 be generated and does not affect the collection, dissemination, or
12 maintenance of information as provided by Subchapter B or D-1. This
13 section does not apply to a record [~~or file~~] relating to a child
14 that is:

- 15 (1) required or authorized to be maintained under the
16 laws regulating the operation of motor vehicles in this state;
17 (2) maintained by a municipal or justice court; or
18 (3) subject to disclosure under Chapter 62, Code of
19 Criminal Procedure.

20 (b) Except as provided by Section 54.051(d-1) and by Article
21 15.27, Code of Criminal Procedure, the records, whether physical or
22 electronic, [~~and files~~] of a juvenile court, a clerk of court, a
23 juvenile probation department, or a prosecuting attorney relating
24 to a child who is a party to a proceeding under this title may be
25 inspected or copied only by:

- 26 (1) the judge, probation officers, and professional
27 staff or consultants of the juvenile court;

1 (2) a juvenile justice agency as that term is defined
2 by Section 58.101;

3 (3) an attorney representing ~~[for]~~ a party in a ~~[to~~
4 ~~the]~~ proceeding under this title;

5 (4) a person or entity to whom the child is referred
6 for treatment or services, if the agency or institution disclosing
7 the information has entered into a written confidentiality
8 agreement with the person or entity regarding the protection of the
9 disclosed information;

10 (5) a public or private agency or institution
11 providing supervision of the child by arrangement of the juvenile
12 court, or having custody of the child under juvenile court order; or

13 (6) ~~(5)~~ with permission from ~~[leave of]~~ the juvenile
14 court, any other person, agency, or institution having a legitimate
15 interest in the proceeding or in the work of the court.

16 (b-1) A person who is the subject of the records is entitled
17 to access the records for the purpose of preparing and presenting a
18 motion or application to seal the records.

19 (g) For the purpose of offering a record as evidence in the
20 punishment phase of a criminal proceeding, a prosecuting attorney
21 may obtain the record of a defendant's adjudication that is
22 admissible under Section 3(a), Article 37.07, Code of Criminal
23 Procedure, by submitting a request for the record to the juvenile
24 court that made the adjudication. If a court receives a request
25 from a prosecuting attorney under this subsection, the court shall,
26 if the court possesses the requested record of adjudication,
27 certify and provide the prosecuting attorney with a copy of the

1 record. If a record has been sealed under this chapter, the
2 juvenile court may not provide a copy of the record to a prosecuting
3 attorney under this subsection.

4 (i) In addition to the authority to release information
5 under Subsection (b)(6) [~~(b)(5)~~], a juvenile probation department
6 may release information contained in its records without leave of
7 the juvenile court pursuant to guidelines adopted by the juvenile
8 board.

9 SECTION 13. Subchapter A, Chapter 58, Family Code, is
10 amended by adding Section 58.008 to read as follows:

11 Sec. 58.008. CONFIDENTIALITY OF LAW ENFORCEMENT RECORDS.

12 (a) This section applies only to the inspection, copying, and
13 maintenance of a record concerning a child and to the storage of
14 information, by electronic means or otherwise, concerning the child
15 from which a record could be generated and does not affect the
16 collection, dissemination, or maintenance of information as
17 provided by Subchapter B. This section does not apply to a record
18 relating to a child that is:

19 (1) required or authorized to be maintained under the
20 laws regulating the operation of motor vehicles in this state;

21 (2) maintained by a municipal or justice court; or

22 (3) subject to disclosure under Chapter 62, Code of
23 Criminal Procedure.

24 (b) Except as provided by Subsection (d), law enforcement
25 records concerning a child and information concerning a child that
26 are stored by electronic means or otherwise and from which a record
27 could be generated may not be disclosed to the public and shall be:

1 (1) if maintained on paper or microfilm, kept separate
2 from adult records;

3 (2) if maintained electronically in the same computer
4 system as adult records, accessible only under controls that are
5 separate and distinct from the controls to access electronic data
6 concerning adults; and

7 (3) maintained on a local basis only and not sent to a
8 central state or federal depository, except as provided by
9 Subsection (c) or Subchapter B, D, or E.

10 (c) The law enforcement records of a person with a
11 determinate sentence who is transferred to the Texas Department of
12 Criminal Justice may be transferred to a central state or federal
13 depository for adult records after the date of transfer and may be
14 shared in accordance with the laws governing the adult records in
15 the depository.

16 (d) Law enforcement records concerning a child may be
17 inspected or copied by:

18 (1) a juvenile justice agency, as defined by Section
19 [58.101](#);

20 (2) a criminal justice agency, as defined by Section
21 [411.082](#), Government Code;

22 (3) the child; or

23 (4) the child's parent or guardian.

24 (e) Before a child or a child's parent or guardian may
25 inspect or copy a record concerning the child under Subsection (d),
26 the custodian of the record shall redact:

27 (1) any personally identifiable information about a

1 juvenile suspect, offender, victim, or witness who is not the
2 child; and

3 (2) any information that is excepted from required
4 disclosure under Chapter 552, Government Code, or any other law.

5 (f) If a child has been reported missing by a parent,
6 guardian, or conservator of that child, information about the child
7 may be forwarded to and disseminated by the Texas Crime Information
8 Center and the National Crime Information Center.

9 SECTION 14. Section 58.0072, Family Code, is redesignated
10 as Section 58.009, Family Code, and amended to read as follows:

11 Sec. 58.009 [~~58.0072~~]. DISSEMINATION OF JUVENILE JUSTICE
12 INFORMATION BY THE TEXAS JUVENILE JUSTICE DEPARTMENT. (a) Except
13 as provided by this section, juvenile justice information collected
14 and maintained by the Texas Juvenile Justice Department for
15 statistical and research purposes is confidential information for
16 the use of the department and may not be disseminated by the
17 department.

18 (b) Juvenile justice information consists of information of
19 the type described by Section 58.104, including statistical data in
20 any form or medium collected, maintained, or submitted to the Texas
21 Juvenile Justice Department under Section 221.007, Human Resources
22 Code.

23 (c) The Texas Juvenile Justice Department may grant the
24 following entities access to juvenile justice information for
25 research and statistical purposes or for any other purpose approved
26 by the department:

27 (1) criminal justice agencies as defined by Section

1 411.082, Government Code;

2 (2) the Texas Education Agency, as authorized under
3 Section 37.084, Education Code;

4 (3) any agency under the authority of the Health and
5 Human Services Commission; or

6 (4) a public or private university.

7 (d) The Texas Juvenile Justice Department may grant the
8 following entities access to juvenile justice information only for
9 a purpose beneficial to and approved by the department to:

10 (1) a person working on a research or statistical
11 project that:

12 (A) is funded in whole or in part by state or
13 federal funds; and

14 (B) meets the requirements of and is approved by
15 the department; or

16 (2) a person working on a research or statistical
17 project that:

18 (A) meets the requirements of and is approved by
19 the department; and

20 (B) [~~governmental entity that~~] has a specific
21 agreement with the department that [~~, if the agreement~~]:

22 (i) [~~(A)~~] specifically authorizes access
23 to information;

24 (ii) [~~(B)~~] limits the use of information to
25 the purposes for which the information is given;

26 (iii) [~~(C)~~] ensures the security and
27 confidentiality of the information; and

1 (iv) [~~(D)~~] provides for sanctions if a
2 requirement imposed under Subparagraph (i), (ii), or (iii)
3 [~~Paragraph (A), (B), or (C)~~] is violated.

4 (e) The Texas Juvenile Justice Department shall grant
5 access to juvenile justice information for legislative purposes
6 under Section 552.008, Government Code.

7 (f) The Texas Juvenile Justice Department may not release
8 juvenile justice information in identifiable form, except for
9 information released under Subsection (c)(1), (2), or (3) or under
10 the terms of an agreement entered into under Subsection (d)(2). For
11 purposes of this subsection, identifiable information means
12 information that contains a juvenile offender's name or other
13 personal identifiers or that can, by virtue of sample size or other
14 factors, be reasonably interpreted as referring to a particular
15 juvenile offender.

16 (g) Except as provided by Subsection (e), the [~~The~~] Texas
17 Juvenile Justice Department is permitted but not required to
18 release or disclose juvenile justice information to any person
19 [~~not~~] identified under this section.

20 SECTION 15. Section 58.102(c), Family Code, is amended to
21 read as follows:

22 (c) The department may not collect, [~~or~~] retain, or share
23 information relating to a juvenile except as provided by [~~if~~] this
24 chapter [~~prohibits or restricts the collection or retention of the~~
25 ~~information~~].

26 SECTION 16. Sections 58.104(a), (b), and (f), Family Code,
27 are amended to read as follows:

1 (a) Subject to Subsection (f), the juvenile justice
2 information system shall consist of information relating to
3 delinquent conduct committed or alleged to have been committed by a
4 juvenile offender that, if the conduct had been committed by an
5 adult, would constitute a criminal offense other than an offense
6 punishable by a fine only, including information relating to:

7 (1) the juvenile offender;

8 (2) the intake or referral of the juvenile offender
9 into the juvenile justice system;

10 (3) the detention of the juvenile offender;

11 (4) the prosecution of the juvenile offender;

12 (5) the disposition of the juvenile offender's case,
13 including the name and description of any program to which the
14 juvenile offender is referred; ~~and~~

15 (6) the probation or commitment of the juvenile
16 offender; and

17 (7) the termination of probation supervision or
18 discharge from commitment of the juvenile offender.

19 (b) To the extent possible and subject to Subsection (a),
20 the department shall include in the juvenile justice information
21 system the following information for each juvenile offender taken
22 into custody, detained, or referred under this title for delinquent
23 conduct:

24 (1) the juvenile offender's name, including other
25 names by which the juvenile offender is known;

26 (2) the juvenile offender's date and place of birth;

27 (3) the juvenile offender's physical description,

1 including sex, weight, height, race, ethnicity, eye color, hair
2 color, scars, marks, and tattoos;

3 (4) the juvenile offender's state identification
4 number, and other identifying information, as determined by the
5 department;

6 (5) the juvenile offender's fingerprints;

7 (6) the juvenile offender's last known residential
8 address, including the census tract number designation for the
9 address;

10 (7) the name and identifying number of the agency that
11 took into custody or detained the juvenile offender;

12 (8) the date of detention or custody;

13 (9) the conduct for which the juvenile offender was
14 taken into custody, detained, or referred, including level and
15 degree of the alleged offense;

16 (10) the name and identifying number of the juvenile
17 intake agency or juvenile probation office;

18 (11) each disposition by the juvenile intake agency or
19 juvenile probation office;

20 (12) the date of disposition by the juvenile intake
21 agency or juvenile probation office;

22 (13) the name and identifying number of the
23 prosecutor's office;

24 (14) each disposition by the prosecutor;

25 (15) the date of disposition by the prosecutor;

26 (16) the name and identifying number of the court;

27 (17) each disposition by the court, including

1 information concerning probation or custody of a juvenile offender
2 by a juvenile justice agency [~~or probation~~];

3 (18) the date of disposition by the court;

4 (19) the date any probation supervision, including
5 deferred prosecution supervision, was terminated;

6 (20) any commitment or release under supervision by
7 the Texas Juvenile Justice Department;

8 (21) [~~(20)~~] the date of any commitment or release
9 under supervision by the Texas Juvenile Justice Department; and

10 (22) [~~(21)~~] a description of each appellate
11 proceeding.

12 (f) Records maintained by the department in the depository
13 are subject to being sealed under Subchapter C-1 [~~Section 58.003~~].

14 SECTION 17. Sections 58.106(a-2) and (b), Family Code, are
15 amended to read as follows:

16 (a-2) Information disseminated under Subsection (a) [~~or~~
17 ~~(a-1)~~] remains confidential after dissemination and may be
18 disclosed by the recipient only as provided by this title.

19 (b) Subsection (a) does [~~Subsections (a) and (a-1) do~~] not
20 apply to a document maintained by a juvenile justice or law
21 enforcement agency that is the source of information collected by
22 the department.

23 SECTION 18. Chapter 58, Family Code, is amended by adding
24 Subchapter C-1 to read as follows:

25 SUBCHAPTER C-1. SEALING AND DESTRUCTION OF JUVENILE RECORDS

26 Sec. 58.251. DEFINITIONS. In this subchapter:

27 (1) "Electronic record" means an entry in a computer

1 file or information on microfilm, microfiche, or any other
2 electronic storage media.

3 (2) "Juvenile matter" means a referral to a juvenile
4 court or juvenile probation department and all related court
5 proceedings and outcomes, if any.

6 (3) "Physical record" means a paper copy of a record.

7 (4) "Record" means any documentation related to a
8 juvenile matter, including information contained in that
9 documentation.

10 Sec. 58.252. EXEMPTED RECORDS. The following records are
11 exempt from this subchapter:

12 (1) records relating to a criminal combination or
13 criminal street gang maintained by the Department of Public Safety
14 or a local law enforcement agency under Chapter 61, Code of Criminal
15 Procedure;

16 (2) sex offender registration records maintained by
17 the Department of Public Safety or a local law enforcement agency
18 under Chapter 62, Code of Criminal Procedure; and

19 (3) records collected or maintained by the Texas
20 Juvenile Justice Department for statistical and research purposes,
21 including data submitted under Section 221.007, Human Resources
22 Code, and personally identifiable information.

23 Sec. 58.253. SEALING RECORDS WITHOUT APPLICATION:

24 DELINQUENT CONDUCT. (a) This section does not apply to the
25 records of a child referred to a juvenile court or juvenile
26 probation department solely for conduct indicating a need for
27 supervision.

1 (b) A person who was referred to a juvenile probation
2 department for delinquent conduct is entitled to have all records
3 related to the person's juvenile matters, including records
4 relating to any matters involving conduct indicating a need for
5 supervision, sealed without applying to the juvenile court if the
6 person:

7 (1) is at least 19 years of age;

8 (2) has not been adjudicated as having engaged in
9 delinquent conduct or, if adjudicated for delinquent conduct, was
10 not adjudicated for delinquent conduct violating a penal law of the
11 grade of felony;

12 (3) does not have any pending delinquent conduct
13 matters;

14 (4) has not been transferred by a juvenile court to a
15 criminal court for prosecution under Section 54.02;

16 (5) has not as an adult been convicted of a felony or a
17 misdemeanor punishable by confinement in jail; and

18 (6) does not have any pending charges as an adult for a
19 felony or a misdemeanor punishable by confinement in jail.

20 (c) A person who was referred to a juvenile probation
21 department for delinquent conduct is entitled to have all records
22 related to the person's juvenile matters, including records
23 relating to any matters involving conduct indicating a need for
24 supervision, sealed without applying to the juvenile court if the
25 person:

26 (1) is at least 25 years of age;

27 (2) was adjudicated as having engaged in delinquent

1 conduct violating a penal law of the grade of felony;

2 (3) did not receive a determinate sentence for
3 engaging in:

4 (A) delinquent conduct that violated a penal law
5 listed under Section 53.045; or

6 (B) habitual felony conduct as described by
7 Section 51.031;

8 (4) has not been required to register as a sex offender
9 under Chapter 62, Code of Criminal Procedure;

10 (5) does not have any pending delinquent conduct
11 matters;

12 (6) has not been transferred by a juvenile court to a
13 criminal court for prosecution under Section 54.02;

14 (7) has not as an adult been convicted of a felony or a
15 misdemeanor punishable by confinement in jail; and

16 (8) does not have any pending charges as an adult for a
17 felony or a misdemeanor punishable by confinement in jail.

18 Sec. 58.254. CERTIFICATION OF ELIGIBILITY FOR SEALING
19 RECORDS WITHOUT APPLICATION FOR DELINQUENT CONDUCT. (a) The
20 Department of Public Safety shall certify to a juvenile probation
21 department that has submitted records to the juvenile justice
22 information system that the records relating to a person referred
23 to the juvenile probation department appear to be eligible for
24 sealing under Section 58.253.

25 (b) The Department of Public Safety may issue the
26 certification described by Subsection (a) by electronic means,
27 including by electronic mail.

1 (c) Except as provided by Subsection (d), not later than the
2 60th day after the date the juvenile probation department receives
3 a certification under Subsection (a), the juvenile probation
4 department shall:

5 (1) give notice of the receipt of the certification to
6 the juvenile court; and

7 (2) provide the court with a list of all referrals
8 received by the department relating to that person and the outcome
9 of each referral.

10 (d) If a juvenile probation department has reason to believe
11 the records of the person for whom the department received a
12 certification under Subsection (a) are not eligible to be sealed,
13 the juvenile probation department shall notify the Department of
14 Public Safety not later than the 15th day after the date the
15 juvenile probation department received the certification. If the
16 juvenile probation department later determines that the person's
17 records are eligible to be sealed, the juvenile probation
18 department shall notify the juvenile court and provide the court
19 the information described by Subsection (c) not later than the 30th
20 day after the date of the determination.

21 (e) If, after receiving a certification under Subsection
22 (a), the juvenile probation department determines that the person's
23 records are not eligible to be sealed, the juvenile probation
24 department and the Department of Public Safety shall update the
25 juvenile justice information system to reflect that determination
26 and no further action related to the records is required.

27 (f) Not later than the 60th day after the date a juvenile

1 court receives notice from a juvenile probation department under
2 Subsection (c), the juvenile court shall issue an order sealing all
3 records relating to the person named in the certification.

4 Sec. 58.255. SEALING RECORDS WITHOUT APPLICATION: CONDUCT
5 INDICATING NEED FOR SUPERVISION. (a) A person who was referred to
6 a juvenile probation department for conduct indicating a need for
7 supervision is entitled to have all records related to all conduct
8 indicating a need for supervision matters sealed without applying
9 to the juvenile court if the person:

10 (1) is at least 18 years of age;

11 (2) has not been referred to the juvenile probation
12 department for delinquent conduct;

13 (3) has not as an adult been convicted of a felony; and

14 (4) does not have any pending charges as an adult for a
15 felony or a misdemeanor punishable by confinement in jail.

16 (b) The juvenile probation department shall:

17 (1) give the juvenile court notice that a person's
18 records are eligible for sealing under Subsection (a); and

19 (2) provide the juvenile court with a list of all
20 referrals relating to that person received by the department and
21 the outcome of each referral.

22 (c) Not later than the 60th day after the date the juvenile
23 court receives notice from the juvenile probation department under
24 Subsection (b), the juvenile court shall issue an order sealing all
25 records relating to the person named in the notice.

26 Sec. 58.256. APPLICATION FOR SEALING RECORDS.

27 (a) Notwithstanding Sections 58.253 and 58.255, a person may file

1 an application for the sealing of records related to the person in
2 the juvenile court served by the juvenile probation department to
3 which the person was referred. The court may not charge a fee for
4 filing the application, regardless of the form of the application.

5 (b) An application filed under this section must include
6 either the following information or the reason that one or more of
7 the following is not included in the application:

8 (1) the person's:

9 (A) full name;

10 (B) sex;

11 (C) race or ethnicity;

12 (D) date of birth;

13 (E) driver's license or identification card
14 number; and

15 (F) social security number;

16 (2) the conduct for which the person was referred to
17 the juvenile probation department, including the date on which the
18 conduct was alleged or found to have been committed;

19 (3) the cause number assigned to each petition
20 relating to the person filed in juvenile court, if any, and the
21 court in which the petition was filed; and

22 (4) a list of all entities the person believes have
23 possession of records related to the person, including the
24 applicable entities listed under Section 58.258(b).

25 (c) Except as provided by Subsection (d), the juvenile court
26 may order the sealing of records related to all matters for which
27 the person was referred to the juvenile probation department if the

1 person:

2 (1) is at least 18 years of age, or is younger than 18
3 years of age and at least two years have elapsed after the date of
4 final discharge in each matter for which the person was referred to
5 the juvenile probation department;

6 (2) does not have any delinquent conduct matters
7 pending with any juvenile probation department or juvenile court;

8 (3) was not transferred by a juvenile court to a
9 criminal court for prosecution under Section 54.02;

10 (4) has not as an adult been convicted of a felony; and

11 (5) does not have any pending charges as an adult for a
12 felony or a misdemeanor punishable by confinement in jail.

13 (d) A court may not order the sealing of the records of a
14 person who:

15 (1) received a determinate sentence for engaging in:

16 (A) delinquent conduct that violated a penal law
17 listed under Section 53.045; or

18 (B) habitual felony conduct as described by
19 Section 51.031;

20 (2) is currently required to register as a sex
21 offender under Chapter 62, Code of Criminal Procedure; or

22 (3) was committed to the Texas Juvenile Justice
23 Department or to a post-adjudication secure correctional facility
24 under Section 54.04011, unless the person has been discharged from
25 the agency to which the person was committed.

26 (e) On receipt of an application under this section, the
27 court may:

1 (1) order the sealing of the person's records
2 immediately, without a hearing; or

3 (2) hold a hearing under Section 58.257 at the court's
4 discretion to determine whether to order the sealing of the
5 person's records.

6 Sec. 58.257. HEARING REGARDING SEALING OF RECORDS. (a) A
7 hearing regarding the sealing of a person's records must be held not
8 later than the 60th day after the date the court receives the
9 person's application under Section 58.256.

10 (b) The court shall give reasonable notice of a hearing
11 under this section to:

12 (1) the person who is the subject of the records;

13 (2) the person's attorney who made the application for
14 sealing on behalf of the person, if any;

15 (3) the prosecuting attorney for the juvenile court;

16 (4) all entities named in the application that the
17 person believes possess eligible records related to the person; and

18 (5) any individual or entity whose presence at the
19 hearing is requested by the person or prosecutor.

20 Sec. 58.258. ORDER SEALING RECORDS. (a) An order sealing
21 the records of a person under this subchapter must include either
22 the following information or the reason one or more of the following
23 is not included in the order:

24 (1) the person's:

25 (A) full name;

26 (B) sex;

27 (C) race or ethnicity;

1 (D) date of birth;

2 (E) driver's license or identification card
3 number; and

4 (F) social security number;

5 (2) each instance of conduct indicating a need for
6 supervision or delinquent conduct alleged against the person or for
7 which the person was referred to the juvenile justice system;

8 (3) the date on which and the county in which each
9 instance of conduct was alleged to have occurred;

10 (4) if any petitions relating to the person were filed
11 in juvenile court, the cause number assigned to each petition and
12 the court and county in which each petition was filed; and

13 (5) a list of the entities believed to be in possession
14 of the records that have been ordered sealed, including the
15 entities listed under Subsection (b).

16 (b) Not later than the 60th day after the date of the entry
17 of the order, the court shall provide a copy of the order to:

18 (1) the Department of Public Safety;

19 (2) the Texas Juvenile Justice Department, if the
20 person was committed to the department;

21 (3) the clerk of court;

22 (4) the juvenile probation department serving the
23 court;

24 (5) the prosecutor's office;

25 (6) each law enforcement agency that had contact with
26 the person in relation to the conduct that is the subject of the
27 sealing order;

1 (7) each public or private agency that had custody of
2 or that provided supervision or services to the person in relation
3 to the conduct that is the subject of the sealing order; and

4 (8) each official, agency, or other entity that the
5 court has reason to believe has any record containing information
6 that is related to the conduct that is the subject of the sealing
7 order.

8 (c) On entry of the order, all adjudications relating to the
9 person are vacated and the proceedings are dismissed and treated
10 for all purposes as though the proceedings had never occurred. The
11 clerk of court shall:

12 (1) seal all court records relating to the
13 proceedings, including any records created in the clerk's case
14 management system; and

15 (2) send copies of the order to all entities listed in
16 the order.

17 Sec. 58.259. ACTIONS TAKEN ON RECEIPT OF ORDER TO SEAL
18 RECORDS. (a) An entity receiving an order to seal the records of a
19 person issued under this subchapter shall, not later than the 61st
20 day after the date of receiving the order, take the following
21 actions, as applicable:

22 (1) the Department of Public Safety shall:

23 (A) limit access to the records relating to the
24 person in the juvenile justice information system to only the Texas
25 Juvenile Justice Department for the purpose of conducting research
26 and statistical studies;

27 (B) destroy any other records relating to the

1 person in the department's possession, including DNA records as
2 provided by Section 411.151, Government Code; and

3 (C) send written verification of the limitation
4 and destruction of the records to the issuing court;

5 (2) the Texas Juvenile Justice Department shall:

6 (A) seal all records relating to the person,
7 other than those exempted from sealing under Section 58.252; and

8 (B) send written verification of the sealing of
9 the records to the issuing court;

10 (3) a public or private agency or institution that had
11 custody of or provided supervision or services to the person who is
12 the subject of the records, the juvenile probation department, a
13 law enforcement entity, or a prosecuting attorney shall:

14 (A) seal all records relating to the person; and

15 (B) send written verification of the sealing of
16 the records to the issuing court; and

17 (4) any other entity that receives an order to seal a
18 person's records shall:

19 (A) send any records relating to the person to
20 the issuing court;

21 (B) delete all index references to the person's
22 records; and

23 (C) send written verification of the deletion of
24 the index references to the issuing court.

25 (b) Physical or electronic records are considered sealed if
26 the records are not destroyed but are stored in a manner that allows
27 access to the records only by the custodian of records for the

1 entity possessing the records.

2 (c) If an entity that received an order to seal records
3 relating to a person later receives an inquiry about a person or the
4 matter contained in the records, the entity must respond that no
5 records relating to the person or the matter exist.

6 (d) If an entity receiving an order to seal records under
7 this subchapter is unable to comply with the order because the
8 information in the order is incorrect or insufficient to allow the
9 entity to identify the records that are subject to the order, the
10 entity shall notify the issuing court not later than the 30th day
11 after the date of receipt of the order. The court shall take any
12 actions necessary and possible to provide the needed information to
13 the entity, including contacting the person who is the subject of
14 the order or the person's attorney.

15 (e) If an entity receiving a sealing order under this
16 subchapter has no records related to the person who is the subject
17 of the order, the entity shall provide written verification of that
18 fact to the issuing court not later than the 30th day after the date
19 of receipt of the order.

20 Sec. 58.260. INSPECTION AND RELEASE OF SEALED RECORDS.

21 (a) A juvenile court may allow, by order, the inspection of
22 records sealed under this subchapter or under Section 58.003, as
23 that law existed before September 1, 2017, only by:

24 (1) a person named in the order, on the petition of the
25 person who is the subject of the records;

26 (2) a prosecutor, on the petition of the prosecutor,
27 for the purpose of reviewing the records for possible use:

1 (A) in a capital prosecution; or

2 (B) for the enhancement of punishment under
3 Section 12.42, Penal Code; or

4 (3) a court, the Texas Department of Criminal Justice,
5 or the Texas Juvenile Justice Department for the purposes of
6 Article 62.007(e), Code of Criminal Procedure.

7 (b) After a petitioner inspects records under this section,
8 the court may order the release of any or all of the records to the
9 petitioner on the motion of the petitioner.

10 Sec. 58.261. EFFECT OF SEALING RECORDS. (a) A person
11 whose records have been sealed under this subchapter or under
12 Section 58.003, as that law existed before September 1, 2017, is not
13 required to state in any proceeding or in any application for
14 employment, licensing, admission, housing, or other public or
15 private benefit that the person has been the subject of a juvenile
16 matter.

17 (b) If a person's records have been sealed, the information
18 in the records, the fact that the records once existed, or the
19 person's denial of the existence of the records or of the person's
20 involvement in a juvenile matter may not be used against the person
21 in any manner, including in:

22 (1) a perjury prosecution or other criminal
23 proceeding;

24 (2) a civil proceeding, including an administrative
25 proceeding involving a governmental entity;

26 (3) an application process for licensing or
27 certification; or

1 (4) an admission, employment, or housing decision.

2 (c) A person who is the subject of the sealed records may not
3 waive the protected status of the records or the consequences of the
4 protected status.

5 Sec. 58.262. INFORMATION GIVEN TO CHILD REGARDING SEALING
6 OF RECORDS. (a) When a child is referred to the juvenile probation
7 department, an employee of the juvenile probation department shall
8 give the child and the child's parent, guardian, or custodian a
9 written explanation describing the process of sealing records under
10 this subchapter and a copy of this subchapter.

11 (b) On the final discharge of a child, or on the last
12 official action in the matter if there is no adjudication, a
13 probation officer or official at the Texas Juvenile Justice
14 Department, as appropriate, shall give the child and the child's
15 parent, guardian, or custodian a written explanation regarding the
16 eligibility of the child's records for sealing under this
17 subchapter and a copy of this subchapter.

18 (c) The written explanation provided to a child under
19 Subsections (a) and (b) must include the requirements for a record
20 to be eligible for sealing, including an explanation of the records
21 that are exempt from sealing under Section 58.252, and the
22 following information:

23 (1) that, regardless of whether the child's conduct
24 was adjudicated, the child has a juvenile record with the
25 Department of Public Safety and the Federal Bureau of
26 Investigation;

27 (2) the child's juvenile record is a permanent record

1 unless the record is sealed under this subchapter;

2 (3) except as provided by Section 58.260, the child's
3 juvenile record, other than treatment records made confidential by
4 law, may be accessed by a police officer, sheriff, prosecutor,
5 probation officer, correctional officer, or other criminal or
6 juvenile justice official unless the record is sealed as provided
7 by this subchapter;

8 (4) sealing of the child's records under Section
9 58.253 or Section 58.255, as applicable, does not require any
10 action by the child or the child's family, including the filing of
11 an application or hiring of a lawyer, but occurs automatically at
12 age 18, 19, or 25, as applicable based on the child's referral and
13 adjudication history;

14 (5) the child's juvenile record may be eligible for an
15 earlier sealing date under Section 58.256, but an earlier sealing
16 requires the child or an attorney for the child to file an
17 application with the court;

18 (6) the impact of sealing records on the child; and

19 (7) the circumstances under which a sealed record may
20 be reopened.

21 (d) The Texas Juvenile Justice Department shall adopt rules
22 to implement this section and to facilitate the effective
23 explanation of the information required to be communicated by this
24 section.

25 Sec. 58.263. DESTRUCTION OF RECORDS: NO PROBABLE CAUSE.
26 The court shall order the destruction of the records relating to the
27 conduct for which a child is taken into custody, including records

1 contained in the juvenile justice information system, if:

2 (1) a determination is made under Section 53.01 that
3 no probable cause exists to believe the child engaged in the conduct
4 and the case is not referred to a prosecutor for review under
5 Section 53.012; or

6 (2) a determination that no probable cause exists to
7 believe the child engaged in the conduct is made by a prosecutor
8 under Section 53.012.

9 Sec. 58.264. PERMISSIBLE DESTRUCTION OF RECORDS.

10 (a) Subject to Subsections (b) and (c) of this section, Section
11 202.001, Local Government Code, and any other restrictions imposed
12 by an entity's records retention guidelines, the following persons
13 may authorize the destruction of records in a closed juvenile
14 matter, regardless of the date the records were created:

15 (1) a juvenile board, in relation to the records in the
16 possession of the juvenile probation department;

17 (2) the head of a law enforcement agency, in relation
18 to the records in the possession of the agency; and

19 (3) a prosecuting attorney, in relation to the records
20 in the possession of the prosecuting attorney's office.

21 (b) The records related to a person referred to a juvenile
22 probation department may be destroyed if the person:

23 (1) is at least 18 years of age, and:

24 (A) the most serious conduct for which the person
25 was referred was conduct indicating a need for supervision, whether
26 or not the person was adjudicated; or

27 (B) the referral or information did not relate to

1 conduct indicating a need for supervision or delinquent conduct and
2 the juvenile probation department, prosecutor, or juvenile court
3 did not take action on the referral or information for that reason;

4 (2) is at least 21 years of age, and:

5 (A) the most serious conduct for which the person
6 was adjudicated was delinquent conduct that violated a penal law of
7 the grade of misdemeanor; or

8 (B) the most serious conduct for which the person
9 was referred was delinquent conduct and the person was not
10 adjudicated as having engaged in the conduct; or

11 (3) is at least 31 years of age and the most serious
12 conduct for which the person was adjudicated was delinquent conduct
13 that violated a penal law of the grade of felony.

14 (c) If a record contains information relating to more than
15 one person referred to a juvenile probation department, the record
16 may only be destroyed if:

17 (1) the destruction of the record is authorized under
18 this section; and

19 (2) information in the record that may be destroyed
20 under this section can be separated from information that is not
21 authorized to be destroyed.

22 (d) Electronic records are considered to be destroyed if the
23 electronic records, including the index to the records, are
24 deleted.

25 (e) Converting physical records to electronic records and
26 subsequently destroying the physical records while maintaining the
27 electronic records is not considered destruction of a record under

1 this subchapter.

2 (f) This section does not authorize the destruction of the
3 records of the juvenile court or clerk of court.

4 (g) This section does not authorize the destruction of
5 records maintained for statistical and research purposes by the
6 Texas Juvenile Justice Department in a juvenile information and
7 case management system authorized under Section 58.403.

8 (h) This section does not affect the destruction of physical
9 records and files authorized by the Texas State Library Records
10 Retention Schedule.

11 Sec. 58.265. JUVENILE RECORDS NOT SUBJECT TO EXPUNCTION.
12 Records to which this chapter applies are not subject to an order of
13 expunction issued by any court.

14 SECTION 19. Section 58.112, Family Code, is transferred to
15 Chapter 203, Human Resources Code, and redesignated as Section
16 203.019, Human Resources Code, to read as follows:

17 Sec. 203.019 [~~58.112~~]. REPORT TO LEGISLATURE. Not later
18 than August 15 of each year, the Texas Juvenile Justice Department
19 shall submit to the lieutenant governor, the speaker of the house of
20 representatives, and the governor a report that contains the
21 following statistical information relating to children referred to
22 a juvenile court during the preceding year:

23 (1) the ages, races, and counties of residence of the
24 children transferred to a district court or criminal district court
25 for criminal proceedings; and

26 (2) the ages, races, and counties of residence of the
27 children committed to the Texas Juvenile Justice Department, placed

1 on probation, or discharged without any disposition.

2 SECTION 20. Section 411.151(a), Government Code, is amended
3 to read as follows:

4 (a) The director shall expunge a DNA record of an individual
5 from a DNA database if the person:

6 (1) notifies the director in writing that the DNA
7 record has been ordered to be expunged under this section or Chapter
8 55, Code of Criminal Procedure, and provides the director with a
9 certified copy of the court order that expunges the DNA record; or

10 (2) provides the director with a certified copy of a
11 court order issued under Subchapter C-1, Chapter 58 [~~Section~~
12 ~~58.003~~], Family Code, that seals the juvenile record of the
13 adjudication that resulted in the DNA record.

14 SECTION 21. The following provisions of the Family Code are
15 repealed:

- 16 (1) Section 58.001(b);
- 17 (2) Section 58.003;
- 18 (3) Section 58.006;
- 19 (4) Sections 58.007(c), (d), (e), and (f);
- 20 (5) Section 58.0071;
- 21 (6) Section 58.00711;
- 22 (7) Section 58.106(a-1); and
- 23 (8) Subchapter C, Chapter 58.

24 SECTION 22. The changes in law made by this Act apply to
25 records created before, on, or after the effective date of this Act.

26 SECTION 23. This Act takes effect September 1, 2017.