

1-1 By: Perry S.B. No. 1304
 1-2 (In the Senate - Filed March 3, 2017; March 14, 2017, read
 1-3 first time and referred to Committee on State Affairs;
 1-4 March 29, 2017, rereferred to Committee on Criminal Justice;
 1-5 April 10, 2017, reported adversely, with favorable Committee
 1-6 Substitute by the following vote: Yeas 8, Nays 0; April 10, 2017,
 1-7 sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17			X	
1-18	X			

1-19 COMMITTEE SUBSTITUTE FOR S.B. No. 1304 By: Birdwell

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to confidentiality, sharing, sealing, and destruction of
 1-23 juvenile records.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Article 62.007(e), Code of Criminal Procedure,
 1-26 is amended to read as follows:

1-27 (e) ~~Records [Notwithstanding Chapter 58, Family Code,~~
 1-28 ~~records]~~ and files, including records that have been sealed under
 1-29 Chapter 58, Family Code [Section 58.003 of that code], relating to a
 1-30 person for whom a court, the Texas Department of Criminal Justice,
 1-31 or the Texas Juvenile Justice Department is required under this
 1-32 article to determine a level of risk shall be released to the court,
 1-33 the Texas Department of Criminal Justice, or the Texas Juvenile
 1-34 Justice Department, as appropriate, for the purpose of determining
 1-35 the person's risk level.

1-36 SECTION 2. Section 54.04(h), Family Code, is amended to
 1-37 read as follows:

1-38 (h) At the conclusion of the dispositional hearing, the
 1-39 court shall inform the child of:

1-40 (1) the child's right to appeal, as required by Section
 1-41 56.01; and

1-42 (2) the procedures for the sealing of the child's
 1-43 records under Subchapter C-1, Chapter 58 [Section 58.003].

1-44 SECTION 3. Section 54.04012(d), Family Code, is amended to
 1-45 read as follows:

1-46 (d) Following a child's successful completion of the
 1-47 program, the court may order the sealing of the records of the case
 1-48 in the manner provided by Subchapter C-1, Chapter 58 [Sections
 1-49 58.003(c-7) and (c-8)].

1-50 SECTION 4. The heading to Subchapter A, Chapter 58, Family
 1-51 Code, is amended to read as follows:

1-52 SUBCHAPTER A. CREATION AND CONFIDENTIALITY OF JUVENILE RECORDS

1-53 SECTION 5. The heading to Section 58.001, Family Code, is
 1-54 amended to read as follows:

1-55 Sec. 58.001. LAW ENFORCEMENT COLLECTION AND TRANSMITTAL OF
 1-56 RECORDS OF CHILDREN.

1-57 SECTION 6. Sections 58.002(a), (b), and (c), Family Code,
 1-58 are amended to read as follows:

1-59 (a) Except as provided by Chapter 63, Code of Criminal
 1-60 Procedure, a child may not be photographed or fingerprinted without

2-1 the consent of the juvenile court unless the child is:
2-2 (1) taken into custody; or
2-3 (2) referred to the juvenile court for conduct that
2-4 constitutes a felony or a misdemeanor punishable by confinement in
2-5 jail, regardless of whether the child has been taken into custody.

2-6 (b) On or before December 31 of each year, the head of each
2-7 municipal or county law enforcement agency located in a county
2-8 shall certify to the juvenile board for that county that the
2-9 photographs and fingerprints required to be destroyed under Section
2-10 58.001 have been destroyed. The juvenile board may [~~shall~~] conduct
2-11 or cause to be conducted an audit of the records of the law
2-12 enforcement agency to verify the destruction of the photographs and
2-13 fingerprints and the law enforcement agency shall make its records
2-14 available for this purpose. If the audit shows that the
2-15 certification provided by the head of the law enforcement agency is
2-16 false, that person is subject to prosecution for perjury under
2-17 Chapter 37, Penal Code.

2-18 (c) This section does not prohibit a law enforcement officer
2-19 from photographing or fingerprinting a child who is not in custody
2-20 or who has not been referred to the juvenile court for conduct that
2-21 constitutes a felony or misdemeanor punishable by confinement in
2-22 jail if the child's parent or guardian voluntarily consents in
2-23 writing to the photographing or fingerprinting of the child.
2-24 Consent of the child's parent or guardian is not required to
2-25 photograph or fingerprint a child described by Subsection (a)(1) or
2-26 (2).

2-27 SECTION 7. Section 58.0021(b), Family Code, is amended to
2-28 read as follows:

2-29 (b) A law enforcement officer may take temporary custody of
2-30 a child to take the child's photograph, or may obtain a photograph
2-31 of a child from a juvenile probation department in possession of a
2-32 photograph of the child, if:

- 2-33 (1) the officer has probable cause to believe that the
2-34 child has engaged in delinquent conduct; and
- 2-35 (2) the officer has probable cause to believe that the
2-36 child's photograph will be of material assistance in the
2-37 investigation of that conduct.

2-38 SECTION 8. Section 58.004, Family Code, is amended to read
2-39 as follows:

2-40 Sec. 58.004. REDACTION OF VICTIM'S PERSONALLY IDENTIFIABLE
2-41 INFORMATION. (a) Notwithstanding any other law, before
2-42 disclosing any juvenile court record [~~or file~~] of a child as
2-43 authorized by this chapter or other law, the custodian of the record
2-44 [~~or file~~] must redact any personally identifiable information about
2-45 a victim of the child's delinquent conduct or conduct indicating a
2-46 need for supervision who was under 18 years of age on the date the
2-47 conduct occurred.

2-48 (b) This section does not apply to information that is:
2-49 (1) necessary for an agency to provide services to the
2-50 victim;

- 2-51 (2) necessary for law enforcement purposes; [~~or~~]
- 2-52 (3) shared within the statewide juvenile information
2-53 and case management system established under Subchapter E;
- 2-54 (4) shared with an attorney representing the child in
2-55 a proceeding under this title; or
- 2-56 (5) shared with an attorney representing any other
2-57 person in a juvenile or criminal court proceeding arising from the
2-58 same act or conduct for which the child was referred to juvenile
2-59 court.

2-60 SECTION 9. Section 58.005, Family Code, is amended to read
2-61 as follows:

2-62 Sec. 58.005. CONFIDENTIALITY OF FACILITY RECORDS.
2-63 (a) This section applies only to the inspection, copying, and
2-64 maintenance of a record [~~Records and files~~] concerning a child and
2-65 to the storage of information from which a record could be
2-66 generated, including personally identifiable information, [~~and~~]
2-67 information obtained for the purpose of diagnosis, examination,
2-68 evaluation, or treatment of the child or for making a referral for
2-69 treatment of the [~~a~~] child, and other records or information,

3-1 created by or in the possession of:
 3-2 (1) the Texas Juvenile Justice Department;
 3-3 (2) an entity having custody of the child under a
 3-4 contract with the Texas Juvenile Justice Department; or
 3-5 (3) another [by a] public or private agency or
 3-6 institution [providing supervision of a child by arrangement of the
 3-7 juvenile court or] having custody of the child under order of the
 3-8 juvenile court, including a facility operated by or under contract
 3-9 with a juvenile board or juvenile probation department.

3-10 (a-1) Except as provided by Article 15.27, Code of Criminal
 3-11 Procedure, the records and information to which this section
 3-12 applies may be disclosed only to:

- 3-13 (1) the professional staff or consultants of the
- 3-14 agency or institution;
- 3-15 (2) the judge, probation officers, and professional
- 3-16 staff or consultants of the juvenile court;
- 3-17 (3) an attorney for the child;
- 3-18 (4) a governmental agency if the disclosure is
- 3-19 required or authorized by law;
- 3-20 (5) a person or entity to whom the child is referred
- 3-21 for treatment or services if the agency or institution disclosing
- 3-22 the information has entered into a written confidentiality
- 3-23 agreement with the person or entity regarding the protection of the
- 3-24 disclosed information;
- 3-25 (6) the Texas Department of Criminal Justice and the
- 3-26 Texas Juvenile Justice Department for the purpose of maintaining
- 3-27 statistical records of recidivism and for diagnosis and
- 3-28 classification; or
- 3-29 (7) with permission from [~~leave of~~] the juvenile
- 3-30 court, any other person, agency, or institution having a legitimate
- 3-31 interest in the proceeding or in the work of the court.

3-32 (b) This section does not affect the collection,
 3-33 dissemination, or maintenance of information as provided by
 3-34 Subchapter B or [apply to information collected under Section
 3-35 58.104 or under Subchapter] D-1.

3-36 SECTION 10. Section 58.0052(b), Family Code, is amended to
 3-37 read as follows:

3-38 (b) Subject to Subsection (c), at [At] the request of a
 3-39 juvenile service provider, another juvenile service provider shall
 3-40 disclose to that provider a multi-system youth's personal health
 3-41 information or a history of governmental services provided to the
 3-42 multi-system youth, including:

- 3-43 (1) identity records;
- 3-44 (2) medical and dental records;
- 3-45 (3) assessment or diagnostic test results;
- 3-46 (4) special needs;
- 3-47 (5) program placements; [and]
- 3-48 (6) psychological diagnoses; and
- 3-49 (7) other related records or information.

3-50 SECTION 11. The heading to Section 58.007, Family Code, is
 3-51 amended to read as follows:

3-52 Sec. 58.007. CONFIDENTIALITY OF PROBATION DEPARTMENT,
 3-53 PROSECUTOR, AND COURT [PHYSICAL] RECORDS [OR FILES].

3-54 SECTION 12. Section 58.007, Family Code, is amended by
 3-55 amending Subsections (a), (b), (g), and (i) and adding Subsection
 3-56 (b-1) to read as follows:

3-57 (a) This section applies only to the inspection, copying,
 3-58 and maintenance of a [physical] record [or file] concerning a child
 3-59 and the storage of information, by electronic means or otherwise,
 3-60 concerning the child from which a [physical] record [or file] could
 3-61 be generated and does not affect the collection, dissemination, or
 3-62 maintenance of information as provided by Subchapter B or D-1. This
 3-63 section does not apply to a record [or file] relating to a child
 3-64 that is:

- 3-65 (1) required or authorized to be maintained under the
- 3-66 laws regulating the operation of motor vehicles in this state;
- 3-67 (2) maintained by a municipal or justice court; or
- 3-68 (3) subject to disclosure under Chapter 62, Code of
- 3-69 Criminal Procedure.

4-1 (b) Except as provided by Section 54.051(d-1) and by Article
4-2 15.27, Code of Criminal Procedure, the records, whether physical or
4-3 electronic, ~~and files~~ of a juvenile court, a clerk of court, a
4-4 juvenile probation department, or a prosecuting attorney relating
4-5 to a child who is a party to a proceeding under this title may be
4-6 inspected or copied only by:

4-7 (1) the judge, probation officers, and professional
4-8 staff or consultants of the juvenile court;

4-9 (2) a juvenile justice agency as that term is defined
4-10 by Section 58.101;

4-11 (3) an attorney representing ~~for~~ a party in a ~~to~~
4-12 ~~the~~ proceeding under this title;

4-13 (4) a person or entity to whom the child is referred
4-14 for treatment or services, if the agency or institution disclosing
4-15 the information has entered into a written confidentiality
4-16 agreement with the person or entity regarding the protection of the
4-17 disclosed information;

4-18 (5) a public or private agency or institution
4-19 providing supervision of the child by arrangement of the juvenile
4-20 court, or having custody of the child under juvenile court order; or

4-21 (6) ~~(5)~~ with permission from ~~leave of~~ the juvenile
4-22 court, any other person, agency, or institution having a legitimate
4-23 interest in the proceeding or in the work of the court.

4-24 (b-1) A person who is the subject of the records is entitled
4-25 to access the records for the purpose of preparing and presenting a
4-26 motion or application to seal the records.

4-27 (g) For the purpose of offering a record as evidence in the
4-28 punishment phase of a criminal proceeding, a prosecuting attorney
4-29 may obtain the record of a defendant's adjudication that is
4-30 admissible under Section 3(a), Article 37.07, Code of Criminal
4-31 Procedure, by submitting a request for the record to the juvenile
4-32 court that made the adjudication. If a court receives a request
4-33 from a prosecuting attorney under this subsection, the court shall,
4-34 if the court possesses the requested record of adjudication,
4-35 certify and provide the prosecuting attorney with a copy of the
4-36 record. If a record has been sealed under this chapter, the
4-37 juvenile court may not provide a copy of the record to a prosecuting
4-38 attorney under this subsection.

4-39 (i) In addition to the authority to release information
4-40 under Subsection (b)(6) ~~(b)(5)~~, a juvenile probation department
4-41 may release information contained in its records without leave of
4-42 the juvenile court pursuant to guidelines adopted by the juvenile
4-43 board.

4-44 SECTION 13. Subchapter A, Chapter 58, Family Code, is
4-45 amended by adding Section 58.008 to read as follows:

4-46 Sec. 58.008. CONFIDENTIALITY OF LAW ENFORCEMENT RECORDS.

4-47 (a) This section applies only to the inspection, copying, and
4-48 maintenance of a record concerning a child and to the storage of
4-49 information, by electronic means or otherwise, concerning the child
4-50 from which a record could be generated and does not affect the
4-51 collection, dissemination, or maintenance of information as
4-52 provided by Subchapter B. This section does not apply to a record
4-53 relating to a child that is:

4-54 (1) required or authorized to be maintained under the
4-55 laws regulating the operation of motor vehicles in this state;

4-56 (2) maintained by a municipal or justice court; or

4-57 (3) subject to disclosure under Chapter 62, Code of
4-58 Criminal Procedure.

4-59 (b) Except as provided by Subsection (d), law enforcement
4-60 records concerning a child and information concerning a child that
4-61 are stored by electronic means or otherwise and from which a record
4-62 could be generated may not be disclosed to the public and shall be:

4-63 (1) if maintained on paper or microfilm, kept separate
4-64 from adult records;

4-65 (2) if maintained electronically in the same computer
4-66 system as adult records, accessible only under controls that are
4-67 separate and distinct from the controls to access electronic data
4-68 concerning adults; and

4-69 (3) maintained on a local basis only and not sent to a

5-1 central state or federal depository, except as provided by
 5-2 Subsection (c) or Subchapter B, D, or E.

5-3 (c) The law enforcement records of a person with a
 5-4 determinate sentence who is transferred to the Texas Department of
 5-5 Criminal Justice may be transferred to a central state or federal
 5-6 depository for adult records after the date of transfer and may be
 5-7 shared in accordance with the laws governing the adult records in
 5-8 the depository.

5-9 (d) Law enforcement records concerning a child may be
 5-10 inspected or copied by:

5-11 (1) a juvenile justice agency, as defined by Section
 5-12 58.101;

5-13 (2) a criminal justice agency, as defined by Section
 5-14 411.082, Government Code;

5-15 (3) the child; or

5-16 (4) the child's parent or guardian.

5-17 (e) Before a child or a child's parent or guardian may
 5-18 inspect or copy a record concerning the child under Subsection (d),
 5-19 the custodian of the record shall redact:

5-20 (1) any personally identifiable information about a
 5-21 juvenile suspect, offender, victim, or witness who is not the
 5-22 child; and

5-23 (2) any information that is excepted from required
 5-24 disclosure under Chapter 552, Government Code, or any other law.

5-25 (f) If a child has been reported missing by a parent,
 5-26 guardian, or conservator of that child, information about the child
 5-27 may be forwarded to and disseminated by the Texas Crime Information
 5-28 Center and the National Crime Information Center.

5-29 SECTION 14. Section 58.0072, Family Code, is redesignated
 5-30 as Section 58.009, Family Code, and amended to read as follows:

5-31 Sec. 58.009 [58.0072]. DISSEMINATION OF JUVENILE JUSTICE
 5-32 INFORMATION BY THE TEXAS JUVENILE JUSTICE DEPARTMENT. (a) Except
 5-33 as provided by this section, juvenile justice information collected
 5-34 and maintained by the Texas Juvenile Justice Department for
 5-35 statistical and research purposes is confidential information for
 5-36 the use of the department and may not be disseminated by the
 5-37 department.

5-38 (b) Juvenile justice information consists of information of
 5-39 the type described by Section 58.104, including statistical data in
 5-40 any form or medium collected, maintained, or submitted to the Texas
 5-41 Juvenile Justice Department under Section 221.007, Human Resources
 5-42 Code.

5-43 (c) The Texas Juvenile Justice Department may grant the
 5-44 following entities access to juvenile justice information for
 5-45 research and statistical purposes or for any other purpose approved
 5-46 by the department:

5-47 (1) criminal justice agencies as defined by Section
 5-48 411.082, Government Code;

5-49 (2) the Texas Education Agency, as authorized under
 5-50 Section 37.084, Education Code;

5-51 (3) any agency under the authority of the Health and
 5-52 Human Services Commission; or

5-53 (4) a public or private university.

5-54 (d) The Texas Juvenile Justice Department may grant the
 5-55 following entities access to juvenile justice information only for
 5-56 a purpose beneficial to and approved by the department to:

5-57 (1) a person working on a research or statistical
 5-58 project that:

5-59 (A) is funded in whole or in part by state or
 5-60 federal funds; and

5-61 (B) meets the requirements of and is approved by
 5-62 the department; or

5-63 (2) a person working on a research or statistical
 5-64 project that:

5-65 (A) meets the requirements of and is approved by
 5-66 the department; and

5-67 (B) [governmental entity that] has a specific
 5-68 agreement with the department that [if the agreement]:

5-69 (i) [~~A~~] specifically authorizes access

6-1 to information;
 6-2 (ii) [(B)] limits the use of information to
 6-3 the purposes for which the information is given;
 6-4 (iii) [(C)] ensures the security and
 6-5 confidentiality of the information; and
 6-6 (iv) [(D)] provides for sanctions if a
 6-7 requirement imposed under Subparagraph (i), (ii), or (iii)
 6-8 [~~Paragraph (A), (B), or (C)~~] is violated.

6-9 (e) The Texas Juvenile Justice Department shall grant
 6-10 access to juvenile justice information for legislative purposes
 6-11 under Section 552.008, Government Code.

6-12 (f) The Texas Juvenile Justice Department may not release
 6-13 juvenile justice information in identifiable form, except for
 6-14 information released under Subsection (c)(1), (2), or (3) or under
 6-15 the terms of an agreement entered into under Subsection (d)(2). For
 6-16 purposes of this subsection, identifiable information means
 6-17 information that contains a juvenile offender's name or other
 6-18 personal identifiers or that can, by virtue of sample size or other
 6-19 factors, be reasonably interpreted as referring to a particular
 6-20 juvenile offender.

6-21 (g) Except as provided by Subsection (e), the [The] Texas
 6-22 Juvenile Justice Department is permitted but not required to
 6-23 release or disclose juvenile justice information to any person
 6-24 [~~not~~] identified under this section.

6-25 SECTION 15. Section 58.102(c), Family Code, is amended to
 6-26 read as follows:

6-27 (c) The department may not collect, [~~or~~] retain, or share
 6-28 information relating to a juvenile except as provided by [if] this
 6-29 chapter [~~prohibits or restricts the collection or retention of the~~
 6-30 ~~information~~].

6-31 SECTION 16. Sections 58.104(a), (b), and (f), Family Code,
 6-32 are amended to read as follows:

6-33 (a) Subject to Subsection (f), the juvenile justice
 6-34 information system shall consist of information relating to
 6-35 delinquent conduct committed or alleged to have been committed by a
 6-36 juvenile offender that, if the conduct had been committed by an
 6-37 adult, would constitute a criminal offense other than an offense
 6-38 punishable by a fine only, including information relating to:

- 6-39 (1) the juvenile offender;
- 6-40 (2) the intake or referral of the juvenile offender
- 6-41 into the juvenile justice system;
- 6-42 (3) the detention of the juvenile offender;
- 6-43 (4) the prosecution of the juvenile offender;
- 6-44 (5) the disposition of the juvenile offender's case,
- 6-45 including the name and description of any program to which the
- 6-46 juvenile offender is referred; [~~and~~]
- 6-47 (6) the probation or commitment of the juvenile
- 6-48 offender; and
- 6-49 (7) the termination of probation supervision or
- 6-50 discharge from commitment of the juvenile offender.

6-51 (b) To the extent possible and subject to Subsection (a),
 6-52 the department shall include in the juvenile justice information
 6-53 system the following information for each juvenile offender taken
 6-54 into custody, detained, or referred under this title for delinquent
 6-55 conduct:

- 6-56 (1) the juvenile offender's name, including other
- 6-57 names by which the juvenile offender is known;
- 6-58 (2) the juvenile offender's date and place of birth;
- 6-59 (3) the juvenile offender's physical description,
- 6-60 including sex, weight, height, race, ethnicity, eye color, hair
- 6-61 color, scars, marks, and tattoos;
- 6-62 (4) the juvenile offender's state identification
- 6-63 number, and other identifying information, as determined by the
- 6-64 department;
- 6-65 (5) the juvenile offender's fingerprints;
- 6-66 (6) the juvenile offender's last known residential
- 6-67 address, including the census tract number designation for the
- 6-68 address;
- 6-69 (7) the name and identifying number of the agency that

7-1 took into custody or detained the juvenile offender;

7-2 (8) the date of detention or custody;

7-3 (9) the conduct for which the juvenile offender was

7-4 taken into custody, detained, or referred, including level and

7-5 degree of the alleged offense;

7-6 (10) the name and identifying number of the juvenile

7-7 intake agency or juvenile probation office;

7-8 (11) each disposition by the juvenile intake agency or

7-9 juvenile probation office;

7-10 (12) the date of disposition by the juvenile intake

7-11 agency or juvenile probation office;

7-12 (13) the name and identifying number of the

7-13 prosecutor's office;

7-14 (14) each disposition by the prosecutor;

7-15 (15) the date of disposition by the prosecutor;

7-16 (16) the name and identifying number of the court;

7-17 (17) each disposition by the court, including

7-18 information concerning probation or custody of a juvenile offender

7-19 by a juvenile justice agency [~~or probation~~];

7-20 (18) the date of disposition by the court;

7-21 (19) the date any probation supervision, including

7-22 deferred prosecution supervision, was terminated;

7-23 (20) any commitment or release under supervision by

7-24 the Texas Juvenile Justice Department;

7-25 (21) [~~(20)~~] the date of any commitment or release

7-26 under supervision by the Texas Juvenile Justice Department; and

7-27 (22) [~~(21)~~] a description of each appellate

7-28 proceeding.

7-29 (f) Records maintained by the department in the depository

7-30 are subject to being sealed under Subchapter C-1 [~~Section 58.003~~].

7-31 SECTION 17. Sections 58.106(a-2) and (b), Family Code, are

7-32 amended to read as follows:

7-33 (a-2) Information disseminated under Subsection (a) [~~or~~

7-34 ~~(a-1)~~] remains confidential after dissemination and may be

7-35 disclosed by the recipient only as provided by this title.

7-36 (b) Subsection (a) does [~~Subsections (a) and (a-1) do~~] not

7-37 apply to a document maintained by a juvenile justice or law

7-38 enforcement agency that is the source of information collected by

7-39 the department.

7-40 SECTION 18. Chapter 58, Family Code, is amended by adding

7-41 Subchapter C-1 to read as follows:

7-42 SUBCHAPTER C-1. SEALING AND DESTRUCTION OF JUVENILE RECORDS

7-43 Sec. 58.251. DEFINITIONS. In this subchapter:

7-44 (1) "Electronic record" means an entry in a computer

7-45 file or information on microfilm, microfiche, or any other

7-46 electronic storage media.

7-47 (2) "Juvenile matter" means a referral to a juvenile

7-48 court or juvenile probation department and all related court

7-49 proceedings and outcomes, if any.

7-50 (3) "Physical record" means a paper copy of a record.

7-51 (4) "Record" means any documentation related to a

7-52 juvenile matter, including information contained in that

7-53 documentation.

7-54 Sec. 58.252. EXEMPTED RECORDS. The following records are

7-55 exempt from this subchapter:

7-56 (1) records relating to a criminal combination or

7-57 criminal street gang maintained by the Department of Public Safety

7-58 or a local law enforcement agency under Chapter 61, Code of Criminal

7-59 Procedure;

7-60 (2) sex offender registration records maintained by

7-61 the Department of Public Safety or a local law enforcement agency

7-62 under Chapter 62, Code of Criminal Procedure; and

7-63 (3) records collected or maintained by the Texas

7-64 Juvenile Justice Department for statistical and research purposes,

7-65 including data submitted under Section 221.007, Human Resources

7-66 Code, and personally identifiable information.

7-67 Sec. 58.253. SEALING RECORDS WITHOUT APPLICATION:

7-68 DELINQUENT CONDUCT. (a) This section does not apply to the

7-69 records of a child referred to a juvenile court or juvenile

8-1 probation department solely for conduct indicating a need for
8-2 supervision.

8-3 (b) A person who was referred to a juvenile probation
8-4 department for delinquent conduct is entitled to have all records
8-5 related to the person's juvenile matters, including records
8-6 relating to any matters involving conduct indicating a need for
8-7 supervision, sealed without applying to the juvenile court if the
8-8 person:

8-9 (1) is at least 19 years of age;

8-10 (2) has not been adjudicated as having engaged in
8-11 delinquent conduct or, if adjudicated for delinquent conduct, was
8-12 not adjudicated for delinquent conduct violating a penal law of the
8-13 grade of felony;

8-14 (3) does not have any pending delinquent conduct
8-15 matters;

8-16 (4) has not been transferred by a juvenile court to a
8-17 criminal court for prosecution under Section 54.02;

8-18 (5) has not as an adult been convicted of a felony or a
8-19 misdemeanor punishable by confinement in jail; and

8-20 (6) does not have any pending charges as an adult for a
8-21 felony or a misdemeanor punishable by confinement in jail.

8-22 (c) A person who was referred to a juvenile probation
8-23 department for delinquent conduct is entitled to have all records
8-24 related to the person's juvenile matters, including records
8-25 relating to any matters involving conduct indicating a need for
8-26 supervision, sealed without applying to the juvenile court if the
8-27 person:

8-28 (1) is at least 25 years of age;

8-29 (2) was adjudicated as having engaged in delinquent
8-30 conduct violating a penal law of the grade of felony;

8-31 (3) did not receive a determinate sentence for
8-32 engaging in:

8-33 (A) delinquent conduct that violated a penal law
8-34 listed under Section 53.045; or

8-35 (B) habitual felony conduct as described by
8-36 Section 51.031;

8-37 (4) has not been required to register as a sex offender
8-38 under Chapter 62, Code of Criminal Procedure;

8-39 (5) does not have any pending delinquent conduct
8-40 matters;

8-41 (6) has not been transferred by a juvenile court to a
8-42 criminal court for prosecution under Section 54.02;

8-43 (7) has not as an adult been convicted of a felony or a
8-44 misdemeanor punishable by confinement in jail; and

8-45 (8) does not have any pending charges as an adult for a
8-46 felony or a misdemeanor punishable by confinement in jail.

8-47 Sec. 58.254. CERTIFICATION OF ELIGIBILITY FOR SEALING
8-48 RECORDS WITHOUT APPLICATION FOR DELINQUENT CONDUCT. (a) The
8-49 Department of Public Safety shall certify to a juvenile probation
8-50 department that has submitted records to the juvenile justice
8-51 information system that the records relating to a person referred
8-52 to the juvenile probation department appear to be eligible for
8-53 sealing under Section 58.253.

8-54 (b) The Department of Public Safety may issue the
8-55 certification described by Subsection (a) by electronic means,
8-56 including by electronic mail.

8-57 (c) Except as provided by Subsection (d), not later than the
8-58 60th day after the date the juvenile probation department receives
8-59 a certification under Subsection (a), the juvenile probation
8-60 department shall:

8-61 (1) give notice of the receipt of the certification to
8-62 the juvenile court; and

8-63 (2) provide the court with a list of all referrals
8-64 received by the department relating to that person and the outcome
8-65 of each referral.

8-66 (d) If a juvenile probation department has reason to believe
8-67 the records of the person for whom the department received a
8-68 certification under Subsection (a) are not eligible to be sealed,
8-69 the juvenile probation department shall notify the Department of

9-1 Public Safety not later than the 15th day after the date the
9-2 juvenile probation department received the certification. If the
9-3 juvenile probation department later determines that the person's
9-4 records are eligible to be sealed, the juvenile probation
9-5 department shall notify the juvenile court and provide the court
9-6 the information described by Subsection (c) not later than the 30th
9-7 day after the date of the determination.

9-8 (e) If, after receiving a certification under Subsection
9-9 (a), the juvenile probation department determines that the person's
9-10 records are not eligible to be sealed, the juvenile probation
9-11 department and the Department of Public Safety shall update the
9-12 juvenile justice information system to reflect that determination
9-13 and no further action related to the records is required.

9-14 (f) Not later than the 60th day after the date a juvenile
9-15 court receives notice from a juvenile probation department under
9-16 Subsection (c), the juvenile court shall issue an order sealing all
9-17 records relating to the person named in the certification.

9-18 Sec. 58.255. SEALING RECORDS WITHOUT APPLICATION: CONDUCT
9-19 INDICATING NEED FOR SUPERVISION. (a) A person who was referred to
9-20 a juvenile probation department for conduct indicating a need for
9-21 supervision is entitled to have all records related to all conduct
9-22 indicating a need for supervision matters sealed without applying
9-23 to the juvenile court if the person:

- 9-24 (1) is at least 18 years of age;
- 9-25 (2) has not been referred to the juvenile probation
9-26 department for delinquent conduct;
- 9-27 (3) has not as an adult been convicted of a felony; and
- 9-28 (4) does not have any pending charges as an adult for a
9-29 felony or a misdemeanor punishable by confinement in jail.

9-30 (b) The juvenile probation department shall:

- 9-31 (1) give the juvenile court notice that a person's
9-32 records are eligible for sealing under Subsection (a); and
- 9-33 (2) provide the juvenile court with a list of all
9-34 referrals relating to that person received by the department and
9-35 the outcome of each referral.

9-36 (c) Not later than the 60th day after the date the juvenile
9-37 court receives notice from the juvenile probation department under
9-38 Subsection (b), the juvenile court shall issue an order sealing all
9-39 records relating to the person named in the notice.

9-40 Sec. 58.256. APPLICATION FOR SEALING RECORDS.

9-41 (a) Notwithstanding Sections 58.253 and 58.255, a person may file
9-42 an application for the sealing of records related to the person in
9-43 the juvenile court served by the juvenile probation department to
9-44 which the person was referred. The court may not charge a fee for
9-45 filing the application, regardless of the form of the application.

9-46 (b) An application filed under this section must include
9-47 either the following information or the reason that one or more of
9-48 the following is not included in the application:

- 9-49 (1) the person's:
 - 9-50 (A) full name;
 - 9-51 (B) sex;
 - 9-52 (C) race or ethnicity;
 - 9-53 (D) date of birth;
 - 9-54 (E) driver's license or identification card
9-55 number; and
 - 9-56 (F) social security number;

9-57 (2) the conduct for which the person was referred to
9-58 the juvenile probation department, including the date on which the
9-59 conduct was alleged or found to have been committed;

9-60 (3) the cause number assigned to each petition
9-61 relating to the person filed in juvenile court, if any, and the
9-62 court in which the petition was filed; and

9-63 (4) a list of all entities the person believes have
9-64 possession of records related to the person, including the
9-65 applicable entities listed under Section 58.258(b).

9-66 (c) Except as provided by Subsection (d), the juvenile court
9-67 may order the sealing of records related to all matters for which
9-68 the person was referred to the juvenile probation department if the
9-69 person:

10-1 (1) is at least 18 years of age, or is younger than 18
10-2 years of age and at least two years have elapsed after the date of
10-3 final discharge in each matter for which the person was referred to
10-4 the juvenile probation department;

10-5 (2) does not have any delinquent conduct matters
10-6 pending with any juvenile probation department or juvenile court;

10-7 (3) was not transferred by a juvenile court to a
10-8 criminal court for prosecution under Section 54.02;

10-9 (4) has not as an adult been convicted of a felony; and

10-10 (5) does not have any pending charges as an adult for a
10-11 felony or a misdemeanor punishable by confinement in jail.

10-12 (d) A court may not order the sealing of the records of a
10-13 person who:

10-14 (1) received a determinate sentence for engaging in:

10-15 (A) delinquent conduct that violated a penal law
10-16 listed under Section 53.045; or

10-17 (B) habitual felony conduct as described by
10-18 Section 51.031;

10-19 (2) is currently required to register as a sex
10-20 offender under Chapter 62, Code of Criminal Procedure; or

10-21 (3) was committed to the Texas Juvenile Justice
10-22 Department or to a post-adjudication secure correctional facility
10-23 under Section 54.04011, unless the person has been discharged from
10-24 the agency to which the person was committed.

10-25 (e) On receipt of an application under this section, the
10-26 court may:

10-27 (1) order the sealing of the person's records
10-28 immediately, without a hearing; or

10-29 (2) hold a hearing under Section 58.257 at the court's
10-30 discretion to determine whether to order the sealing of the
10-31 person's records.

10-32 Sec. 58.257. HEARING REGARDING SEALING OF RECORDS. (a) A
10-33 hearing regarding the sealing of a person's records must be held not
10-34 later than the 60th day after the date the court receives the
10-35 person's application under Section 58.256.

10-36 (b) The court shall give reasonable notice of a hearing
10-37 under this section to:

10-38 (1) the person who is the subject of the records;

10-39 (2) the person's attorney who made the application for
10-40 sealing on behalf of the person, if any;

10-41 (3) the prosecuting attorney for the juvenile court;

10-42 (4) all entities named in the application that the
10-43 person believes possess eligible records related to the person; and

10-44 (5) any individual or entity whose presence at the
10-45 hearing is requested by the person or prosecutor.

10-46 Sec. 58.258. ORDER SEALING RECORDS. (a) An order sealing
10-47 the records of a person under this subchapter must include either
10-48 the following information or the reason one or more of the following
10-49 is not included in the order:

10-50 (1) the person's:

10-51 (A) full name;

10-52 (B) sex;

10-53 (C) race or ethnicity;

10-54 (D) date of birth;

10-55 (E) driver's license or identification card
10-56 number; and

10-57 (F) social security number;

10-58 (2) each instance of conduct indicating a need for
10-59 supervision or delinquent conduct alleged against the person or for
10-60 which the person was referred to the juvenile justice system;

10-61 (3) the date on which and the county in which each
10-62 instance of conduct was alleged to have occurred;

10-63 (4) if any petitions relating to the person were filed
10-64 in juvenile court, the cause number assigned to each petition and
10-65 the court and county in which each petition was filed; and

10-66 (5) a list of the entities believed to be in possession
10-67 of the records that have been ordered sealed, including the
10-68 entities listed under Subsection (b).

10-69 (b) Not later than the 60th day after the date of the entry

11-1 of the order, the court shall provide a copy of the order to:

11-2 (1) the Department of Public Safety;

11-3 (2) the Texas Juvenile Justice Department, if the
 11-4 person was committed to the department;

11-5 (3) the clerk of court;

11-6 (4) the juvenile probation department serving the
 11-7 court;

11-8 (5) the prosecutor's office;

11-9 (6) each law enforcement agency that had contact with
 11-10 the person in relation to the conduct that is the subject of the
 11-11 sealing order;

11-12 (7) each public or private agency that had custody of
 11-13 or that provided supervision or services to the person in relation
 11-14 to the conduct that is the subject of the sealing order; and

11-15 (8) each official, agency, or other entity that the
 11-16 court has reason to believe has any record containing information
 11-17 that is related to the conduct that is the subject of the sealing
 11-18 order.

11-19 (c) On entry of the order, all adjudications relating to the
 11-20 person are vacated and the proceedings are dismissed and treated
 11-21 for all purposes as though the proceedings had never occurred. The
 11-22 clerk of court shall:

11-23 (1) seal all court records relating to the
 11-24 proceedings, including any records created in the clerk's case
 11-25 management system; and

11-26 (2) send copies of the order to all entities listed in
 11-27 the order.

11-28 Sec. 58.259. ACTIONS TAKEN ON RECEIPT OF ORDER TO SEAL
 11-29 RECORDS. (a) An entity receiving an order to seal the records of a
 11-30 person issued under this subchapter shall, not later than the 61st
 11-31 day after the date of receiving the order, take the following
 11-32 actions, as applicable:

11-33 (1) the Department of Public Safety shall:

11-34 (A) limit access to the records relating to the
 11-35 person in the juvenile justice information system to only the Texas
 11-36 Juvenile Justice Department for the purpose of conducting research
 11-37 and statistical studies;

11-38 (B) destroy any other records relating to the
 11-39 person in the department's possession, including DNA records as
 11-40 provided by Section 411.151, Government Code; and

11-41 (C) send written verification of the limitation
 11-42 and destruction of the records to the issuing court;

11-43 (2) the Texas Juvenile Justice Department shall:

11-44 (A) seal all records relating to the person,
 11-45 other than those exempted from sealing under Section 58.252; and

11-46 (B) send written verification of the sealing of
 11-47 the records to the issuing court;

11-48 (3) a public or private agency or institution that had
 11-49 custody of or provided supervision or services to the person who is
 11-50 the subject of the records, the juvenile probation department, a
 11-51 law enforcement entity, or a prosecuting attorney shall:

11-52 (A) seal all records relating to the person; and

11-53 (B) send written verification of the sealing of
 11-54 the records to the issuing court; and

11-55 (4) any other entity that receives an order to seal a
 11-56 person's records shall:

11-57 (A) send any records relating to the person to
 11-58 the issuing court;

11-59 (B) delete all index references to the person's
 11-60 records; and

11-61 (C) send written verification of the deletion of
 11-62 the index references to the issuing court.

11-63 (b) Physical or electronic records are considered sealed if
 11-64 the records are not destroyed but are stored in a manner that allows
 11-65 access to the records only by the custodian of records for the
 11-66 entity possessing the records.

11-67 (c) If an entity that received an order to seal records
 11-68 relating to a person later receives an inquiry about a person or the
 11-69 matter contained in the records, the entity must respond that no

12-1 records relating to the person or the matter exist.

12-2 (d) If an entity receiving an order to seal records under
12-3 this subchapter is unable to comply with the order because the
12-4 information in the order is incorrect or insufficient to allow the
12-5 entity to identify the records that are subject to the order, the
12-6 entity shall notify the issuing court not later than the 30th day
12-7 after the date of receipt of the order. The court shall take any
12-8 actions necessary and possible to provide the needed information to
12-9 the entity, including contacting the person who is the subject of
12-10 the order or the person's attorney.

12-11 (e) If an entity receiving a sealing order under this
12-12 subchapter has no records related to the person who is the subject
12-13 of the order, the entity shall provide written verification of that
12-14 fact to the issuing court not later than the 30th day after the date
12-15 of receipt of the order.

12-16 Sec. 58.260. INSPECTION AND RELEASE OF SEALED RECORDS.

12-17 (a) A juvenile court may allow, by order, the inspection of
12-18 records sealed under this subchapter or under Section 58.003, as
12-19 that law existed before September 1, 2017, only by:

12-20 (1) a person named in the order, on the petition of the
12-21 person who is the subject of the records;

12-22 (2) a prosecutor, on the petition of the prosecutor,
12-23 for the purpose of reviewing the records for possible use:

12-24 (A) in a capital prosecution; or

12-25 (B) for the enhancement of punishment under
12-26 Section 12.42, Penal Code; or

12-27 (3) a court, the Texas Department of Criminal Justice,
12-28 or the Texas Juvenile Justice Department for the purposes of
12-29 Article 62.007(e), Code of Criminal Procedure.

12-30 (b) After a petitioner inspects records under this section,
12-31 the court may order the release of any or all of the records to the
12-32 petitioner on the motion of the petitioner.

12-33 Sec. 58.261. EFFECT OF SEALING RECORDS. (a) A person
12-34 whose records have been sealed under this subchapter or under
12-35 Section 58.003, as that law existed before September 1, 2017, is not
12-36 required to state in any proceeding or in any application for
12-37 employment, licensing, admission, housing, or other public or
12-38 private benefit that the person has been the subject of a juvenile
12-39 matter.

12-40 (b) If a person's records have been sealed, the information
12-41 in the records, the fact that the records once existed, or the
12-42 person's denial of the existence of the records or of the person's
12-43 involvement in a juvenile matter may not be used against the person
12-44 in any manner, including in:

12-45 (1) a perjury prosecution or other criminal
12-46 proceeding;

12-47 (2) a civil proceeding, including an administrative
12-48 proceeding involving a governmental entity;

12-49 (3) an application process for licensing or
12-50 certification; or

12-51 (4) an admission, employment, or housing decision.

12-52 (c) A person who is the subject of the sealed records may not
12-53 waive the protected status of the records or the consequences of the
12-54 protected status.

12-55 Sec. 58.262. INFORMATION GIVEN TO CHILD REGARDING SEALING
12-56 OF RECORDS. (a) When a child is referred to the juvenile probation
12-57 department, an employee of the juvenile probation department shall
12-58 give the child and the child's parent, guardian, or custodian a
12-59 written explanation describing the process of sealing records under
12-60 this subchapter and a copy of this subchapter.

12-61 (b) On the final discharge of a child, or on the last
12-62 official action in the matter if there is no adjudication, a
12-63 probation officer or official at the Texas Juvenile Justice
12-64 Department, as appropriate, shall give the child and the child's
12-65 parent, guardian, or custodian a written explanation regarding the
12-66 eligibility of the child's records for sealing under this
12-67 subchapter and a copy of this subchapter.

12-68 (c) The written explanation provided to a child under
12-69 Subsections (a) and (b) must include the requirements for a record

13-1 to be eligible for sealing, including an explanation of the records
 13-2 that are exempt from sealing under Section 58.252, and the
 13-3 following information:

13-4 (1) that, regardless of whether the child's conduct
 13-5 was adjudicated, the child has a juvenile record with the
 13-6 Department of Public Safety and the Federal Bureau of
 13-7 Investigation;

13-8 (2) the child's juvenile record is a permanent record
 13-9 unless the record is sealed under this subchapter;

13-10 (3) except as provided by Section 58.260, the child's
 13-11 juvenile record, other than treatment records made confidential by
 13-12 law, may be accessed by a police officer, sheriff, prosecutor,
 13-13 probation officer, correctional officer, or other criminal or
 13-14 juvenile justice official unless the record is sealed as provided
 13-15 by this subchapter;

13-16 (4) sealing of the child's records under Section
 13-17 58.253 or Section 58.255, as applicable, does not require any
 13-18 action by the child or the child's family, including the filing of
 13-19 an application or hiring of a lawyer, but occurs automatically at
 13-20 age 18, 19, or 25, as applicable based on the child's referral and
 13-21 adjudication history;

13-22 (5) the child's juvenile record may be eligible for an
 13-23 earlier sealing date under Section 58.256, but an earlier sealing
 13-24 requires the child or an attorney for the child to file an
 13-25 application with the court;

13-26 (6) the impact of sealing records on the child; and

13-27 (7) the circumstances under which a sealed record may
 13-28 be reopened.

13-29 (d) The Texas Juvenile Justice Department shall adopt rules
 13-30 to implement this section and to facilitate the effective
 13-31 explanation of the information required to be communicated by this
 13-32 section.

13-33 Sec. 58.263. DESTRUCTION OF RECORDS: NO PROBABLE CAUSE.
 13-34 The court shall order the destruction of the records relating to the
 13-35 conduct for which a child is taken into custody, including records
 13-36 contained in the juvenile justice information system, if:

13-37 (1) a determination is made under Section 53.01 that
 13-38 no probable cause exists to believe the child engaged in the conduct
 13-39 and the case is not referred to a prosecutor for review under
 13-40 Section 53.012; or

13-41 (2) a determination that no probable cause exists to
 13-42 believe the child engaged in the conduct is made by a prosecutor
 13-43 under Section 53.012.

13-44 Sec. 58.264. PERMISSIBLE DESTRUCTION OF RECORDS.

13-45 (a) Subject to Subsections (b) and (c) of this section, Section
 13-46 202.001, Local Government Code, and any other restrictions imposed
 13-47 by an entity's records retention guidelines, the following persons
 13-48 may authorize the destruction of records in a closed juvenile
 13-49 matter, regardless of the date the records were created:

13-50 (1) a juvenile board, in relation to the records in the
 13-51 possession of the juvenile probation department;

13-52 (2) the head of a law enforcement agency, in relation
 13-53 to the records in the possession of the agency; and

13-54 (3) a prosecuting attorney, in relation to the records
 13-55 in the possession of the prosecuting attorney's office.

13-56 (b) The records related to a person referred to a juvenile
 13-57 probation department may be destroyed if the person:

13-58 (1) is at least 18 years of age, and:

13-59 (A) the most serious conduct for which the person
 13-60 was referred was conduct indicating a need for supervision, whether
 13-61 or not the person was adjudicated; or

13-62 (B) the referral or information did not relate to
 13-63 conduct indicating a need for supervision or delinquent conduct and
 13-64 the juvenile probation department, prosecutor, or juvenile court
 13-65 did not take action on the referral or information for that reason;

13-66 (2) is at least 21 years of age, and:

13-67 (A) the most serious conduct for which the person
 13-68 was adjudicated was delinquent conduct that violated a penal law of
 13-69 the grade of misdemeanor; or

14-1 (B) the most serious conduct for which the person
14-2 was referred was delinquent conduct and the person was not
14-3 adjudicated as having engaged in the conduct; or

14-4 (3) is at least 31 years of age and the most serious
14-5 conduct for which the person was adjudicated was delinquent conduct
14-6 that violated a penal law of the grade of felony.

14-7 (c) If a record contains information relating to more than
14-8 one person referred to a juvenile probation department, the record
14-9 may only be destroyed if:

14-10 (1) the destruction of the record is authorized under
14-11 this section; and

14-12 (2) information in the record that may be destroyed
14-13 under this section can be separated from information that is not
14-14 authorized to be destroyed.

14-15 (d) Electronic records are considered to be destroyed if the
14-16 electronic records, including the index to the records, are
14-17 deleted.

14-18 (e) Converting physical records to electronic records and
14-19 subsequently destroying the physical records while maintaining the
14-20 electronic records is not considered destruction of a record under
14-21 this subchapter.

14-22 (f) This section does not authorize the destruction of the
14-23 records of the juvenile court or clerk of court.

14-24 (g) This section does not authorize the destruction of
14-25 records maintained for statistical and research purposes by the
14-26 Texas Juvenile Justice Department in a juvenile information and
14-27 case management system authorized under Section 58.403.

14-28 (h) This section does not affect the destruction of physical
14-29 records and files authorized by the Texas State Library Records
14-30 Retention Schedule.

14-31 Sec. 58.265. JUVENILE RECORDS NOT SUBJECT TO EXPUNCTION.
14-32 Records to which this chapter applies are not subject to an order of
14-33 expunction issued by any court.

14-34 SECTION 19. Section 58.112, Family Code, is transferred to
14-35 Chapter 203, Human Resources Code, and redesignated as Section
14-36 203.019, Human Resources Code, to read as follows:

14-37 Sec. 203.019 [58.112]. REPORT TO LEGISLATURE. Not later
14-38 than August 15 of each year, the Texas Juvenile Justice Department
14-39 shall submit to the lieutenant governor, the speaker of the house of
14-40 representatives, and the governor a report that contains the
14-41 following statistical information relating to children referred to
14-42 a juvenile court during the preceding year:

14-43 (1) the ages, races, and counties of residence of the
14-44 children transferred to a district court or criminal district court
14-45 for criminal proceedings; and

14-46 (2) the ages, races, and counties of residence of the
14-47 children committed to the Texas Juvenile Justice Department, placed
14-48 on probation, or discharged without any disposition.

14-49 SECTION 20. Section 411.151(a), Government Code, is amended
14-50 to read as follows:

14-51 (a) The director shall expunge a DNA record of an individual
14-52 from a DNA database if the person:

14-53 (1) notifies the director in writing that the DNA
14-54 record has been ordered to be expunged under this section or Chapter
14-55 55, Code of Criminal Procedure, and provides the director with a
14-56 certified copy of the court order that expunges the DNA record; or

14-57 (2) provides the director with a certified copy of a
14-58 court order issued under Subchapter C-1, Chapter 58 [Section
14-59 58.003], Family Code, that seals the juvenile record of the
14-60 adjudication that resulted in the DNA record.

14-61 SECTION 21. The following provisions of the Family Code are
14-62 repealed:

- 14-63 (1) Section 58.001(b);
- 14-64 (2) Section 58.003;
- 14-65 (3) Section 58.006;
- 14-66 (4) Sections 58.007(c), (d), (e), and (f);
- 14-67 (5) Section 58.0071;
- 14-68 (6) Section 58.00711;
- 14-69 (7) Section 58.106(a-1); and

15-1 (8) Subchapter C, Chapter 58.
15-2 SECTION 22. The changes in law made by this Act apply to
15-3 records created before, on, or after the effective date of this Act.
15-4 SECTION 23. This Act takes effect September 1, 2017.

15-5

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