

By: White

H.B. No. 1760

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the confidentiality, sharing, sealing, and destruction  
3 of juvenile records and certain records of at-risk youth.

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

5 SECTION 1. Section 58.005, Family Code, is amended by  
6 amending Subsection (a-1) and adding Subsection (c) to read as  
7 follows:

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

11 (1) the professional staff or consultants of the  
12 agency or institution;

13 (2) the judge, probation officers, and professional  
14 staff or consultants of the juvenile court;

15 (3) an attorney for the child;

16 (4) a governmental agency if the disclosure is  
17 required or authorized by law;

18 (5) an individual ~~[a person]~~ or entity to whom the  
19 child is referred for treatment or services, including assistance  
20 in transitioning the child to the community after the child's  
21 release or discharge from a juvenile facility ~~[if the agency or~~  
22 ~~institution disclosing the information has entered into a written~~  
23 ~~confidentiality agreement with the person or entity regarding the~~  
24 ~~protection of the disclosed information];~~

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

5           (7) a prosecuting attorney;

6           (8) a parent, guardian, or custodian with whom a child  
7 will reside after the child's release or discharge from a juvenile  
8 facility;

9           (9) a governmental agency or court if the record is  
10 necessary for an administrative or legal proceeding and the  
11 personally identifiable information about the child is redacted  
12 before the record is disclosed; or

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

16           (c) An individual or entity that receives confidential  
17 information under this section may not disclose the information  
18 unless otherwise authorized by law.

19           SECTION 2. Subsection (b-1), Section 58.0052, Family Code,  
20 as added by Chapter 1021 (H.B. 1521), Acts of the 85th Legislature,  
21 Regular Session, 2017, is redesignated as Subsection (b-3), Section  
22 58.0052, Family Code, to read as follows:

23           (b-3) ~~[(b-1)]~~ At the request of a state or local juvenile  
24 justice agency, the Department of Family and Protective Services or  
25 a single source continuum contractor who contracts with the  
26 department to provide foster care services shall, not later than  
27 the 14th business day after the date of the request, share with the

1 juvenile justice agency information in the possession of the  
2 department or contractor that is necessary to improve and maintain  
3 community safety or that assists the agency in the continuation of  
4 services for or providing services to a multi-system youth who:

5 (1) is or has been in the temporary or permanent  
6 managing conservatorship of the department;

7 (2) is or was the subject of a family-based safety  
8 services case with the department;

9 (3) has been reported as an alleged victim of abuse or  
10 neglect to the department;

11 (4) is the perpetrator in a case in which the  
12 department investigation concluded that there was a reason to  
13 believe that abuse or neglect occurred; or

14 (5) is a victim in a case in which the department  
15 investigation concluded that there was a reason to believe that  
16 abuse or neglect occurred.

17 SECTION 3. Section [58.007](#), Family Code, is amended by  
18 amending Subsection (b) and adding Subsection (c) to read as  
19 follows:

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, of a juvenile court, a clerk of court, a juvenile  
23 probation department, or a prosecuting attorney relating to a child  
24 who is a party to a proceeding under this title may be inspected or  
25 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 the child's parent [~~a~~  
4 ~~party~~] in a proceeding under this title;

5           (4) an attorney representing the child;

6           (5) a prosecuting attorney;

7           (6) an individual [~~a person~~] or entity to whom the  
8 child is referred for treatment or services, including assistance  
9 in transitioning the child to the community after the child's  
10 release or discharge from a juvenile facility [~~, if the agency or~~  
11 ~~institution disclosing the information has entered into a written~~  
12 ~~confidentiality agreement with the person or entity regarding the~~  
13 ~~protection of the disclosed information~~];

14           (7) [~~(5)~~] a public or private agency or institution  
15 providing supervision of the child by arrangement of the juvenile  
16 court, or having custody of the child under juvenile court order; or

17           (8) [~~(6)~~] with permission from the juvenile court, any  
18 other individual [~~person~~], agency, or institution having a  
19 legitimate interest in the proceeding or in the work of the court.

20           (c) An individual or entity that receives confidential  
21 information under this section may not disclose the information  
22 unless otherwise authorized by law.

23           SECTION 4. Section 58.008(b), Family Code, is amended to  
24 read as follows:

25           (b) Except as provided by Subsection (c) [~~(d)~~], law  
26 enforcement records concerning a child and information concerning a  
27 child that are stored by electronic means or otherwise and from

1 which a record could be generated may not be disclosed to the public  
2 and shall be:

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

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

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

12 SECTION 5. Sections 58.009(d) and (f), Family Code, are  
13 amended to read as follows:

14 (d) The Texas Juvenile Justice Department may grant the  
15 following individuals or entities access to juvenile justice  
16 information only for a purpose beneficial to and approved by the  
17 department to:

18 (1) an individual or entity [~~a person~~] working on a  
19 research or statistical project that:

20 (A) is funded in whole or in part by state or  
21 federal funds; and

22 (B) meets the requirements of and is approved by  
23 the department; or

24 (2) an individual or entity [~~a person working on a~~  
25 ~~research or statistical project~~] that:

26 (A) is working on a research or statistical  
27 project that meets the requirements of and is approved by the

1 department; and

2 (B) has a specific agreement with the department  
3 that:

4 (i) specifically authorizes access to  
5 information;

6 (ii) limits the use of information to the  
7 purposes for which the information is given;

8 (iii) ensures the security and  
9 confidentiality of the information; and

10 (iv) provides for sanctions if a  
11 requirement imposed under Subparagraph (i), (ii), or (iii) is  
12 violated.

13 (f) The Texas Juvenile Justice Department may not release  
14 juvenile justice information in identifiable form, except for  
15 information released under Subsection (c)(1), (2), ~~(3)~~, or (4)  
16 or under the terms of an agreement entered into under Subsection  
17 (d)(2). For purposes of this subsection, identifiable information  
18 means information that contains a juvenile offender's name or other  
19 personal identifiers or that can, by virtue of sample size or other  
20 factors, be reasonably interpreted as referring to a particular  
21 juvenile offender.

22 SECTION 6. Section 58.255(a), Family Code, is amended to  
23 read as follows:

24 (a) A person who was referred to a juvenile court [~~probation~~  
25 ~~department~~] for conduct indicating a need for supervision is  
26 entitled to have all records related to all conduct indicating a  
27 need for supervision matters sealed without applying to the

1 juvenile court if the person:

2 (1) has records relating to the conduct filed with the  
3 court clerk;

4 (2) is at least 18 years of age;

5 (3) [~~2~~] has not been referred to the juvenile  
6 probation department for delinquent conduct;

7 (4) [~~3~~] has not as an adult been convicted of a  
8 felony; and

9 (5) [~~4~~] does not have any pending charges as an  
10 adult for a felony or a misdemeanor punishable by confinement in  
11 jail.

12 SECTION 7. Subchapter C-1, Chapter 58, Family Code, is  
13 amended by adding Section 58.2551 to read as follows:

14 Sec. 58.2551. SEALING RECORDS WITHOUT APPLICATION: FINDING  
15 OF NOT TRUE. A juvenile court, on the court's own motion and  
16 without a hearing, shall immediately order the sealing of all  
17 records related to the alleged conduct if the court enters a finding  
18 that the allegations are not true.

19 SECTION 8. Section 58.256(c), Family Code, is amended to  
20 read as follows:

21 (c) Except as provided by Subsection (d), the juvenile court  
22 may order the sealing of records related to all matters for which  
23 the person was referred to the juvenile probation department if the  
24 person:

25 (1) is at least 17 [~~18~~] years of age, or is younger  
26 than 17 [~~18~~] years of age and at least one year has [~~two years have~~]  
27 elapsed after the date of final discharge in each matter for which

1 the person was referred to the juvenile probation department;

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

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

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

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

9 SECTION 9. Section 58.258(c), Family Code, is amended to  
10 read as follows:

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

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

18 (2) send copies of the order to all entities listed in  
19 the order by any reasonable method, including certified mail,  
20 regular mail, or e-mail.

21 SECTION 10. Section 58.263, Family Code, is amended to read  
22 as follows:

23 Sec. 58.263. DESTRUCTION OF RECORDS: NO PROBABLE CAUSE.  
24 The court shall order the destruction of the records relating to the  
25 conduct for which a child is taken into custody or referred to  
26 juvenile court without being taken into custody, including records  
27 contained in the juvenile justice information system, if:



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

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

8           SECTION 11. Section 203.0065, Human Resources Code, is  
9 amended by adding Subsections (g) and (h) to read as follows:

10           (g) The records related to a youth who was provided  
11 prevention and intervention services under this section are  
12 confidential and may only be inspected or copied by an individual or  
13 entity to whom the youth is referred for treatment or services.

14           (h) An individual or entity that receives information under  
15 this section may not disclose the information unless otherwise  
16 authorized by law.

17           SECTION 12. The following provisions of the Family Code are  
18 repealed:

19           (1) Section 58.003(c-3);

20           (2) Section 58.0053; and

21           (3) Section 58.007(j).

22           SECTION 13. The changes in law made by this Act apply to  
23 records created before, on, or after the effective date of this Act.

24           SECTION 14. This Act takes effect September 1, 2019.