

By: White

H.B. No. 4103

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the discretionary sealing of certain juvenile records.

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

4 SECTION 1. Section 58.256, Family Code, is amended by
5 amending Subsections (c), (d), and (e) and adding Subsection (f) to
6 read as follows:

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

11 (1) is:

12 (A) at least 18 years of age;

13 (B) [~~or is~~] younger than 18 years of age and at
14 least two years have elapsed after the date of final discharge in
15 each matter for which the person was referred to the juvenile
16 probation department; or

17 (C) any age, if the person was finally discharged
18 without adjudication in each matter for which the person was
19 referred to the juvenile probation department;

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

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

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

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

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

5 (1) was transferred to an appropriate district court
6 under Section 54.051 after receiving [~~received~~] a determinate
7 sentence for engaging in:

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

10 (B) habitual felony conduct as described by
11 Section 51.031;

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

14 (3) was committed to the Texas Juvenile Justice
15 Department or to a post-adjudication secure correctional facility
16 under former Section 54.04011, unless the person has been
17 discharged from the agency to which the person was committed.

18 (e) Except as provided by Subsection (f), on [~~On~~] receipt of
19 an application under this section, the court may:

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

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

25 (f) The court may only order the sealing of a person's
26 records under this section for a person described by Subsection
27 (c)(1)(C) if the court finds that sealing the records is in the best

1 interest of the person and the community. The court shall hold a
2 hearing under Section 58.257 before ordering the sealing of the
3 person's records under this subsection unless:

4 (1) the person waives in writing the person's right to
5 the hearing; and

6 (2) the court and the prosecuting attorney for the
7 juvenile court agree to waive the hearing.

8 SECTION 2. The changes in law made by this Act apply to
9 records created before, on, or after the effective date of this Act.

10 SECTION 3. This Act takes effect September 1, 2019.