By:  Wu, et al. (Senate Sponsor - Whitmire) H.B. No. 1193

(In the Senate - Received from the House May 5, 2021; May 17, 2021, read first time and referred to Committee on Jurisprudence; May 21, 2021, reported favorably by the following vote: Yeas 4, Nays 0; May 21, 2021, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Huffman           X

Hinojosa             X

Creighton            X

Hughes                         X

Johnson              X

A BILL TO BE ENTITLED

AN ACT

relating to the jurisdiction of a juvenile court over certain persons and to the sealing and nondisclosure of certain juvenile records.

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

SECTION 1.  Section 51.0412, Family Code, is amended to read as follows:

Sec. 51.0412.  JURISDICTION OVER INCOMPLETE PROCEEDINGS. The court retains jurisdiction over a person, without regard to the age of the person, who is a respondent in an adjudication proceeding, a disposition proceeding, a proceeding to modify disposition, a proceeding for waiver of jurisdiction and transfer to criminal court under Section 54.02(a), or a motion for transfer of determinate sentence probation to an appropriate district court if:

(1)  the petition or motion was filed while the respondent was younger than 18 or 19 years of age, as applicable;

(2)  the proceeding is not complete before the respondent becomes 18 or 19 years of age, as applicable; and

(3)  the court enters a finding in the proceeding that:

(A)  the prosecuting attorney exercised due diligence in an attempt to complete the proceeding before the respondent became 18 or 19 years of age, as applicable; or

(B)  the proceeding has been delayed through no fault of the state.

SECTION 2.  Section 58.256, Family Code, is amended by amending Subsections (d) and (e) and adding Subsection (f) to read as follows:

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

(1)  received a determinate sentence and was transferred to district court under Section 54.051 or 54.11 [~~for engaging in:~~

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

[~~(B)  habitual felony conduct as described by Section 51.031~~];

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

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

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

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

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

(f)  On receipt of an application under this section from a person who received a determinate sentence and was not transferred to a district court under Section 54.051 or 54.11, the court shall hold a hearing under Section 58.257 to determine whether it is in the best interest of the person and of justice to order the sealing of the person's records and may order the records to be sealed.

SECTION 3.  The changes in law made by this Act apply only to conduct violating a penal law of this state that occurs on or after the effective date of this Act. Conduct violating a penal law of this state that occurs before the effective date of this Act is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurred before the effective date of this Act if any element of the conduct occurred before that date.

SECTION 4.  This Act takes effect September 1, 2021.

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