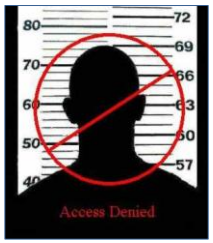
What about Gang Records?

Restricted access does not apply to gang records. However, access is limited to federal, state, and local criminal justice agencies for a criminal justice purpose. This means that employers and schools cannot access the gang records.

How does restricted access benefit me?

If your juvenile records are placed on restricted access, you are allowed to:

- deny the existence of the records; and
- deny the arrest, prosecution, or adjudication ever happened.



For example, once the records are on restricted access, you may legally answer "No" when a job, school, or occupational licensing application asks, "Have you ever been arrested for or adjudicated of a crime?" If you are unsure about how to answer, get advice. The law also permits you to seek a court order to get access to your own juvenile records. Under certain circumstances, you may also sign a release or seek a court order to allow other agencies and entities, including military personnel, to obtain your juvenile records.

What is Sealing of Records?

Sealing of records is a process that allows you to have your records "sealed" so that no one can access them. Records that are sealed are treated as though they never existed. You are allowed to legally deny that you were ever involved in the juvenile system. Records can be "unsealed" for very limited purposes. Typically, getting your records sealed requires you to initiate a formal court proceeding and you may need an attorney.

What is expunction of records?

If you are of juvenile age, class C misdemeanors in justice or municipal court are considered confidential and may not be disclosed to the public. If you have only one conviction prior to your 17th birthday, you may be able to have that offense "expunged" or removed from your record.

Where can I get additional information?

Expunction:
Code of Criminal Procedure §§45.0216 and 45.055

Restricted Access:
Texas Family Code §§58.201 – 58.211

Sealing:
Texas Family Code §58.003

You can access Texas laws online at
www.statutes.legis.state.tx.us

Prepared by the

Texas Juvenile Justice Department
11209 Metric Boulevard – Bldg. H
P.O. Box 12757, Austin, Texas 78711
Phone (512) 480-7130
www.tjjd.texas.gov

For additional copies or if you have questions, please contact your local juvenile probation or parole office at:

TEXAS JUVENILE JUSTICE SYSTEM FILES AND RECORDS

A Juvenile's Guide to Understanding Automatic Restriction of Access to Records

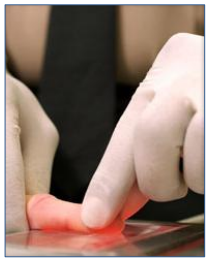
A Publication by the
Texas Juvenile Justice Department

March 2014

Who has a juvenile record in Texas?

Anyone who was taken into custody or referred to court for delinquent conduct, which is generally Class A or B misdemeanor or felony offenses, or conduct indicating a need for supervision (CINS), including class C misdemeanors and conduct that would not be against the law if committed by an adult (like drinking or running away), or certain specific offenses such as prostitution and "sexting" has a juvenile record.

How are juvenile records kept in Texas?



There are two ways that juvenile records are kept in Texas. The first is records of a court and probation department, which include records of both CINS and delinquent conduct. The second is the records in the Juvenile Justice Information System (JJIS), the database maintained by the Texas Department of Public Safety. Records related to arrests, prosecutions, adjudications, and dispositions for delinquent conduct are included in the JJIS.

Who can access juvenile records?

While juvenile records are generally confidential, there are certain exceptions that allow police, prosecutors, probation officers, health and human services agencies, education entities, and other criminal and juvenile justice officials in Texas and elsewhere to have access. The records may also be available to employers, educational institutions, licensing agencies, and other organizations when you apply for employment or educational programs. Treatment records (counseling, placement, drug treatment, etc.) are confidential and access to them is much more limited.

What is automatic restriction of access to records?

Texas has a system in place that restricts the access to juvenile records once a person turns 17 years of age. This is in addition to your opportunity to have your records sealed or destroyed under other provisions in the Texas Family Code.

Under automatic restriction of access, the records are not destroyed or sealed; they still exist but can only be accessed by federal or state criminal justice agencies for a criminal justice purpose, such as investigation of a crime or screening applicants for employment with the criminal justice agency. For anyone else who asks about the records, including employers, schools, and licensing bodies, the entity in possession of the records is required to respond, "No records exist for that person." Additionally, once your records have been restricted, you are allowed to "legally deny" your history and say you were never arrested, prosecuted, or adjudicated for an offense.

What do I have to do to get access to my records restricted?

While getting records sealed or destroyed generally requires you to hire an attorney and file a request with the juvenile court, getting your records restricted does not require any action on your part. Records are automatically restricted when you turn 17. However, your records may be "unrestricted "or removed from restricted access for adult convictions or deferred adjudications that occur after age 17. If this happens, your delinquency history may once again become available to certain agencies and organizations that conduct background checks.

What records are not eligible for restricted access?

The only juvenile records that are not eligible for automatic restricted access are cases that were:

- handled as determinate sentence cases by the juvenile court;
- certified (transferred) to adult criminal court; or
- prosecuted in a justice or municipal court.

What about Sex Offender Records?

Restricted access does not apply to sex offender registration records because the purpose of sex offender registration is to notify the public. If you are required to register as a sex offender for an offense committed as a juvenile, you may have the right to have your records sealed after your obligation to register expires. There are also legal proceedings available that may allow for reconsideration of your duty to register.