

What about gang records?

Restricted access does not apply to gang records, but disclosure will be limited to federal, state, and local criminal justice agencies for a criminal justice purpose. This means that employers and schools cannot access gang records. Information in the statewide gang database may be removed in certain circumstances.

How do sealing and restricted access benefit me?

If your juvenile records are sealed or 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 sealed or placed 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. Restricted access laws also allow 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 restricted juvenile records. Sealed records can only be reopened if you and your attorney make a request to reopen them, for punishment purposes in certain adult cases, or if you apply for a license to carry a gun.

Where can I get additional information?

Expunction:

Code of Criminal Procedure §45.0216; §45.0541

Restricted Access:

Texas Family Code §§58.201 – 58.211

Sealing:

Texas Family Code §58.003; §65.201

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

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

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TEXAS JUVENILE JUSTICE SYSTEM FILES AND RECORDS

A Juvenile's Guide to Understanding Sealing and Restricted Access



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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 certain offenses “expunged” or removed from your record. If you have had proceedings in justice or municipal court for failure to attend school, these records will also be expunged. For offenses that occur on or after September 1, 2015, you may apply to have your truancy court records sealed when you turn 18.

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. Juvenile records are kept in probation, law enforcement, and court files as well as computer databases such as the Juvenile Justice Information System (JJIS) maintained by the Texas Department of Public Safety.



How do I protect my juvenile record?

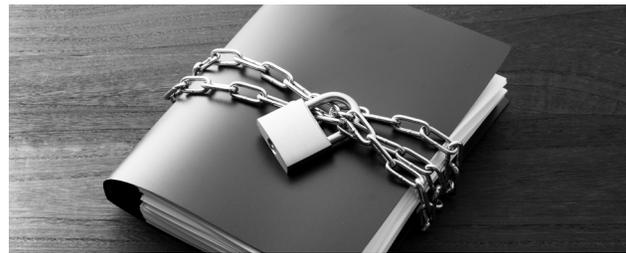
While juvenile records are generally confidential, there are certain exceptions that allow police, prosecutors, probation officers, health and human services agencies, education entities, and other criminal and juvenile justice officials in Texas and elsewhere to have access. The records may also be 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. Sealing and restricted access are important ways available by law to protect your records and limit who can access them. Expunctions are only available in justice and municipal courts.

What does it mean to seal a record?

Beginning on September 1, 2015, juvenile records may be automatically sealed. 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 and you may legally deny that you were ever involved in the juvenile system. Records can be “unsealed” for very limited purposes. The most important change in the law is that you do not have to hire an attorney to help you file an application with the court. If your records were eligible for sealing before September 1, 2015, it will still be necessary to hire an attorney to apply to seal your records.

What is restricted access?

Restricted access is the method of limited disclosure of juvenile records only to criminal justice agencies. These records are not destroyed but remain in place. Your records may be “unrestricted,” or removed from restricted access, however, 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. Juvenile records that become eligible for sealing after you turn 17 will initially be placed on restricted access. Any new criminal history may also impact whether your records can be sealed later.



What records are not eligible for restricted access?

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

- were handled as determinate sentence cases by the juvenile court;
- were certified (transferred) to adult criminal court;
- were prosecuted in a justice or municipal court; or
- involve youth who are still on probation, have pending court proceedings, or have been committed to a TJJD institution.

What records are not eligible for sealing?

Your juvenile record cannot be sealed if you were certified to stand trial as an adult, were placed on determinate sentence probation or committed to TJJD with a determinate sentence, or have a continuing obligation to register as a sex offender.

When can my records be sealed or placed on restricted access?

Sealing and restricted access are two very similar ways that your juvenile record can be protected. If your most serious offense was a misdemeanor or CINS conduct (or you were charged with but never adjudicated for an offense), the law now requires your record to be sealed automatically two years after you have been discharged from probation or after the last action in your case if you were not adjudicated. To be eligible, you must not have any pending cases or any adult convictions for a felony or misdemeanor crime of moral turpitude, such as theft. Information about adjudicated felonies may also be sealed when you turn 19 if you have not been certified as an adult and do not have a pending case or a felony conviction in adult court. It is possible that the prosecutor will request a hearing regarding whether your record should be sealed if you were adjudicated for a felony. Because of this, it is a good idea to make sure the court knows your mailing address so you can get notice of the hearing.

If you are eligible, your records may be placed on restricted access on your 17th birthday. These 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.”

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.