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JUVENILE RECORDS
ADVISORY COMMITTEE

LEGISLATIVE REPORT

.....
2016



JUVENILE RECORDS
ADVISORY COMMITTEE

H.B. 431

JUVENILE RECORDS ADVISORY COMMITTEE

CHAPTER 58, Texas Family Code

REPORT & REORGANIZATION PLAN

November 1, 2016

*This report contains findings and recommendations
regarding juvenile records statutes and related laws in Texas.*



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EXECUTIVE SUMMARY



The juvenile justice system in Texas is regulated by an array of statutory laws that mutually reinforce the concept that juvenile cases are different. Unlike adult offenders, youth in the juvenile justice system have an expectation that they will participate in rehabilitative programs and services and remain free of the taint of criminality¹. Despite the confidentiality protections afforded under state law, juvenile offenders are nevertheless haunted by the long-term unintended consequences of delinquency history. In particular, youth have described the negative collateral impact on the pursuit of higher education, suitable housing and employment. Similarly, stakeholders must navigate federal and state confidentiality regulations in order to legitimately share essential information to meet important public safety objectives and provide services to improve rehabilitative outcomes for youth. While existing laws address many of these obstacles, technological advancements and the expanded number of persons and entities with access to juvenile records have diminished the assurance of confidentiality and increased the long-term consequences of delinquency history. In recognition of these systemic challenges, the Texas Legislature enacted House Bill 431, 84th R.S. (2015), which established the Juvenile Records Advisory Committee. The legislation directed the committee, comprising a cross-section of juvenile justice system practitioners, to conduct a comprehensive reassessment of Chapter 58 of the Texas Family Code and related laws.

The assumption that guided the committee's work was that the current statutory framework for juvenile records has not kept pace with the systemic and technological changes that have occurred since the last major rewrite of the Juvenile Justice Code in 1995². The workgroup was tasked, therefore, with identifying the statutory provisions in Chapter 58 that have been rendered outdated or inapplicable. The advisory committee's extensive review of national trends and state practices revealed areas for improvement and confirmed that many of the statutory provisions identified in the original legislation remain relevant.

Based on its assessment of juvenile records statutes, the committee concluded that:

1. a general reorganization of Chapter 58 and related laws is necessary to establish a logical and coherent flow of statutory provisions;
2. it is in the state's interest to retain legally viable provisions to ensure stability and continuity of statewide procedures and practices;
3. selected juvenile statutes in other codes should be transferred to Chapter 58; and
4. further investigation and research is needed to address matters of legal, technological, or administrative importance.

¹ Tex. Family Code, §51.01 (1995). The removal of the taint of criminality is cited in the Family Code as a central public purpose of the juvenile justice system.

² H.B.327, 724th Legis. Sess. (1995).

The *H.B. 431 Report and Reorganization Plan* presents the findings, recommendations and plan that will accommodate the ever-evolving need of the Texas juvenile justice system to properly manage and share juvenile records.

INTRODUCTION

Background. In 2013, the 83rd Texas Legislature established the Fingerprint Advisory Committee pursuant to Senate Bill 1769³ to examine the fingerprinting practices of juvenile offenders in Texas. The recommendations contained in *SB 1769: A Report on Juvenile Fingerprinting Practices in Texas* (May 1, 2014)⁴ led to the enactment of House Bill 431 84th R.S. (2015)⁵. This legislation authorized the creation of the Juvenile Records Advisory Committee to conduct a comprehensive examination of Chapter 58 of the Family Code and related laws, mandating a reorganization plan and report to the Legislature and the Texas Juvenile Justice Department Board by November 1, 2016.

HB 431

Relating to the creation of an advisory committee to examine and recommend revisions to any state laws pertaining to juvenile records.

Juvenile Records Roundtable. Prior to the appointment of committee members, the Texas Juvenile Justice Department (TJJD) convened a Juvenile Records Roundtable to solicit input from nearly 400 participants at the 2015 Post-Legislative Conference⁶ regarding the implementation of House Bill 431. This interactive panel and audience discussion served as an initial forum to lay out the charges of the legislation and maximize input from a range of juvenile stakeholders. The conference feedback was considered and documented by the committee.

Accordingly, system practitioners urged changes to juvenile records statutes that will:

- Bring statutory authority in line with technological advances;
- Facilitate seamless information exchanges between authorized record holders while protecting confidentiality;
- Streamline protective mechanisms such as records sealing, restricted access and destruction; and
- Uphold the statutory mandate of removing the taint of criminality.⁷

Committee Composition and Duties. The Texas Juvenile Justice Department Board adopted a resolution to appoint the Juvenile Records Advisory Committee in November 2015, well in advance of the legislative deadline.⁸ Committee members were selected based on expertise and knowledge of statewide juvenile records practices and represented important juvenile justice stakeholder

³ S.B. 1769, 83rd Legis. Sess. (2013).

⁴ Texas Juvenile Justice Department, S.B. 1769: A Report on Juvenile Fingerprinting Practices in Texas (2014, May).

⁵ H.B. 431, 84th Legis. Sess. (2015).

⁶ Carter, W., Shaw, R., Thomas, N., Williams, M. (2015, July), *Juvenile Records Roundtable*. Panel discussion and presentation at the Texas Juvenile Justice Department Post-Legislative Conference, San Antonio, TX.

⁷ Fingerprint Advisory Committee, Chapter 58 Subgroup Report (2013).

⁸ S.B. 431 (84th R.S.) required the TJJD Board to make appointments to the Juvenile Records Advisory Committee no later than December 1, 2015.

perspectives.⁹ The legislation enumerated 14 categories of juvenile justice practitioners to serve as committee members and authorized outreach to other stakeholders as deemed necessary. The bill requires the advisory committee to submit a report by November 1, 2016. The committee's authority expires on December 31, 2018.

Advisory Committee Methodology. The Juvenile Records Advisory Committee held its organizational meeting on December 10, 2015, and convened a series of six subsequent meetings through October 2016. The initial orientation focused on workgroup duties, legislative charges, time commitment and the overall scope of work. In addition, the committee engaged in facilitated sessions to assess the statutes that regulate juvenile records in Texas. Specifically, the committee articulated its broad legal and policy vision by examining:

1. strengths and weaknesses of current juvenile records practices;
2. issues associated with sealing and restricted access;
3. ways to maximize stakeholder input; and
4. strategies for achieving its stated goals.

The characteristics of the proposed Texas model began to take shape by applying the principles of consensus decision-making. Responses were charted to identify challenges, benefits, gaps, successes and barriers. Committee members also discussed existing administrative practices, available staffing, technological resources, court procedures, fiscal resources, and interagency records sharing protocols.

As the committee's work progressed, smaller subgroups¹⁰ were formed (i.e. concept groups) to continue assignments between meetings and to encourage information-gathering. The original concepts were narrowed and a response mapping methodology was used to focus on remaining priorities and "wish list" items. In keeping with the consensus model, subgroups were tasked with developing recommendations and preliminary legislative proposals for review and deliberation by the subgroups and the full advisory committee. Concept groups convened independently on an *ad hoc* basis or via conference calls to develop and evaluate viable proposals for referral to the legislative drafting team. A legislative drafting team¹¹ was formed later in the process to refine and prepare the final report and legislative proposals.

The advisory committee also conducted extensive information-gathering to review articles,¹² national trends, a collection of records statutes of other state jurisdictions and federal laws. In support

⁹ A list of advisory committee members is located in the Appendices. Although the number of workgroup members was not specified, the bill identified 14 different practitioner categories and conferred authority to identify other relevant stakeholders.

¹⁰ Subcommittees were formed to work on key topical areas in Chapter 58, Group A/B – Confidentiality, Information Sharing, Disclosures; Group C - Protected Status Records (Sealing, Restricted Access and Expungement), Group D/E - Juvenile Justice Information System; Case Management Systems and Related Technology; Group F - Court Administration, Recordkeeping, Retention and Destruction of Records.

¹¹ Eight members of the advisory committee served on the legislative drafting team. [R. Shaw (Chair), E. Henneke, C. Hubner, N. Jensen, J. Mata, C. Porter Gore, K. Singer, N. Thomas, L. Wilkerson].

¹² Bibliographic resources and online resources were provided to advisory committee members.

of the committee's efforts, the Legal Division of the Texas Legislative Council conducted research to provide a comprehensive listing of juvenile records statutes and related cross-references contained throughout Texas state codes.¹³ Each member of the Juvenile Records Advisory Committee, through his or her participation and input, shared in authoring the findings and recommendations contained in this report.



¹³ Texas Legislative Council, *Juvenile Records Statutes and Cross-References* (January 2016).

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JUVENILE RECORDS

National Trends. National foundations and advocacy organizations, over the last decade, have launched reform initiatives to address growing concerns about the increasing criminalization of various aspects of our juvenile justice system. Much of the records reform has centered on ways to improve outcomes for juveniles by minimizing the detrimental consequences of delinquency history and establishing a framework for national best practices regarding information sharing.¹⁴ National legislation, such as the REDEEM Act, has proposed changes to the federal criminal code that contemplate a process for sealing or expungement of juvenile records.¹⁵

To gain a broader perspective, the Juvenile Records Advisory Committee reviewed a number of national studies and articles to assist the workgroup with necessary revisions of state law. Most notably, a Juvenile Law Center report, *Juvenile Records: A National Review of State Laws on Confidentiality, Sealing and Expungement*,¹⁶ as well as the American Bar Association's *Model Act Governing the Confidentiality and Expungement of Records*¹⁷ and the *National Trends* publication of the National Council of State Legislatures, provided useful information.

One essential resource, *Failed Policies, Forfeited Futures: A National Scorecard on Juvenile Records*¹⁸ aided the committee in evaluating Texas laws in relation to other state jurisdictions. The Scorecard Report also highlighted *Core Principles for Records Protection*. Specifically, the National Law Center identified ideal characteristics of state confidentiality laws and emphasized protective mechanisms such as sealing or expungement of juvenile records. National policymakers have concluded that ideal state systems should adopt a statutory framework that is consistent with widely recognized best practices and standards.¹⁹

¹⁴ MacArthur Foundation and Child Welfare League of America, *Models for Change Information Sharing Toolkit* <http://modelsforchange.net/publications/282> (last accessed September 2016).

¹⁵ The Record Expungement Designed to Enhance Employment Act of 2015, The Redeem Act, S. 675 by C. Booker and R. Paul amends the federal criminal code to provide a process for the sealing or expungement of records relating to nonviolent criminal or juvenile offenses. <https://www.congress.gov/bill/114th-congress/senate-bill/675> (last accessed September 2016).

¹⁶ Riya Saha Shah, et. al, *Juvenile Records: A National Review of State Laws on Confidentiality, Sealing and Expungement*, a publication of the Juvenile Law Center. <http://jlc.org/resources/publications/juvenile-records-national-review-state-laws-confidentiality-sealing-and-expun> (last accessed September 2016).

¹⁷ American Bar Association adopted the *Model Act Governing the Confidentiality and Expungement of Juvenile Delinquency Records*, adopted August, 2015.

¹⁸ *Failed Policies, Forfeited Futures: A Nationwide Scorecard in Juvenile Records*, a publication of the Juvenile Law Center. <http://juvenilerecords.jlc.org/juvenilerecords/documents/publications/scorecard.pdf> (last accessed September 2016).

¹⁹ Juvenile Law Center laid out its Core Principles for Records Protection, stating that ideal systems will ensure: 1) Youths' law enforcement and court records are not widely available and never available online; 2) Sealed records are completely closed to the general public; 3) Expungement means that records are electronically deleted and physically destroyed; 4) At least one designated entity or individual is responsible for informing youth about the availability of sealing or expungement; eligibility criteria; and how the process works; 5) Records of any offense may be eligible for expungement; 6) Youth are eligible for expungement at the time their cases are closed; 7) There are no costs or fees associated with the expungement process; 8) The sealing and expunging of records are automatic—i.e., youth need not do anything to initiate the process and youth are notified when the process is completed; 9) If sealing or expungement is not automatic, the process for obtaining expungement includes youth-friendly forms and is simple enough for youth to complete without the assistance of an attorney; 10) Sanctions are imposed on individuals and agencies that unlawfully share confidential or expunged juvenile record information or fail to comply with expungement orders.

According to the Scorecard, Texas was among only 8 states that received 4 out of 5 possible stars in recognition of our statutory adherence to many of the core principles for juvenile record protection.²⁰ The Texas Fact Sheet is included in Appendix F.

A Brief Perspective on Juvenile Records in Texas. In 1995, the Texas Legislature enacted House Bill 327 as part of the extensive juvenile justice system reforms that created Title 3 of the Family Code – The Juvenile Justice Code. Chapter 58 of the Family Code²¹ governs the collection, use, dissemination and retention of records. The basic statutory tenet of Chapter 58 is that juvenile records are confidential unless a specific statutory exception confers a legal right to disclose or access the information. Certain provisions authorize information-sharing and exchanges between juvenile service providers. In addition, Texas law permits the juvenile court to take procedural steps, such as records sealing and restricted access, to prevent unauthorized information disclosures at certain stages or after the child exits the system.

The enactment of Chapter 58 and the launch of the Juvenile Justice Information System (JJIS) database by the Texas Department of Safety (DPS) on January 1, 1996 reflected a transformative shift in philosophy and recordkeeping practices.²² Although physical files and electronic juvenile records are maintained at the local level, some have estimated the proliferation of nearly 20,000²³ entities that currently have access to unsealed and unrestricted juvenile repository information. In recent years, changes to case management information system functionality have also expanded the accessibility of records statewide. Juvenile justice practitioners contend that confidentiality has been diminished as a result of the increased dissemination of information and that delinquency history is less likely to be protected after a youth is discharged from the system. The Texas Rio Grande Legal Aid, Inc. (TRLA), which provides legal services to low-income individuals in 68 counties and on a statewide basis through the Texas Foster Youth Justice Project, offered the advisory committee input and identified key client concerns regarding the challenges of representing individuals with juvenile records.²⁴

Texas practitioners have, in recent legislative cycles, advocated for troubleshooting amendments regarding information sharing, restricted access and sealing, among other topical areas. The legislative changes that have emerged represent a well-intended but fragmented approach to addressing the increasing complexity and transformation of the juvenile justice system.

One case in point relates to the record sealing procedure informally referred to as ‘automatic sealing.’ Generally, sealing refers to the formal process that removes juvenile referral and adjudication

²⁰ *State Fact Sheet: Texas*, Juvenile Law Center.

<http://juvenilerecords.jlc.org/juvenilerecords/documents/publications/factsheet-TX.pdf> (last accessed October 2016).

²¹ H.B. 327, 76th Legis. Sess. (1995). House Bill 327 included a major re-write of the Title 3 of the Family Code.

²² Dawson, et. al, *Texas Juvenile Law* 8th Ed (2012, 2014).

²³ Chapter 411 of the Government Code enumerates a wide range of entities to which DPS is authorized to disclose confidential delinquency history contained in the Juvenile Justice Information System.

²⁴ K. Newell, M. Reed, S. Worthington, Memorandum: Challenges to Representing Individuals with Juvenile Records (July 22, 2016). In its memorandum to the Juvenile Records Advisory Committee, the TRLA identified attorney access to juvenile records; protection of juvenile records from commercial background search companies; and the opportunity to apply for early discretionary sealing among key client concerns.

history from court and DPS records as though the incident never occurred. Upon entry of the sealing order, entities with records are required to send them to the court so that records may not be released to anyone, even those entities that have access to confidential juvenile records. The sealing process is available only if certain statutory age, offense, and case-related criteria have been met. If the youth qualifies for sealing, all offense history is sealed as opposed to specific offenses. The Department of Public Safety reports that it has received 10,108 sealing orders in the last five years.²⁵

The most recent amendments to Section 58.003 of the Family Code²⁶ eliminated the requirement to file an application or petition to seal records with the assistance of an attorney for records that become eligible for sealing on or after September 1, 2015. An unintended consequence of this change affects juveniles who do not fall under the “automatic sealing” statute and are left with limited procedural mechanism to take steps to seal their juvenile history. Although the new language activated an automatic sealing process, the amendments also placed certain administrative obligations on juvenile courts and juvenile probation departments to verify eligibility and process sealing orders that were not fully addressed in law. Juvenile justice stakeholders asserted that these changes exceeded their administrative and technological capacity to fulfill the eligibility verification requirements. Automatic sealing also triggers certain due process and notice requirements without factoring in the administrative challenges of providing notice to the person who is the subject of the records based on outdated contact information often years after probation discharge or exit from the system. Consequently, the records of certain youth may remain unsealed. Practitioners have also cited problems with conclusive history verification due to limitations in the functionality of database and case management repositories. Nevertheless, during the past year, efforts to promote statewide consistency in automatic sealing procedures have begun to slowly emerge.

Objective age and offense-related criteria will also serve ongoing system informational requirements such as extended court jurisdiction, public safety, continuity of programs and services, as well as other administrative goals. In light of these challenges, the advisory committee concluded that a coordinated, collaborative, holistic approach to reviewing records and other juvenile justice laws is an essential long-term system strategy that will enhance the capacity of stakeholders to respond to and implement transformative legal changes.

Year	Sealing Orders
2011	1,776
2012	2,041
2013	2,192
2014	2,245
2015	1,854
TOTAL	10,108

Sealing Orders Received by DPS
Source: Department of Public Safety (August 2016)

²⁵ Department of Public Safety, (August 2016).

²⁶ During the 84th Legislative Session, House Bill 263 and Senate Bill 1707 (identical bills) contained important amendments to §58.003, Family Code, regarding the sealing of records.

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SUMMARY OF FINDINGS

This section summarizes the major findings of the Juvenile Records Advisory Committee having to do with:

- 1) Reorganization of Chapter 58 and Related Laws;
- 2) Confidentiality and Information Sharing;
- 3) Protective Mechanisms;
- 4) Records, Data Management and Retention; and
- 5) Strategic System Needs.

1. Reorganization of Chapter 58 & Related Laws

- A general reorganization of the framework of Chapter 58 is needed to establish a logical and coherent flow of relevant juvenile records provisions.
- It is in the state's interest to retain legally viable provisions to ensure continuity of statewide procedures and practices.
- Substantive revisions are needed for clarity and consistency.
- Relevant juvenile statutes in the Family Code or other codes should be transferred, as appropriate.
- Common definitions and terminology should be standardized.

2. Confidentiality and Information Sharing

- Juvenile justice records should remain protected from disclosure to the public.
- Confidentiality exceptions should be revised for clarity.
- The proliferation of juvenile information can be reduced by limiting the number of entities that may have access to unsealed, unrestricted Juvenile Justice Information System (JJIS) information.
- Confidentiality should apply on the basis of the situs of the document, not on the basis of the entity that created the document.
- Criminal justice agencies and specifically designated entities should continue to have access to JJIS information.
- The person who is the subject of the juvenile record should have access to JJIS history from the Department of Public Safety.
- A parent or other eligible person should have appropriate access to records to ensure family engagement and an understanding of juvenile proceedings.
- Information sharing laws should enhance the ability for criminal justice and child-serving entities, courts, prosecutors and other juvenile service providers to exchange information.
- Record-holding agencies should operate under strict disclosure guidelines to assist in the performance of their responsibilities.

3. Protective Mechanisms

Sealing and Restricted Access

- The mechanisms for protecting records should be substantially modified to improve efficiency and make such protections more accessible.

- Substantive changes regarding protective mechanisms are needed to reduce legal uncertainty and improve administrative efficiency.
- If recommended changes to sealing are adopted, restricted access will become a redundant procedural mechanism that should be repealed.
- Eligibility for sealing should be based on objective age and offense-related criteria to clarify and streamline administrative procedures and programming functionality.
- The ability to seal by application or petition should be clarified.
- The juvenile court should be able to seal at its discretion.
- The effect of sealing on the person who is the subject of the records should be clarified.
- Sealing without application should apply to all cases and existing records relating to a person.
- The sealing process should not impose any financial cost on a juvenile.

Destruction

- Records pertaining to conduct indicating a need for supervision (CINS) offenses, which are maintained on the local level only, should be summarily destroyed when a child meets certain age criteria.
- Juvenile record destruction laws should apply to all records regardless of when they were created.

Expunction

- Expunction provisions under Article 45, Code of Criminal Procedure, do not apply to records maintained under Title 3 of the Family Code.

4. Records, Data Management and Retention

- Records retention provisions should function within the regular operation of a governmental entity's statutorily required records management program.
- Retention periods for juvenile records should apply regardless of the date of creation.
- Confidential aggregate and disaggregate data (including tightly controlled personally identifiable information) maintained by TJJD should remain intact after sealing to facilitate research analysis, recidivism studies and data matches for agencies such as the Department of Public Safety, Department of Family and Protective Services, Texas Education Agency and the Legislative Budget Board.
- Clarifying amendments are needed to permit TJJD to share statistical data with other entities (e.g., non-governmental agencies, advocacy groups) in order to conduct research that TJJD determines as being beneficial to the field of juvenile justice.

5. Strategic System Needs

- Consideration should be given to developing an efficient and automated method to track juvenile information disclosures and to identify known record holders.
- The interface capacity and functionality of database and case management repositories should facilitate statewide delinquency history verification.
- State agencies should be required to share data through automated processes.

REORGANIZATION PLAN: CHAPTER 58 OF THE FAMILY CODE

The Juvenile Records Advisory Committee engaged in a collaborative process to identify the statutory framework to achieve current and prospective system goals. An analysis of historical legislative amendment activity in Chapter 58 revealed that the juvenile records statutes have remained relatively stable in the last twenty years. However, the workgroup noted high amendment activity concentrated in three primary areas: 1) sealing procedures; 2) confidentiality of information in the Juvenile Justice Information System (JJIS); and 3) information sharing and disclosures. The advisory committee has outlined the statutory framework it recommends is necessary for the successful implementation of the reorganization plan.

Plan Components

Reorganize the structure of Chapter 58 to establish a logical and coherent flow of juvenile records provisions.

Certain subchapters and related provisions contained in Chapter 58 of the Family Code will be renumbered, retitled, added or amended. Other provisions may be the subject of substantive and/or clarifying changes. Common definitions and terminology will be reviewed and standardized as needed. Long or complex statutory provisions will be simplified or reworded to be more user-friendly and for ease of understanding. Where possible, changes will be made without altering the practical meaning or intent of the current law. Other non-substantive revisions and recodifications are also recommended. The proposed reorganization structure and disposition of Chapter 58 is included in Appendix A.

Retain legally viable juvenile records provisions to ensure continuity of statewide procedures and practices.

Since the enactment of HB 327, the statutory provisions relating to juvenile records have had comparatively few changes. While substantive amendments have been identified in key areas, the majority of the provisions in Chapter 58 do not require substantive revision. In fact, Texas laws meet many of the nationally recognized principles for the maintenance and protection of juvenile records. Therefore, all legally viable provisions (or their legal effect) will be retained to ensure continuity of statewide procedures and practices.

Transfer selected juvenile statutes in other codes to the Family Code, where appropriate.

Juvenile records statutes scattered throughout various state codes should be transferred to the Family Code to make relevant law easier for practitioners to find and follow. The reorganization plan may also include the transfer and relocation of certain provisions from Chapter 58. In addition, Section 58.00711, relating to criminal Class C misdemeanor records of a minor, should be removed from the Family Code since a similar or identical provision can be found in Article 44.2811 of the Code of Criminal Procedure.

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PRELIMINARY RECOMMENDATIONS

The Juvenile Records Advisory Committee, through its Legislative Drafting Team, has outlined a working legislative draft to implement the Chapter 58 Reorganization Plan. The proposed amendments contain a number of substantive revisions that will be developed and refined during the continuing authority of the advisory committee, which continues through the 85th Legislative Session and expires on December 31, 2018. Proposed legislation and explanatory comments have been prepared and will be submitted under separate cover. As summarized below, the preliminary proposals for substantive revisions would accomplish the following:

Subchapter A – Creation and Confidentiality of Juvenile Records

- Reorganize and clarify role-based confidentiality, access and disclosure provisions relating to juvenile probation department, prosecutor, court clerk, law enforcement and facility records.
- Clarify that a person or entity to which a child is referred for treatment or services may have access to juvenile records after entering into a confidentiality agreement to protect the disclosed information.
- Clarify that the juvenile court is not authorized to disclose a record after it has been sealed.
- Clarify that law enforcement records of a juvenile who is transferred to the Texas Department of Criminal Justice that are sent to a central state or federal depository may be shared in accordance with the laws governing adult records.
- Authorize an attorney representing a child in a Title 3 proceeding or the child's co-defendant in a juvenile or criminal proceeding access to unredacted victim information, consistent with the constitutional right of confrontation.
- Repeal the provision relating to the confidentiality of information relating to children convicted of criminal conduct. This statute is duplicative of provisions contained in Article 44.2811 the Code of Criminal Procedure.
- Authorize law enforcement to obtain an existing photograph of a child from the juvenile probation department for use in a photographic array or lineup, in order to create an alternative to taking a child into temporary custody for the purpose of taking a photo when an available photo exists.
- Eliminate the requirement for the local juvenile board to monitor law enforcement compliance with destruction of photographs and fingerprints.
- Eliminate certain barriers to the exchange of data by the Texas Juvenile Justice Department for purposes deemed appropriate and beneficial to the aims of the juvenile justice system.

Subchapter B – Juvenile Justice Information System

- Clarify that the juvenile justice information system also includes information regarding allegations of delinquent conduct.
- Specify that the case closure date for supervision or commitment discharge should be reported in the juvenile justice information system.
- Limit access to the juvenile justice information system repository to criminal justice agencies for a criminal justice purpose.

- Transfer the Family Code provision that requires the Texas Juvenile Justice Department to report demographic and statistical information to the legislature to the TJJD enabling provisions in the Human Resources Code.

Subchapter C – Automatic Restriction of Access (PRIOR LAW)

- Repeal Subchapter C relating to Automatic Restriction of Access as a redundant procedural mechanism in light of automatic sealing.

Subchapter C – Sealing and Destruction of Juvenile Records (NEW)

- Seal juvenile records without application on the basis of objective age and offense-related criteria to clarify administrative procedures and programming functionality.
- Create a streamlined process for sealing records that authorizes: 1) sealing without application (automatic); and 2) sealing by application to permit early sealing at the court’s discretion based on simplified eligibility criteria.
- Authorize the Department of Public Safety to certify that records contained in the juvenile justice information system are eligible for sealing.
- Authorize eligibility for automatic sealing consistent with extended juvenile court jurisdiction and public safety purposes.
- Sealing Without Application (Automatic Sealing)
 - Age and Offense-related Criteria
 - Age 19: Misdemeanor Delinquent Conduct Adjudications
 - Age 19: Referred but No Adjudication
 - Age 25: Felony Adjudications
 - Additional Criteria
 - No determinate sentence adjudications.
 - Not certified as an adult.
 - Never required to register as a sex offender.
 - No pending matters in juvenile court.
 - No adult convictions - jailable misdemeanors or felonies.
 - No pending matters in adult court - jailable misdemeanors or felonies.
- Sealing By Application (Discretionary Sealing)
 - Clarify discretionary sealing language.
 - Permit early sealing with simplified eligibility criteria.
 - Specify that filing fees or other court costs are not authorized.
- Remove conduct indicating a need for supervision (CINS) history from the sealing eligibility criteria.

- Authorize the juvenile court to seal all or part of a juvenile record if the record holder has cases in multiple jurisdictions.
- Streamline specialty sealing provisions (e.g., drug court, human trafficking, etc.) since early sealing by application is available upon completion of required programs.
- Destroy records pertaining to conduct indicating a need for supervision under the record management destruction provisions.
- Ensure that sealed information and data in the juvenile justice information system is preserved and available to the Texas Juvenile Justice Department and the Department of Public Safety for recidivism research and statistical purposes.
- Permit certain custodians of juvenile records to maintain an index, “seal in place,” and to verify to the court clerk that such records have been sealed. This would facilitate paperless recordkeeping and streamline other administrative tasks.

Subchapter D – Local Juvenile Information System. (PRIOR LAW)

- Unchanged, may require renumbering.

Subchapter D - 1 – Reports on County Internet Websites (PRIOR LAW)

- Transfer Subchapter D - 1 relating to Reports on County Internet Websites to Chapter 152 of the Human Resources Code.

Subchapter E – Statewide Juvenile Information and Case Management System (PRIOR LAW)

- Unchanged, may require renumbering.

Conclusion

The Juvenile Records Advisory Committee engaged in a nearly year-long collaborative process to identify and consider the statutory framework for juvenile records in Texas. After an extensive assessment of current and prospective system goals, the committee’s work culminated in the development of a Reorganization Plan for Chapter 58 and related laws, as well as legislative proposals²⁷ based on specific conceptual findings. The comprehensive assessment of statutes revealed a significant number of provisions that remain legally viable and in fact adhere to national best standards. As such, the recommendations in this report focus on preserving existing law, where appropriate, to ensure the stability and continuity of statewide practices. The reorganization plan summarizes the components of the drafting tasks and contains the preliminary disposition for restructured subchapters, transferred provisions, revised section titles and statutes that will be enumerated in the final proposed legislation. It is anticipated that further substantive revisions will be developed and refined during the committee’s continuing authority and throughout the 85th Legislative Session.

²⁷ Upon completion, a vetted draft of the revised and reorganized Chapter 58 of the Family Code will be presented.

The advisory committee's primary substantive areas of examination concerned: 1) confidentiality and information sharing; 2) protective mechanisms; 3) records/data management and retention; and 4) strategic system needs that yielded the findings contained in this report.

Subchapter A, relating to the creation and confidentiality of juvenile records, contains provisions that clarify but do not alter authority granted under existing law. One notable change reorganizes the role-based confidentiality and disclosure sections. As proposed, a guardian ad litem would be authorized to inspect or copy delinquency records. Other language would specify that the law enforcement records of a juvenile who is transferred to TDCJ be included in the central state or federal depository and must be disclosed under adult laws. In addition, the juvenile board's requirement to monitor law enforcement compliance with the destruction of fingerprints and photographs would be eliminated.

A proposal regarding the maintenance of the Juvenile Justice Information System (JJIS) in Subchapter B would limit access to repository information to specific child-serving entities and criminal justice agencies for criminal justice purposes. In addition, references to case closure information would be added to the JJIS data elements.

Substantively, the most significant changes would occur in Subchapter C relating to sealing and destruction of juvenile records. The committee recommends language that would seal juvenile records: 1) without application (automatic); and 2) with application to allow for early and discretionary sealing by the court based on simplified age and offense-related eligibility criteria. The overall aim is to ensure that the sealing criteria are consistent with extended juvenile court jurisdiction and public safety objectives. In addition, if the revised sealing model is enacted, the committee recommends that restricted access laws be repealed as a redundant procedure.

As a result of the automatic sealing provisions, statisticians contend that the potential increase in the number of sealing orders may adversely impact the availability of juvenile justice research data. The proposed amendments include important revisions to ensure that accurate data is preserved and available to the Texas Juvenile Justice Department, as well as the Department of Public Safety for the purpose of conducting recidivism research, studies and data matches. Subchapters D and E will remain unchanged but may be renumbered. Subchapter D-1 should be transferred to the juvenile board enabling provisions contained in Chapter 152 of the Human Resources Code.

In conclusion, the Juvenile Records Advisory Committee Report is submitted in response to the legislative mandates of House Bill 431. An examination of Chapter 58 of the Family Code and related laws has yielded a workable plan to reorganize and revise juvenile records laws in Texas. Most importantly, while many of the recommendations are assistive to the rehabilitative goals of the system, every effort has been made to consider overarching public safety objectives. The advisory committee's legislative draft will be more fully vetted and submitted during the 85th Session pre-filing period. Under its continuing authority to convene, additional workgroup activities may be necessary to investigate and identify long-term system needs and other matters of legal, technological or

administrative importance in order to modernize the statutory framework for managing and sharing juvenile records.

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APPENDICES

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APPENDIX A: PROPOSED REORGANIZATION OF STATUTES

Texas Family Code Chapter 58 Records; Juvenile Justice Information System

GENERAL OVERVIEW

SUBCHAPTER A.	CREATION AND CONFIDENTIALITY OF JUVENILE RECORDS
SUBCHAPTER B.	JUVENILE JUSTICE INFORMATION SYSTEM
SUBCHAPTER C.	SEALING AND DESTRUCTION OF RECORDS
SUBCHAPTER D.	LOCAL JUVENILE JUSTICE INFORMATION SYSTEM
SUBCHAPTER E.	STATEWIDE JUVENILE INFORMATION AND CASE MANAGEMENT SYSTEM

DETAILED CONTENTS

SUBCHAPTER A. CREATION AND CONFIDENTIALITY OF JUVENILE RECORDS

§ 58. XXX.	Confidentiality, Policy Statement.
§ 58. XXX.	Law Enforcement Collection and Transmittal of Records of Children.
§ 58. XXX.	Photographs and Fingerprints of Children.
§ 58. XXX.	Fingerprints or Photographs for Comparison in Investigation.
§ 58. XXX.	Fingerprints or Photographs to Identify Runaways.
§ 58. XXX.	Confidentiality of Probation Department, Prosecutor and Court Clerk Records.
§ 58. XXX.	Confidentiality of Law Enforcement Records.
§ 58. XXX.	Confidentiality of Facility and Provider Records.
§ 58. XXX.	Interagency Sharing of Educational Records.
§ 58. XXX.	Interagency Sharing of Certain Noneducational Records.
§ 58. XXX.	Interagency Sharing of Juvenile Probation Records.
§ 58. XXX.	Redaction of Victim's Personally Identifiable Information.
§ 58. XXX.	Dissemination of Juvenile Justice Information.

SUBCHAPTER B. JUVENILE JUSTICE INFORMATION SYSTEM

§ 58. XXX.	Definitions.
§ 58. XXX.	Juvenile Justice Information System.
§ 58. XXX.	Purpose of System.
§ 58. XXX.	Types of Information Collected.
§ 58. XXX.	Duties of Juvenile Board.
§ 58. XXX.	Dissemination of Confidential Information in Juvenile Justice Information System.
§ 58. XXX.	Compatibility of Data.
§ 58. XXX.	Duties of Agencies and Courts.
§ 58. XXX.	Uniform Incident Fingerprint Card.
§ 58. XXX.	Reporting.
§ 58. XXX.	Local Data Advisory Boards.
§ 58. XXX.	Warrants.

SUBCHAPTER C. SEALING AND DESTRUCTION OF RECORDS AND FILES

- § 58. XXX. Definitions.
- § 58. XXX. Exempted Records.
- § 58. XXX. Eligibility for Sealing Without Application to the Court.
- § 58. XXX. Certification of Eligibility for Sealing Without Application.
- § 58. XXX. Application for Sealing of Records.
- § 58. XXX. Hearing on Application for Sealing of Records.
- § 58. XXX. Order Sealing Records.
- § 58. XXX. Information to Child by Probation Officer or Texas Juvenile Justice Department.
- § 58. XXX. Information to Child to Child on Discharge.
- § 58. XXX. Effect of Sealing in Relation to the Protected Person.
- § 58. XXX. Destruction of Certain Records When No Probable Cause Exists.
- § 58. XXX. Records Management Destruction of Physical Records.
- § 58. XXX. Juvenile Records Not Subject to Expunction.

SUBCHAPTER D. LOCAL JUVENILE JUSTICE INFORMATION SYSTEM

- § 58. XXX. Definitions.
- § 58. XXX. Purposes of System.
- § 58. XXX. Local Juvenile Justice Information System.
- § 58. XXX. Types of Information Contained in a Local Juvenile Information System.
- § 58. XXX. Partner Agencies.
- § 58. XXX. Access to Information; Levels.
- § 58. XXX. Confidentiality of Information.

SUBCHAPTER E. STATEWIDE JUVENILE INFORMATION AND CASE MANAGEMENT SYSTEM

- § 58. XXX. Definitions.
- § 58. XXX. Purposes of System.
- § 58. XXX. Juvenile Information System.
- § 58. XXX. Information Collected by Department.
- § 58. XXX. Authority Cumulative.

PROPOSED CODE TRANSFERS

Human Resources Code, Title 12

- § 58. XXX. Report to Legislature.

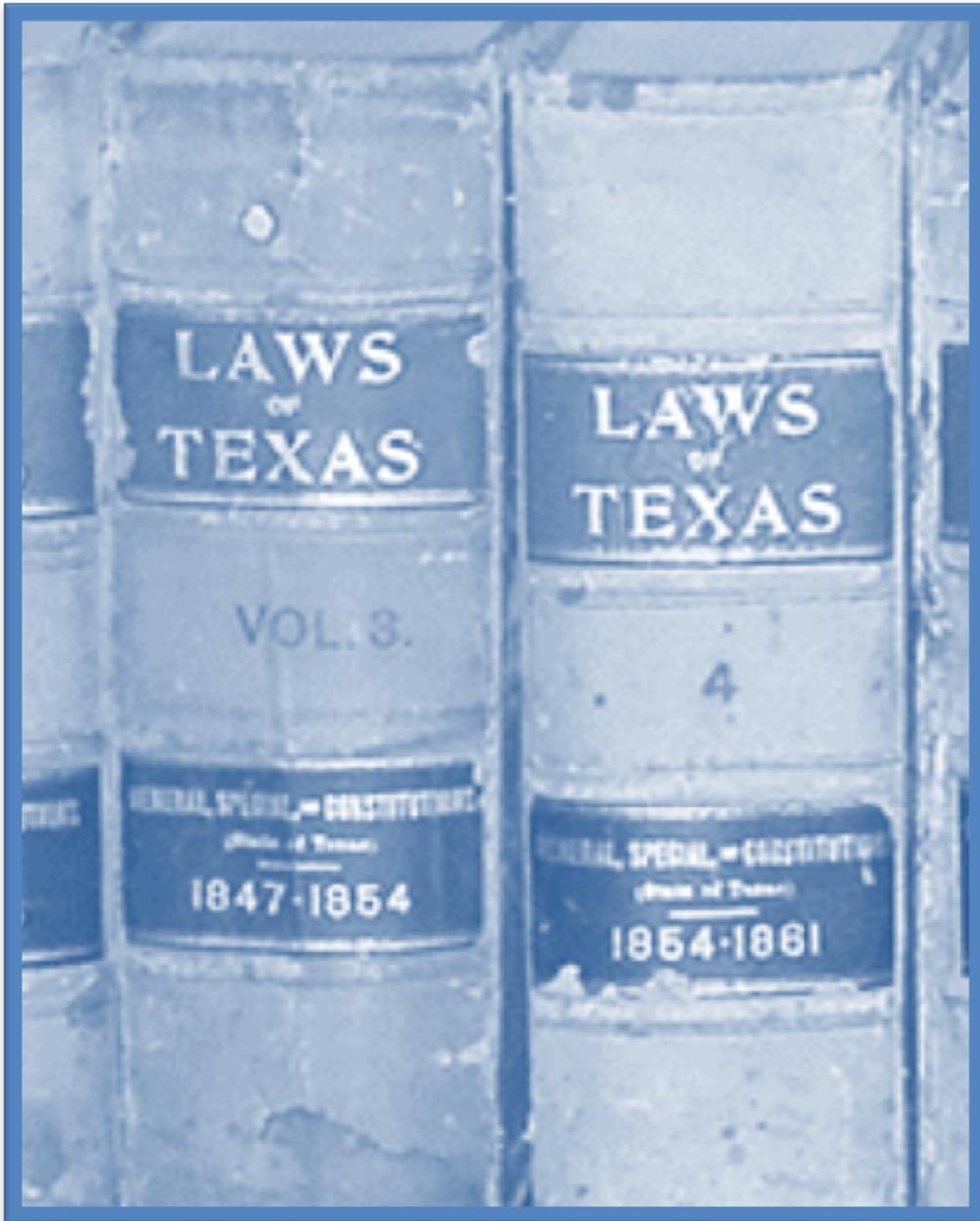
Human Resources Code, Chapter 152

SUBCHAPTER D-1. REPORTS ON COUNTY INTERNET WEBSITES

- § 58. XXX. Applicability,
- § 58. XXX. Information Posted on County Website.
- § 58. XXX. Confidentiality.

Note: Statutory enumeration has not been included to facilitate the drafting process.

APPENDIX B: PROPOSED LEGISLATION & COMMENTARY (RESERVED)



APPENDIX C: HOUSE BILL 431 (84th R.S.)

HB 431 AN ACT

AN ACT relating to the creation of an advisory committee to examine and recommend revisions to any state laws pertaining to juvenile records.

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

SECTION 1. DEFINITIONS. In this Act:

(1) "Advisory committee" means the Juvenile Records Advisory Committee appointed under Section 2 of this Act.

(2) "Board" means the Texas Juvenile Justice Board.

SECTION 2. JUVENILE RECORDS ADVISORY COMMITTEE. Not later than December 1, 2015, the board shall appoint an advisory committee to develop a plan for studying, reorganizing, and comprehensively revising Chapter 58, Family Code, and any other relevant laws pertaining to juvenile records.

SECTION 3. APPOINTMENTS; PRESIDING OFFICER. (a) In making appointments to the advisory committee, the board shall include members who are interested parties, including:

- (1) chief juvenile probation officers;
- (2) juvenile prosecutors;
- (3) juvenile defense attorneys;
- (4) juvenile court judges;
- (5) justice court or municipal court judges;
- (6) court administrators or court clerks;
- (7) peace officers;
- (8) representatives of the Department of Public Safety;
- (9) representatives of the Department of Family and Protective Services;
- (10) representatives of the Texas Juvenile Justice Department;
- (11) juvenile justice advocates;
- (12) individuals with expertise in federal records and federal immigration policy;
- (13) members of the public; and
- (14) any other individuals that the board considers necessary to accomplish the duties of the advisory committee.

(b) The board shall designate one of the members as presiding officer of the advisory committee.

SECTION 4. REPORT. (a) Not later than November 1, 2016, the advisory committee shall submit to the legislature and the board the recommendations for revisions to Chapter 58, Family Code, and any other relevant laws pertaining to juvenile records and a copy of the plan developed by the committee under Section 2 of this Act to produce those recommendations.

(b) The advisory committee may submit:

(1) preliminary recommendations at any time before submitting the report required under Subsection (a) of this section; and

(2) follow-up recommendations at any time after submitting the report required under Subsection (a) of this section.

SECTION 5. COMPENSATION. Members of the advisory committee serve without compensation and are not entitled to reimbursement for expenses.

SECTION 6. APPLICATION OF LAWS GOVERNING ADVISORY COMMITTEES. The advisory committee is not subject to Chapter 2110, Government Code.

SECTION 7. EXPIRATION DATE. The advisory committee is abolished and this Act expires December 31, 2018.

APPENDIX D: TJJD BOARD RESOLUTION



Texas Juvenile Justice Department RESOLUTION

A RESOLUTION FOR APPROVAL TO APPOINT THE MEMBERS OF THE JUVENILE RECORDS ADVISORY COMMITTEE

On this **13th day of November 2015**, a duly called and lawfully convened meeting of the Texas Juvenile Justice Board was held in the City of Austin, Texas, pursuant to the Texas Open Meetings Act. A quorum of the Members was present, to wit:

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Scott W. Fisher			✓		
John Brieden III	✓		✓		
Carol Bush	✓		✓		
Becky Gregory	✓		✓		
Jane King	✓		✓		
Scott Matthew					✓
MaryLou Mendoza	✓		✓		

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Rene Olvera		✓			
Laura Parker		✓			
Riley Shaw					✓
Jimmy Smith	✓		✓		
Calvin Stephens		✓			
Motion: King		Second: mendoza			

where, among other matters, came up for consideration and adoption the following Resolution:

WHEREAS, the Juvenile Records Advisory Committee is established pursuant to House Bill 431, an Act of the 84th Texas Legislature, Regular Session and in accordance with the provisions of the Act, the members of the Juvenile Records Advisory Committee shall be appointed not later than December 1, 2015; and

WHEREAS, the Juvenile Records Advisory Committee will assist the Texas Juvenile Justice Department and statewide juvenile justice stakeholders with, among other things, the task of developing a plan to study, reorganize and comprehensively revise Chapter 58 of the Family Code and other laws pertaining to juvenile records; and

WHEREAS, the Act requires that the members of the Juvenile Records Advisory Committee shall represent a cross-section of juvenile justice stakeholders, including, chief juvenile probation officers, prosecutors, defense attorneys, peace officers, judges, representatives of the Department of Public Safety and the Department of Family and Protective Services, juvenile justice advocates, members of the public, and other state and federal practitioners; and

WHEREAS, the Act further vests the Texas Juvenile Justice Board with the authority to appoint the presiding chair and any other members necessary to fulfill the work of the Juvenile Records Advisory Committee.

NOW, THEREFORE BE IT RESOLVED THAT the Texas Juvenile Justice Board hereby makes, subject to the provisions of House Bill 431, the following appointments to the Juvenile Records Advisory Committee named in the attachment incorporated herein by reference as the **Juvenile Records Advisory Committee Appointment Roster**.

The foregoing Resolution was lawfully moved, duly seconded, and adopted by the Texas Juvenile Justice Board.

Signed this 13th day of November 2015.

Texas Juvenile Justice Board

A handwritten signature in black ink, appearing to read "Scott W. Fisher", is written over a horizontal line.

Scott W. Fisher, Chairman

APPENDIX E: ADVISORY COMMITTEE CONTACT ROSTER

JUVENILE RECORDS ADVISORY COMMITTEE Contact Roster

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APPENDIX F: TEXAS - STATE FACT SHEET *(Courtesy Juvenile Law Center)*

TEXAS

A child is defined as a person between ten and sixteen years old, or a person seventeen years old who is “alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed” before turning 17. TEX. FAM. CODE § 51.02.

Juvenile Record Contents

Those records that can be sealed are all law enforcement, prosecuting attorney, clerk of court, and juvenile court records, as well as records of public or private agency or institution and all index references to the records. TEX. FAM. CODE § 58.003(g).

Confidentiality of Law Enforcement Records

No distinction is made between law enforcement and court records.

Confidentiality of Court Records

Juvenile court records are generally confidential.

Exceptions: The following people may see and make a copy of a child’s court records (TEX. FAM. CODE § 58.005):

- Child’s attorney
- Texas Department of Criminal Justice, Texas Juvenile Probation Commission, and probation officers
- Juvenile court personnel
- A district school superintendent and the juvenile probation department may enter into a written interagency agreement to share records (TEX. FAM. CODE § 58.0051)
- Agencies or persons treating the child, if they entered a written confidentiality agreement
- Other government agencies, if disclosure is required by law

Exceptions to Confidentiality

Court order: Juvenile court records may be disclosed with leave of the court to any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court. TEX. FAM. CODE § 58.005.

Whether emergency circumstances exist: Otherwise confidential juvenile information may be released if a child has been reported missing or is the subject of a warrant and has not been apprehended. TEX. FAM. CODE § 58.007.

Availability of Records Online or in Commercial Background Reports

Confidential juvenile records information is not publicly accessible online.

Consequences for Unlawfully Sharing Confidential Information

None.

Sealing or Expungement

Setting aside/restriction of access: records relating to a person’s juvenile case (maintained by the Texas Youth Commission, the juvenile probation department, the clerk of the court, the prosecutor’s office, and a law enforcement agency) are subject to automatic restriction of access if 1) the person is at least 21 years of age, 2) the juvenile case did not include violent or habitual felony conduct, 3) the juvenile case was not certified for trial in criminal court, and 4) the person was not granted deferred adjudication for or convicted of a felony or a misdemeanor punishable by confinement in jail for an offense committed after the person turned 17. TEX. FAM. CODE § 58.203.

Sealing: Those records that can be sealed are all law enforcement, prosecuting attorney, clerk of court, and juvenile court records, as well as records of public or private agency or institution and all index references to the records. TEX. FAM. CODE § 58.003; TEX. FAM. CODE § 58.201-211; TEX. FAM. CODE § 58.208; TEX. FAM. CODE § 58.209; TEX. FAM. CODE § 58.207; TEX. FAM. CODE § 58.203; TEX. FAM. CODE § 54.04.

Expungement/ Destruction: For destruction, the court orders the destruction of the records relating to the conduct for which a child is taken into custody, including records contained in the juvenile justice system. TEX. FAM. CODE § 58.006; TEX. FAM. CODE § 58.003 (explaining that records are actually destroyed).

Automatic (without application)

If the juvenile was found not guilty of each offense alleged at the adjudicatory hearing, the court shall immediately order the sealing of all files and records relating to the case. TEX. FAM. CODE § 58.003(d).

Excluded Offenses

Sealing: Records cannot be sealed if they are required to be maintained because of a continuing obligation to register under the sexual offender statute. TEX. FAM. CODE § 58.003(n). Additionally, the court may not order the sealing of the records for a person receiving a determinate sentence for engaging in delinquent conduct that constitutes violent or habitual felony conduct. TEX. FAM. CODE § 58.003(b) (citing §§ 53.045, 51.031). Any records collected or maintained by the Texas Juvenile Justice Department, including statistical data submitted under the Human Resources Code, also are not subject to a sealing order. TEX. FAM. CODE § 58.003(g-1). Additionally, sex offender registration records and records relating to a criminal combination or criminal street gang are exempted from the automatic restriction of access provision (see below). TEX. FAM. CODE § 58.202.

Eligibility

Sealing: A court may order the sealing of records concerning a person adjudicated of a felony only if 1) the person is 19 years of age or older, 2) the person was not transferred to a criminal court for prosecution, 3) the records have not been used as evidence in the punishment phase of a criminal proceeding, and 4) the person has not been convicted of a felony after turning 17. TEX. FAM. CODE § 58.003(c).

Expungement: On motion from the petitioner, the court also may order the destruction of records that have been sealed if 1) the records relate to conduct that was not a felony or a misdemeanor punishable by confinement in jail, 2) five years have elapsed since the person's 16th birthday, and 3) the person has not been convicted of a felony. TEX. FAM. CODE § 58.003(l). Destruction can also be obtained when a determination that no probable cause exists was made by 1) the juvenile court and/or probation following a preliminary investigation or 2) by a prosecutor after referral from the juvenile court. TEX. FAM. CODE § 58.006.

Restriction of Access: Additionally, records relating to a person's juvenile case (maintained by the Texas Youth Commission, the juvenile probation department, the clerk of the court, the prosecutor's office, and a law enforcement agency) are subject to automatic restriction of access if 1) the person is at least 21 years of age, 2) the juvenile case did not include violent or habitual felony conduct, 3) the juvenile case was not certified for trial in criminal court, and 4) the person was not granted deferred adjudication for or convicted of a felony or a misdemeanor punishable by confinement in jail for an offense committed after the person turned 17. TEX. FAM. CODE § 58.203.

Notification

Sealing: At the conclusion of the dispositional hearing, the court must inform the child of the right to seal the child's records. TEX. FAM. CODE § 58.003. Additionally, the judge shall inform the person and any parent in open court of the person's expunction rights and provide them with a copy of Article 45.0216. TEX. CODE CRIM. PROC. art. 45.0126(e). When a child is placed on probation for an offense that may be eligible for automatic restricted access, or committed to the Texas Youth Commission on an indeterminate sentence, his or her probation officer or an official at the Texas Youth Commission reception center shall explain the procedures associated with restricted access and shall give the child a written copy of the explanation provided and communicate the information to at least one of the child's parents or to the child's guardian or custodian. TEX. FAM. CODE § 58.209(b). After the juvenile court order regarding restriction of access, the juvenile probation department must make a reasonable effort to notify the person of the action restricting access and the legal significance of the action for the person, but only if the person has requested the notification in writing and has provided the juvenile probation department with a current address. TEX. FAM. CODE § 58.207(a)(2).

Petition/Application

In terms of the procedure for obtaining sealing, an individual must first file an application with the court. TEX. FAM. CODE § 58.003(a). Upon sealing, verification of the deletion must be sent to the court. TEX. FAM. CODE § 58.003(g).

Hearing

The court will hold a hearing before sealing a person's records, unless the applicant waives the right to a hearing in writing and the court and the prosecuting attorney consent. The court is required to provide reasonable notice of the hearing to all relevant parties. TEX. FAM. CODE § 58.003(g).

But see TEX. FAM. CODE §§ 58.003(c-1) (hearing is permitted, but not required under the special drug court program rule), and (d) (no hearing is held regarding sealing when the child was found not guilty of each offense alleged).

Court Process

None.

Effect

Upon sealing, verification of the deletion must be sent to the court. TEX. FAM. CODE § 58.003(g). In the case of the sealing of records following completion of a drug court program, a prosecuting attorney or juvenile probation department may maintain a separate record of the child's name, date of birth, and the date of successful program completion until the child's 17th birthday, at which time it will be added to the child's other sealed records. TEX. FAM. CODE § 58.003(c-2). After entry of the order to seal, the adjudication shall be vacated and the proceeding dismissed and treated as if it had never occurred. TEX. FAM. CODE § 58.003(g)(5). Inspection of sealed records may only be permitted by an order of the juvenile court on petition from the person who is the subject of the records. However, a prosecuting attorney may, on application to the juvenile court, reopen the sealed files and records of a person adjudicated of a felony for the purposes of the statute involving penalties for repeat and habitual felony offenders. TEX. FAM. CODE § 58.003(k) (citing TEX. PENAL CODE § 12.42). Finally, sealed records may be reviewed to determine their admissibility for impeachment purposes when the subject is the complaining witness at another trial. See *Ingram v. State*, No. 05-99-0042-CR, 2000 WL 97919, at *3 (Tex. App. 2000) (reviewing complaining juvenile witness' juvenile court records to determine whether defendant should have been allowed to impeach based on them, and deciding that they were inadmissible and even if not, decision not to admit them was harmless error). This means that the Department may not disclose the existence of the records or any information from them to a law enforcement agency, a criminal or juvenile justice agency, a governmental or other agency given access under the Government Code, or any other person, agency, organization, or entity. TEX. FAM. CODE § 58.204(a). The Department may permit access only by a criminal justice agency for a criminal justice purpose or for research purposes by the Texas Juvenile Probation Commission, the Texas Youth Commission, or the Criminal Justice Policy Council. TEX. FAM. CODE § 58.204(b). Additionally, an individual is not required to state in any proceeding (except in a criminal proceeding in which the person is testifying as a defendant), or in any application for employment, licensing, or other public or private benefit that the person has been a respondent in a case and may not be punished for denying the existence of the records or the proceeding related to the records. TEX. FAM. CODE § 58.206. Information from the records may not be admitted in a civil or criminal proceeding except a proceeding involving penalties for repeat and habitual felony offenders or during sentencing. TEX. CODE CRIM. PROC. art. 37.07. § 58.206(a).

If records are subject to restricted access, they may only be accessed by a criminal justice agency for a criminal justice purpose; for research purposes, by the Texas Juvenile Justice Department; with the written permission of the individual, by military personnel, including a recruiter, of this state or the United States if the individual is an applicant for enlistment in the armed forces; by the person who is the subject of the records on an order from the juvenile court granting the petition filed by or on behalf of the person who is the subject of the records; with the permission of the juvenile court at the request of the person who is the subject of the records; or with the permission of the juvenile court, by a party to a civil suit if the person who is the subject of the records has put facts relating to the person's records at issue in the suit. Notably, restricted access is in addition to sealing or destruction of juvenile records and does not prevent or restrict the sealing or destruction of juvenile records as described above. TEX. FAM. CODE § 58.210. Also, restricted access can be rescinded: if a person is convicted of or receives deferred adjudication for a felony or misdemeanor punishable by confinement for an offense after turning 17, the person's juvenile records are no longer subject to restricted access. TEX. FAM. CODE § 58.211.

Fee

None found.

Consequences for Sharing Expunged/Sealed Information

None.