

SUBJECT: Sealed juvenile court records for completing drug court program

COMMITTEE: Corrections — committee substitute recommended

VOTE: 8 ayes — McReynolds, Madden, Hodge, Marquez, Martinez, S. Miller, Ortiz, Sheffield

0 nays

3 absent — Dutton, England, Kolkhorst

WITNESSES: For — Isela Gutierrez, Texas Criminal Justice Coalition; Laura Parker, 386th District Court, Bexar County; Riley Shaw, Tarrant County District Attorney's Office; (*Registered, but did not testify:* Laura Angelini, Bexar County Juvenile District Courts; Katrina Daniels, Office of Bexar County District Attorney's Office; Justin Marlin, Texans Care for Children; Cindy C. Segovia, Bexar County Commissioners Court; Matthew Simpson, American Civil Liberties Union of Texas)

Against — None

On — Chris Hubner, Texas Juvenile Probation Commission

BACKGROUND: Family Code, sec. 58.003 allows a juvenile court to order the sealing of a juvenile offender's records if two years have passed from the final discharge of or last official action in the juvenile's case, and if the juvenile has not been convicted of a felony or misdemeanor involving moral turpitude, or engaged in any other behavior that indicates a need for supervision. A juvenile's records may not be sealed if he or she is considered a violent or habitual offender. The records of a juvenile convicted of a felony may not be sealed until he or she turns 21, if the juvenile's case was transferred to a criminal court for prosecution, or if the juvenile's record was used as evidence of a prior criminal history in another trial.

Health and Safety Code, ch. 469 establishes drug court programs for certain defendants, which includes alcohol and other drug treatment services.

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DIGEST:

HB 2386 would permit a juvenile court to seal the records of an offender who successfully completed a drug court program, even if that program was completed less than two years after the last official action on the case. The court would be given discretion as to the necessity of holding a hearing to consider the sealing of the records. If a hearing was required, reasonable notice would have to be given to the juvenile, the prosecuting attorney, the authority granting the discharge, the agency or institution that had custody of the records, and the law enforcement agency that had custody of the files or records to be sealed.

The records of a juvenile who had successfully completed a drug court program could not be sealed if the juvenile was considered a violent or habitual offender or engaged in behavior indicating the need for further supervision. Verification from the appropriate person or agency would have to be provided that the records had been sealed before the 61st day after the date the order was received. The bill also would make technical changes to other sections of the Family Code to refer to the sealing of the records.

The bill would take effect September 1, 2009.

SUPPORTERS
SAY:

HB 2386 would provide incentives to juveniles convicted of nonviolent drug offenses to seek treatment and complete a court program. By allowing a court to seal records, these youths could be encouraged to participate in drug programs to get their lives on track. HB 2386 also would allow those who successfully complete the drug court programs to obtain employment and housing or join the military before they turn 21. Judges would not be required to seal these records, but would be given the discretion to do so. Adults who are convicted of similar offenses may have their records sealed two years after completing a treatment program, and this bill would give the same opportunity to youths who have shown themselves amenable to treatment, even if they are not yet 21 years old. Juveniles who have not completed a drug court program would not be eligible to have their records sealed, nor would those convicted of sex or weapons offenses.

OPPONENTS
SAY:

HB 2386 would prevent future employers and others from obtaining complete information about a person's past. If someone runs afoul of the law, there should be a record of it, even for juveniles. Hiding criminal histories may result in negative consequences for employers, landlords, and others.

NOTES:

The substitute differs from the bill as filed by limiting the juveniles who could have their records sealed to those who successfully completed a drug court program.

Rep. Castro is expected to offer a floor amendment that would allow prosecutors and juvenile probation departments to maintain a record of whether an offender had participated in a drug court program, which would be sealed upon the child's 17th birthday; state that no hearing would be required to seal a juvenile's record if he or she is found not guilty; state that a hearing would be required unless the court determined otherwise or the applicant submitted a written waiver; and remove all requirements made by the committee substitute regarding verification.

The companion bill, SB 2106 by Uresti, has been referred to the Senate Criminal Justice Committee.