

- SUBJECT:** Amending procedures to seal certain juvenile court records
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 7 ayes — Dutton, Riddle, Hughes, Peña, Rose, Sanford, J. White
0 nays
- WITNESSES:** For — Lauren Rose, Texans Care for Children; Mary Mergler, Texas Appleseed; Patricia Cummings, Texas Criminal Defense Lawyers Association; Elizabeth Henneke, Texas Criminal Justice Coalition; Greg Glod, Texas Public Policy Foundation; (*Registered, but did not testify:* Matt Simpson, ACLU of Texas; Lynne Wilkerson, Bexar County Juvenile Probation Department; Ron Quiros, Guadalupe County Juvenile Services; Yannis Banks, Texas NAACP)
- Against — None
- On — Lisa Tomlinson, Texas Probation Association; (*Registered, but did not testify:* Jill Mata, Texas Juvenile Justice Department)
- BACKGROUND:** Family Code, sec. 58.003 governs the sealing of juvenile court records. Upon the application of a person with a juvenile record and subject to some restrictions, courts are required to seal records if:
- two years have passed since the discharge of the person or the last action in the case; and
 - the person has not been convicted of or adjudicated delinquent for a felony or a misdemeanor involving moral turpitude or found to have engaged in any new juvenile adjudications and there are no such proceedings.
- Additional requirements exist for sealing the records of youth adjudicated for conduct constituting a felony. Courts are prohibited from sealing the records of persons who received determinate sentences, which are authorized for certain offenses.

Once a person's sealed record eligibility is determined, the court must hold a hearing before ordering a record sealed, unless the applicant waives the right to the hearing and the court and prosecutors consent to the waiver.

When a juvenile record is sealed, a court orders all records of a juvenile to be sent to the court issuing the order. The records remain at the juvenile court, where prosecutors and the Department of Public Safety may seek to reopen the records under limited circumstances. Individuals also may allow inspection of their records by others through a court order.

Under Family Code, sec. 58.003 people whose juvenile records have been sealed are able to deny, in applications for employment, licensing, or other essentials such as housing and education, that they have ever been the subject of a juvenile proceeding or that they have ever been adjudicated delinquent. Courts, prosecutors, and others must answer that the records do not exist.

DIGEST:

HB 263 would allow for the immediate order to seal an eligible individual's juvenile record without an application to the court, subject to certain limitations.

Notice. Courts could initiate the record sealing process if the subject of the record, the person's attorney, a juvenile probation officer, or a school attendance officer provided notice to the court that the individual was eligible to have a record sealed. Notice to the court of an individual's eligibility could be submitted by a signed statement or notarized affidavit.

Expanded eligibility. The bill would allow persons who were 17 or older to have their records sealed if the final discharge or last official action in their case took place before they turned 17, even if it had been fewer than two years since the last action in the case. Individuals would still need to meet other eligibility requirements, such as not being convicted of or adjudicated delinquent for a felony or a misdemeanor involving moral turpitude since turning 17. Records for certain felonies and determinate

sentences would still be subject to sealing prohibitions or limitations.

Hearing. If a court found a person eligible for a sealed record, the bill would require the court to issue notice to the prosecutor that the record would be sealed in 30 days if no objection was made within that time by the prosecutor. Unless the prosecutor objected to the record sealing, the bill would remove the requirement that the court hold a hearing to seal a record for delinquency or conduct indicating a need for supervision, and the court would be required to seal the record immediately. To seal a record for conduct that equated to a felony, the court would still be required to hold a hearing unless it was waived.

Access. The bill would amend requirements for the handling of sealed juvenile records by the Department of Public Safety, requiring it to certify restricted access to the records. Individuals would be permitted to allow others to copy and inspect their records by court order.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015, and would apply to the sealing of and restraining or granting access to juvenile records on or after that date, regardless of when the adjudication took place.

**SUPPORTERS
SAY:**

HB 263 would make important changes to the process of sealing juvenile records to better meet one of the goals of the juvenile justice system — to give children a second chance.

The current process for sealing these records can be cumbersome, lengthy, and expensive because the subject of the record must make an application to the court, which often necessitates hiring an attorney and paying a court fee. Few people with juvenile records take advantage of the ability to seal their records because of these procedural and financial hurdles or because they assume that restricted access provisions for juvenile records are enough. This bill would better enable people to seal their records and prevent these records from negatively impacting them in the future.

Juvenile records can greatly impact a young person's ability to mature into a successful adult. Youth who have committed offenses and have paid their dues to society are entitled to move on with their lives and move past their mistakes. The bill would speed up record sealing eligibility for individuals who were 17 or older, which is when most people finish high school. Expanding the ability of these youthful offenders to seal their records would remove potential barriers to college, the military, or housing when they reach this critical age.

While many counties currently exercise broader ability to seal records, this bill would provide uniformity in how courts across the state handle the process. The bill also would address current law's lack of time standards for ordering juvenile records sealed, requiring courts to automatically seal an eligible individual's record immediately.

The bill would uphold public safety by maintaining limitations, such as requiring a hearing, on sealing records for certain felony offenses. Felony records involving determinate sentences, cases transferred to adult court, and records of registered sex offenders would continue to be ineligible for sealing. In addition, the bill would allow prosecutors the opportunity to object to the sealing of records and have the order be subject to a hearing. Providing proper notice to agencies that a record has been ordered sealed could be shifted to the court instead of an attorney because the purpose of the bill is to reduce the burdens on individuals to have their records sealed.

OPPONENTS
SAY:

HB 263 could make it harder for law enforcement to track youth recidivism. While law enforcement may access sealed juvenile records in limited circumstances, the bill's expansion of the procedure to seal records would increase the number of young people that probation officers and law enforcement generally could not monitor throughout their juvenile years. Sealing also makes it difficult to provide appropriate resources to a juvenile who reoffends because records of past services, programs, and family history would all be gone.

The bill could mislead individuals by calling records "automatically

sealed,” when in fact the process is more involved, requiring notice to officials and agencies of the order to get rid of these records. While a person’s attorney under the current process would know which officials and agencies to inform of the order, a court or an individual might not.