

## **BILL ANALYSIS**

Senate Research Center

H.B. 2386  
By: Castro, Gutierrez (Uresti)  
Criminal Justice  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under current law, certain juveniles have the option, upon application, to have their records sealed by the juvenile courts if they meet certain criteria. Current law requires that juveniles wait at least two years since the final discharge or action in the case, or in the case of felonies, until after age of 21 to apply for the sealing of an eligible juvenile record. This process allows juveniles to put their past mistakes behind them and to begin their adult life on a clean slate.

Many times, a record that is not sealed can interfere with a juvenile's ability to secure employment or housing and can even keep a juvenile from joining the military or attending college. A record that is not sealed can make it unnecessarily difficult for these youth to transition to a normal and productive lifestyle. Juveniles who may have made a bad decision when they were younger should not be penalized for the rest of their lives if they have made a clear effort to correct their behavior. Although the current process does provide a way for juveniles to seal eligible records, the time constraints mean that for many juveniles, their records are open while they are 16 to 20 years of age, a pivotal transition period when these youths may be attempting to get a job, join the military, or enroll in an institution of higher education.

This bill creates another avenue for the sealing of juvenile records by allowing juvenile courts to immediately seal the record of an eligible juvenile, if the juvenile successfully completes a drug court program, or another special program ordered by the court. By allowing the juvenile courts to immediately seal a juvenile's records, judges are given the discretion they need to incentivize juveniles to participate in intervention programs that they find are successful in their communities. It would give the court more tools to encourage the rehabilitation of juvenile offenders, most of whom are nonviolent, first-time offenders who engage in delinquent behavior, while eliminating obstacles that may keep these youth from becoming successful adults.

H.B. 2386 amends current law relating to the sealing of juvenile records

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 58.003, Family Code, by adding Subsections (c-1) and (c-2) and amending Subsections (d) and (e), as follows:

(c-1) Authorizes a juvenile court, notwithstanding Subsections (a) and (c) and subject to Subsection (b), to order the sealing of records concerning a child adjudicated as having engaged in delinquent conduct or conduct indicating a need for supervision that violated a penal law of the grade of misdemeanor or felony if the child successfully completed a drug court program under Chapter 469 (Drug Court Programs), Health and Safety Code. Authorizes the court to order the sealing of the records immediately and without a hearing or hold a hearing to determine whether to seal the records.

(c-2) Authorizes a prosecuting attorney or juvenile probation department, if the court orders the sealing of a child's records under Subsection (c-1), to maintain until the child's 17th birthday a separate record of the child's name and date of birth and the date the child successfully completed the drug court program. Requires the prosecuting attorney or

juvenile probation department, as applicable, to send the record to the court as soon as practicable after the child's 17th birthday to be added to the child's other sealed records.

(d) Authorizes the court to grant the relief authorized in Subsection (a) or (c-1) at any time after final discharge of the person or after the last official action in the case if there was no adjudication, subject to Subsection (e). Requires the court, if the child is referred to the juvenile court for conduct constituting any offense and at the adjudication hearing the child is found to be not guilty of each offense alleged, to immediately and without any additional hearing order the sealing of all files and records relating to the case.

(e) Requires the court to hold a hearing before sealing a person's records under Subsection (a) or (c) unless the applicant waives the right to a hearing in writing and the court and the prosecuting attorney for the juvenile court consent. Requires that reasonable notice of the hearing be given to the person who made the application or who is the subject of the records named in the motion; the prosecuting attorney for the juvenile court; the authority granting the discharge if the final discharge was from an institution or from parole; the public or private agency or institution having custody of records named in the application or motion; and the law enforcement agency having custody of files or records named in the application or motion.

SECTION 2. Provides that the change in law made by this Act applies to the sealing of records in the adjudication of a juvenile case on or after the effective date of this Act, regardless of whether the adjudication occurred before, on, or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2009.