

BILL ANALYSIS

Senate Research Center
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S.B. 915
By: West
Jurisprudence
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In recent years, more focus by advocates has been directed to the impact of criminal history records on juvenile offenders. Although the Family Code provides for the sealing of some juvenile criminal history when court supervision has been completed, current provisions under Texas statutes are no longer sufficient.

The effect is that the records of offenses that were committed by juveniles for which there was an arrest or a disposition are available to the public. The disclosure of these records have a negative impact on the future prospects of young adults.

S.B. 915 allows the criminal history records of eligible juvenile offenders to be sealed automatically by the courts when the youth reaches age 17. Current state law allows the same eligible records to be automatically sealed at age 19, but with the current level of access to criminal history records now available to the public, the needs of young adults would be best served by lowering the age threshold.

As proposed, S.B. 915 amends current law relating to the automatic sealing in certain cases of juvenile records of adjudications of delinquent conduct or conduct indicating a need for supervision.

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 amending Subsections (a) and (e) and adding Subsections (a-1) and (a-2), as follows:

(a) Requires the court, except as provided by Subsections (b) (relating to prohibiting a court from ordering the sealing of the records of a person who has received a sentence for engaging in delinquent conduct) and (c) (relating to authorizing a court to order the sealing of records concerning a person adjudicated as having engaged in delinquent conduct of the grade of felony), rather than on the application of certain persons, on the juvenile court's own motion to immediately order the sealing of the records in the case of a person who has been found to have engaged in delinquent conduct or conduct indicating a need for supervision or a person taken into custody to determine whether the person engaged in delinquent conduct or conduct indicating a need for supervision if the court finds that:

(1) the defendant is:

(A) 16 years of age or younger and two years have elapsed since final discharge of the person or since the last official action in the person's case if there was no adjudication; or

(B) 17 years of age or older and, before the person's 17th birthday, the person has been finally discharged or the last official action in the persons case has occurred if there was no adjudication;

(2) since the time specified in Subdivision (1)(A) or the person's 17th birthday, as applicable, the person has not been convicted of a felony or a misdemeanor involving moral turpitude or found to have engaged in delinquent conduct or conduct indicating a need for supervision and no proceeding is pending seeking conviction or adjudication; and

(3) the prosecuting attorney does not object to the sealing of the records under Subsection (a-1).

Makes conforming and nonsubstantive changes.

(a-1) Requires the court, on a person becoming eligible under Subsection (a)(1), to determine whether the person meets the requirements of Subsection (a)(2) and if the person meets the requirements of Subsection (a)(2), provide notice to the prosecuting attorney for the juvenile court in the case that the person's records will be sealed on the expiration of 30 days if no objection is made by the attorney within that time.

(a-2) Requires the court, if the prosecuting attorney for the juvenile court in the case objects to sealing the person's records, to hold a hearing to determine if the records should be sealed.

(e) Requires the court to hold a hearing before sealing a person's records under Subsection (c), rather than 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.

SECTION 2. Provides that the change in law made by this Act applies to the sealing of and restricting access to 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: upon passage or September 1, 2013.