

BILL ANALYSIS

Senate Research Center
86R6529 EAS-D

H.B. 1760
By: White; Wu (Perry)
Administration
5/1/2019
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 1760 amends current law relating to the confidentiality, sharing, sealing, and destruction of juvenile records and certain records of at-risk youth.

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 58.005, Family Code, by amending Subsection (a-1) and adding Subsection (c), as follows:

(a-1) Authorizes the records and information to which this section applies, except as provided by Article 15.27 (Notification to Schools Required), Code of Criminal Procedure, to be disclosed only to:

(1)–(4) makes no changes to these subdivisions;

(5) an individual or entity to whom the child is referred for treatment or services, including assistance in transitioning the child to the community after the child's release or discharge from a juvenile facility, rather than a person or entity to whom the child is referred for treatment or services if the agency or institution disclosing the information has entered into a written confidentiality agreement with the person or entity regarding the protection of the disclosed information;

(6) makes a nonsubstantive change to this subdivision;

(7) a prosecuting attorney;

(8) a parent, guardian, or custodian with whom a child will reside after the child's release or discharge from a juvenile facility;

(9) a governmental agency or court if the record is necessary for an administrative or legal proceeding and the personally identifiable information about the child is redacted before the record is disclosed; or

(10) creates this subdivision from existing text and makes a nonsubstantive change.

(c) Prohibits an individual or entity that receives confidential information under this section from disclosing the information unless otherwise authorized by law.

SECTION 2. Redesignates Subsection (b-1), Section 58.0052, Family Code, as added by Chapter 1021 (H.B. 1521), Acts of the 85th Legislature, Regular Session, 2017, as Subsection (b-3), Section 58.0052, Family Code, and makes no further changes.

SECTION 3. Amends Section 58.007, Family Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Provides that, except as provided by Section 54.051(d-1) (relating to certain documents that are part of the district clerk's public record after transfer to district court) and by Article 15.27, Code of Criminal Procedure, the records, whether physical or electronic, of a juvenile court, a clerk of court, a juvenile probation department, or prosecuting attorney relating to a child who is a party to a proceeding under this title may be inspected or copied only by:

(1)–(2) makes no changes to these subdivisions;

(3) an attorney representing the child's parent, rather than a party, in a proceeding under this title;

(4) an attorney representing the child;

(5) a prosecuting attorney;

(6) an individual or entity to whom the child is referred for treatment or services, including assistance in transitioning the child to the community after the child's release or discharge from a juvenile facility, rather than a person or entity to whom the child is referred for treatment or services if the agency or institution disclosing the information has entered into a written confidentiality agreement with the person or entity regarding the protection of the disclosed information;

(7) creates this subdivision from existing Subdivision (5) and makes no further changes;

(8) creates this subdivision from existing Subdivision (6) and makes a nonsubstantive change.

(c) Prohibits an individual or entity that receives confidential information under this section from disclosing the information unless otherwise authorized by law.

SECTION 4. Amends Section 58.008(b), Family Code, to create an exception under Subsection (c) (relating to transfer and sharing of law enforcement records of a person with a determinate sentence), rather than under Subsection (d) (relating to certain entities authorized to inspect or copy law enforcement records concerning a child), to the requirement that law enforcement records and information concerning a child be stored in a certain manner.

SECTION 5. Amends Sections 58.009(d) and (f), Family Code, as follows:

(d) Replaces references to a person with references to an individual or entity and makes a nonsubstantive change.

(f) Prohibits the Texas Juvenile Justice Department from releasing juvenile justice information in identifiable form, except for information released under Subsection (c)(1) (relating to access granted to juvenile justice information for certain purposes to certain criminal justice agencies), (2) (relating to access granted to juvenile justice information for certain purposes to the Texas Education Agency), (3) relating to access granted to juvenile justice information for certain purposes to any agency under the authority of the Health and Human Services Commission), or (4) (relating to access granted to juvenile justice information for certain purposes to the Department of Family and Protective Services), rather than Subsection (c)(1), (2), or (3), or under the terms of an agreement entered into under Subsection (d)(2).

SECTION 6. Amends Section 58.255(a), Family Code, to read as follows:

(a) Entitles a person who was referred to a juvenile court, rather than a juvenile probation department, for conduct indicating a need for supervision to have all records related to all conduct indicating a need for supervision matters sealed without applying to the juvenile court if the person:

(1) has records relating to the conduct filed with the court clerk;

(2) creates this subdivision from existing text and makes no further changes.

Redesignates existing Subdivisions (2)–(4) as Subdivisions (3)–(5) and makes no further changes.

SECTION 7. Amends Subchapter C-1, Chapter 58, Family Code, by adding Section 58.2551, as follows:

Sec. 58.2551. SEALING RECORDS WITHOUT APPLICATION: FINDING OF NOT TRUE. Requires a juvenile court, on the court's own motion and without a hearing, to immediately order the sealing of all records related to the alleged conduct if the court enters a finding that the allegations are not true.

SECTION 8. Amends Section 58.256(c), Family Code, as follows:

(c) Authorizes the juvenile court, except as provided by Subsection (d), to order the sealing of records related to all matters for which the person was referred to the juvenile probation department if the person:

(1) is at least 17 years of age, or is younger than 17 years of age and at least one year has elapsed after the date of final discharge in each matter for which the person was referred to the juvenile probation department, rather than is at least 18 years of age, or is younger than 18 years of age and at least two years has elapsed after the date of final discharge in each matter for which the person was referred to the juvenile probation department;

SECTION 9. Amends Section 58.258(c), Family Code, to require the clerk of court to perform certain actions, including sending copies of the order to all entities listed in the order by any reasonable method, including certified mail, regular mail, or e-mail.

SECTION 10. Amends Section 58.263, Family Code, to require the court to order the destruction of certain records, including records relating to the conduct for which a child is referred to juvenile court without being taken into custody in certain circumstances.

SECTION 11. Amends Section 203.0065, Human Resources Code, by adding Subsections (g) and (h), as follows:

(g) Provides that the records related to a youth who was provided prevention and intervention services under this section are confidential and may only be inspected or copied by an individual or entity to whom the youth is referred for treatment or services.

(h) Prohibits an individual or entity that receives information under this section from disclosing the information unless otherwise authorized by law.

SECTION 12. Repealer: Section 58.003(c-3) (relating to sealing of records concerning certain children), Family Code.

Repealer: Section 58.0053 (Interagency Sharing of Juvenile Probation Records), Family Code.

Repealer: Section 58.007(j) (relating to redaction of certain information before inspection of a child's records by parent of guardian), Family Code.

SECTION 13. Provides that the changes in law made by this Act apply to records created before, on, or after the effective date of this Act.

SECTION 14. Effective date: September 1, 2019.