

BILL ANALYSIS

C.S.H.B. 2863
By: White
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties express concern that despite the confidentiality protections afforded under state law for juvenile records, technological advancements and the expanded number of persons and entities with access to juvenile records have diminished the assurance of confidentiality of those records and increased the long-term consequences of a juvenile offender's delinquency history. C.S.H.B. 2863 seeks to make certain statutory changes recommended by a committee of juvenile justice system practitioners in order to protect the confidential records of our juveniles.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Juvenile Justice Department in SECTION 18 of this bill.

ANALYSIS

C.S.H.B. 2863 amends the Family Code to specify that the authorization to photograph or fingerprint, without the consent of a juvenile court, a child referred to the juvenile court for conduct that constitutes a felony or a misdemeanor punishable by confinement in jail applies regardless of whether the child has been taken into custody, that consent of a child's parent or guardian is not required to photograph or fingerprint a child so referred or a child taken into custody, and that a law enforcement officer is not prohibited from photographing or fingerprinting a child who has not been referred to the juvenile court for conduct that constitutes a felony or such a misdemeanor if the child's parent or guardian consents in writing. The bill replaces the requirement that a juvenile board conduct or cause to be conducted an audit of the records of a law enforcement agency to verify the required destruction of photographs and fingerprints belonging to juveniles with the authorization for a juvenile board to conduct such an audit. The bill gives a law enforcement officer the option, if requisite conditions are met, to obtain a photograph of a child from a juvenile probation department in possession of a photograph of the child as an alternative to taking temporary custody of the child to take the child's photograph. The bill exempts information that is shared with an attorney representing a child in a juvenile justice proceeding or that is shared with an attorney representing any other person in a juvenile or criminal court proceeding arising from the same act or conduct for which a child was referred to juvenile court from the requirement for the custodian of a juvenile court record to redact certain personally identifiable information of a victim before disclosing the juvenile court record of the child.

C.S.H.B. 2863 expands the applicability of restrictions, with certain exceptions, on the disclosure of juvenile records to include the inspection, copying, and maintenance of a record concerning a

child and the storage of information from which a record could be generated and to other records or information created by or in the possession of the Texas Juvenile Justice Department (TJJD), an entity having custody of the child under a contract with TJJD, or another public or private agency or institution having custody of the child under order of the juvenile court, including a facility operated by or under contract with a juvenile board or juvenile probation department. The bill includes dental records, diagnostic test results, and other records or information related to a youth's personal health information or history of governmental services among the information concerning a multi-system youth that a juvenile service provider is required under certain conditions to disclose to another juvenile service provider. The bill includes among the persons who are authorized to inspect or copy the records of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a juvenile justice proceeding 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. The bill removes the specification that those records are physical records and entitles a person who is the subject of the records to access the records for the purpose of preparing and presenting a motion or application to seal the records. The bill prohibits a juvenile court from providing a copy of a record of a defendant's adjudication to a prosecuting attorney for use as evidence in the punishment phase of a criminal proceeding if the record has been sealed under statutory provisions relating to juvenile records and the juvenile justice information system. The bill establishes provisions relating to the confidentiality of law enforcement records relating to a child.

C.S.H.B. 2863 removes from among the entities to which TJJD is authorized to grant access to juvenile justice information a governmental entity that has an agreement with TJJD containing certain information and instead includes among such entities a person working on a research or statistical project that meets the requirements of and is approved by TJJD and has an agreement with TJJD containing certain information. The bill extends the requirement that the juvenile justice information system consist of information relating to delinquent conduct committed by a juvenile offender that, if the conduct had been committed by an adult, would constitute a criminal offense other than an offense punishable by a fine only to information relating to such delinquent conduct that is alleged to have been committed by a juvenile offender. The bill includes information concerning the termination of probation supervision or discharge from commitment of a juvenile offender among the information required to be contained in the system. The bill includes among the information the Department of Public Safety (DPS) is required to include in the system for each juvenile offender taken into custody, detained, or referred under the juvenile justice code for delinquent conduct the date any probation supervision, including deferred prosecution supervision, was terminated. The bill excepts a document maintained by a law enforcement agency that is the source of information collected by DPS for the system from the authorization for DPS to disseminate information contained in the system and repeals a provision authorizing DPS to disseminate under certain conditions information contained in the system to a noncriminal justice agency or entity not otherwise authorized to receive such information.

C.S.H.B. 2863 expands and revises a person's right to have the person's juvenile records sealed and revises the process for sealing the records by repealing provisions relating to the sealing of, limited destruction of, and restricted access to records and setting out new provisions relating to the sealing and destruction of juvenile records. The bill entitles a person who was referred to a juvenile probation department for delinquent conduct to have all records related to the person's juvenile matters sealed without applying to a juvenile court if the person is at least 19 years of age, has not been adjudicated as having engaged in delinquent conduct or, if adjudicated for delinquent conduct, was not adjudicated for delinquent conduct violating a penal law of the grade of felony, does not have any pending delinquent conduct matters, has not been transferred by a juvenile court to a criminal court for prosecution, has not as an adult been convicted of a felony or a misdemeanor punishable by confinement in jail, and does not have any pending charges as an adult for a felony or a misdemeanor punishable by confinement in jail. The bill

entitles a person who was referred to a juvenile probation department for delinquent conduct to have all records related to the person's juvenile matters sealed without applying to a juvenile court if the person is at least 25 years of age, was adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony, did not receive a determinate sentence for engaging in delinquent conduct that violated a penal law for which a person is eligible for a determinate sentence or in habitual felony conduct, has not been required to register as a sex offender, does not have any pending delinquent conduct matters, has not been transferred by a juvenile court to a criminal court for prosecution, has not as an adult been convicted of a felony or a misdemeanor punishable by confinement in jail, and does not have any pending charges as an adult for a felony or a misdemeanor punishable by confinement in jail.

C.S.H.B. 2863 requires DPS to certify to a juvenile probation department that has submitted records to the juvenile justice information system that the records relating to a person referred to the juvenile probation department appear to be eligible for sealing without an application to a juvenile court. The bill authorizes DPS to issue the certification by electronic means. The bill requires a juvenile probation department, not later than the 60th day after the date the juvenile probation department receives such certification, to give notice of the receipt of the certification to the applicable juvenile court and provide the court with a list of all referrals received by the department relating to that person and the outcome of each referral. The bill requires a juvenile probation department that has reason to believe the records of the person for whom the department received a certification are not eligible to be sealed to notify DPS not later than the 15th day after the date the juvenile probation department received the certification. The bill requires a juvenile probation department that later determines that the person's records are eligible to be sealed to notify the applicable juvenile court and provide the court the required information not later than the 30th day after the date of the determination. The bill requires a juvenile probation department and DPS, if after receiving a certification the juvenile probation department determines that the person's records are not eligible to be sealed, to update the juvenile justice information system to reflect that determination and specifies that no further action related to the records is required. The bill requires a juvenile court to issue an order sealing all records relating to the person named in a certification not later than the 60th day after the date the juvenile court initially receives notice from a juvenile probation department.

C.S.H.B. 2863 entitles a person who was referred to 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 a juvenile court if the person is at least 18 years of age, has not been referred to the juvenile probation department for delinquent conduct, has not as an adult been convicted of a felony, and does not have any pending charges as an adult for a felony or a misdemeanor punishable by confinement in jail. The bill requires a juvenile probation department to give the applicable juvenile court notice that such a person's records are eligible for sealing and provide the juvenile court with a list of all referrals relating to that person received by the department and the outcome of each referral. The bill requires a juvenile court to issue an order sealing all records relating to the person named in the notice not later than the 60th day after the date the juvenile court receives such notice.

C.S.H.B. 2863 authorizes a person to file an application for the sealing of records related to the person in the juvenile court served by the juvenile probation department to which the person was referred and prohibits the court from charging a fee for filing the application, regardless of the form of the application. The bill sets out the required contents of an application and authorizes the juvenile court to order the sealing of records related to all matters for which the person was referred to the juvenile probation department if the person is at least 18 years of age, or is younger than 18 years of age and at least two years have elapsed after the date of final discharge in each matter for which the person was referred to the juvenile probation department, does not have any delinquent conduct matters pending with any juvenile probation department or juvenile court, was not transferred by a juvenile court to a criminal court for prosecution, has not as an adult been convicted of a felony, and does not have any pending charges as an adult for a felony or a misdemeanor punishable by confinement in jail. The bill prohibits a court from ordering the

sealing of the records of a person if the person who received a determinate sentence for engaging in delinquent conduct that violated a penal law for which a person is eligible for a determinate sentence or in habitual felony conduct, is currently required to register as a sex offender, or was committed to TJJD or to a post-adjudication secure correctional facility, unless the person has been discharged from the agency to which the person was committed. The bill authorizes a court, on receipt of an application for the sealing of records, to order the sealing of the person's records immediately, without a hearing, or hold a hearing at the court's discretion to determine whether to order the sealing of the person's records.

C.S.H.B. 2863 requires a hearing regarding the sealing of a person's records to be held not later than the 60th day after the date the court receives the person's application, sets out notice requirements and the required contents of an order sealing records, and specifies the required recipients of a copy of the order. The bill establishes that on entry of the order all adjudications relating to the person are vacated and the proceedings are dismissed and treated for all purposes as though the proceedings had never occurred. The bill requires the clerk of court to seal all court records relating to the proceeding and to send copies of the order to all entities listed in the order.

C.S.H.B. 2863 sets out the actions DPS, TJJD, and certain other entities receiving an order to seal the records of a person must take not later than the 61st day after the date of receiving the order. The bill establishes that physical or electronic records are considered sealed if the records are not destroyed but are stored in a manner that allows access to the records only by the custodian of records for the entity possessing the records. The bill requires an entity that received an order to seal records relating to a person and later receives an inquiry about a person or the matter contained in the records to respond that no records relating to the person or the matter exist. The bill requires an entity receiving an order to seal records that is unable to comply with the order because the information in the order is incorrect or insufficient or that has no records related to the person who is the subject of the order to take specified actions.

C.S.H.B. 2863 provides for the inspection of records sealed under the bill's provisions or under statutory provisions relating to the sealing of juvenile records as those provisions existed before September 1, 2017, only by a person named in the order, a prosecutor, a court, TDCJ, or TJJD under specified conditions and establishes that a person whose records have been sealed is not required to state in any proceeding or in any application for employment, licensing, admission, housing, or other public or private benefit that the person has been the subject of a juvenile matter. The bill prohibits, if a person's records have been sealed, the information in the records, the fact that the records once existed, and a person's denial of the existence of the records or of the person's involvement in a juvenile matter from being used against the person in any manner. The bill prohibits a person who is the subject of the sealed records from waiving the protected status of the records or the consequences of the protected status. The bill requires an employee of the juvenile probation department, a probation officer, or TJJD official, as appropriate, to give a child and the child's parent, guardian, or custodian a written explanation regarding sealing of records and containing certain specified information and requires TJJD to adopt rules to implement and facilitate the effective explanation of the required information. The bill sets out the persons who may authorize the destruction of records in a closed juvenile matter and the conditions under which records are required to be or may be destroyed, as applicable. The bill establishes that records contained in the juvenile justice information system are not subject to an order of expunction issued by any court.

C.S.H.B. 2863 amends the Government Code to make a conforming change.

C.S.H.B. 2863 applies to records created before, on, or after the bill's effective date.

C.S.H.B. 2863 repeals the following provisions of the Family Code:

- Section 58.001(b)
- Section 58.003

- Section 58.006
- Sections 58.007(c), (d), (e), and (f)
- Section 58.0071
- Section 58.00711
- Section 58.106(a-1)
- Subchapter C, Chapter 58

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2863 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

SECTION 1. Article 62.007(e), Code of Criminal Procedure, is amended to read as follows:

(e) Records [~~Notwithstanding Chapter 58, Family Code, records~~] and files, including records that have been sealed under Chapter 58, Family Code [~~Section 58.003 of that code~~], relating to a person for whom a court, the Texas Department of Criminal Justice, or the Texas Juvenile Justice Department is required under this article to determine a level of risk shall be released to the court, the Texas Department of Criminal Justice, or the Texas Juvenile Justice Department, as appropriate, for the purpose of determining the person's risk level.

SECTION 1. Section 54.04(h), Family Code, is amended.

SECTION 2. Same as introduced version.

SECTION 2. Section 54.04012(d), Family Code, is amended.

SECTION 3. Same as introduced version.

SECTION 3. The heading to Subchapter A, Chapter 58, Family Code, is amended.

SECTION 4. Same as introduced version.

SECTION 4. The heading to Section 58.001, Family Code, is amended.

SECTION 5. Same as introduced version.

SECTION 5. Sections 58.002(a), (b), and (c), Family Code, are amended to read as follows:

SECTION 6. Sections 58.002(a), (b), and (c), Family Code, are amended to read as follows:

(a) Except as provided by Chapter 63, Code

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of Criminal Procedure, a child may not be photographed or fingerprinted without the consent of the juvenile court unless the child is:

- (1) taken into custody; or
- (2) referred to the juvenile court for conduct that constitutes a felony or a misdemeanor punishable by confinement in jail, regardless of whether the child has been taken into custody.

(b) On or before December 31 of each year, the head of each municipal or county law enforcement agency located in a county shall certify to the juvenile board for that county that the photographs and fingerprints required to be destroyed under Section 58.001 have been destroyed. The juvenile board may ~~shall~~ conduct or cause to be conducted an audit of the records of the law enforcement agency to verify the destruction of the photographs and fingerprints and the law enforcement agency shall make its records available for this purpose. If the audit shows that the certification provided by the head of the law enforcement agency is false, that person is subject to prosecution for perjury under Chapter 37, Penal Code.

(c) This section does not prohibit a law enforcement officer from photographing or fingerprinting a child who is not in custody and who has been referred to the juvenile court for conduct other than conduct that constitutes a felony or misdemeanor punishable by confinement in jail if the child's parent or guardian voluntarily consents in writing to the photographing or fingerprinting of the child. Consent of the child's parent or guardian is not required to photograph or fingerprint a child described by Subsection (a)(1) or (2).

SECTION 6. Section 58.0021(b), Family Code, is amended.

SECTION 7. Section 58.004, Family Code, is amended.

SECTION 8. Section 58.005, Family Code, is amended.

SECTION 9. Section 58.0052(b), Family Code, is amended.

SECTION 10. The heading to Section 58.007, Family Code, is amended.

of Criminal Procedure, a child may not be photographed or fingerprinted without the consent of the juvenile court unless the child is:

- (1) taken into custody; or
- (2) referred to the juvenile court for conduct that constitutes a felony or a misdemeanor punishable by confinement in jail, regardless of whether the child has been taken into custody.

(b) On or before December 31 of each year, the head of each municipal or county law enforcement agency located in a county shall certify to the juvenile board for that county that the photographs and fingerprints required to be destroyed under Section 58.001 have been destroyed. The juvenile board may ~~shall~~ conduct or cause to be conducted an audit of the records of the law enforcement agency to verify the destruction of the photographs and fingerprints and the law enforcement agency shall make its records available for this purpose. If the audit shows that the certification provided by the head of the law enforcement agency is false, that person is subject to prosecution for perjury under Chapter 37, Penal Code.

(c) This section does not prohibit a law enforcement officer from photographing or fingerprinting a child who is not in custody or who has not been referred to the juvenile court for conduct that constitutes a felony or misdemeanor punishable by confinement in jail if the child's parent or guardian voluntarily consents in writing to the photographing or fingerprinting of the child. Consent of the child's parent or guardian is not required to photograph or fingerprint a child described by Subsection (a)(1) or (2).

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.

SECTION 9. Substantially the same as introduced version.

SECTION 10. Same as introduced version.

SECTION 11. Same as introduced version.

SECTION 11. Section 58.007, Family Code, is amended by amending Subsections (a), (b), (g), and (i) and adding Subsection (b-1) to read as follows:

(a) This section applies only to the inspection, copying, and maintenance of a ~~[physical]~~ record ~~[or file]~~ concerning a child and the storage of information, by electronic means or otherwise, concerning the child from which a ~~physical record or file~~ could be generated and does not affect the collection, dissemination, or maintenance of information as provided by Subchapter B or Subchapter D-1. This section does not apply to a record ~~[or file]~~ relating to a child that is:

- (1) required or authorized to be maintained under the laws regulating the operation of motor vehicles in this state;
- (2) maintained by a municipal or justice court; or
- (3) subject to disclosure under Chapter 62, Code of Criminal Procedure.

(b) Except as provided by Section 54.051(d-1) and by Article 15.27, Code of Criminal Procedure, the records, whether physical or electronic, ~~[and files]~~ of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a proceeding under this title may be inspected or copied only by:

- (1) the judge, probation officers, and professional staff or consultants of the juvenile court;
- (2) a juvenile justice agency as that term is defined by Section 58.101;
- (3) an attorney representing ~~[for]~~ a party in a ~~[to the]~~ proceeding under this title;
- (4) 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;
- (5) a public or private agency or institution providing supervision of the child by arrangement of the juvenile court, or having custody of the child under juvenile court order; or
- (6) ~~[(5)]~~ with permission from ~~[leave of]~~ the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

SECTION 12. Section 58.007, Family Code, is amended by amending Subsections (a), (b), (g), and (i) and adding Subsection (b-1) to read as follows:

(a) This section applies only to the inspection, copying, and maintenance of a ~~[physical]~~ record ~~[or file]~~ concerning a child and the storage of information, by electronic means or otherwise, concerning the child from which a ~~physical record or file~~ could be generated and does not affect the collection, dissemination, or maintenance of information as provided by Subchapter B or D-1. This section does not apply to a record ~~[or file]~~ relating to a child that is:

- (1) required or authorized to be maintained under the laws regulating the operation of motor vehicles in this state;
- (2) maintained by a municipal or justice court; or
- (3) subject to disclosure under Chapter 62, Code of Criminal Procedure.

(b) Except as provided by Section 54.051(d-1) and by Article 15.27, Code of Criminal Procedure, the records, whether physical or electronic, ~~[and files]~~ of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a proceeding under this title may be inspected or copied only by:

- (1) the judge, probation officers, and professional staff or consultants of the juvenile court;
- (2) a juvenile justice agency as that term is defined by Section 58.101;
- (3) an attorney representing ~~[for]~~ a party in a ~~[to the]~~ proceeding under this title;
- (4) 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;
- (5) a public or private agency or institution providing supervision of the child by arrangement of the juvenile court, or having custody of the child under juvenile court order; or
- (6) ~~[(5)]~~ with permission from ~~[leave of]~~ the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

(b-1) A person who is the subject of the records is entitled to access the records for the purpose of preparing and presenting a motion or application to seal the records.

(g) For the purpose of offering a record as evidence in the punishment phase of a criminal proceeding, a prosecuting attorney may obtain the record of a defendant's adjudication that is admissible under Section 3(a), Article 37.07, Code of Criminal Procedure, by submitting a request for the record to the juvenile court that made the adjudication. If a court receives a request from a prosecuting attorney under this subsection, the court shall, if the court possesses the requested record of adjudication, certify and provide the prosecuting attorney with a copy of the record. If a record has been sealed under Subchapter C-1, the juvenile court may not provide a copy of the record to a prosecuting attorney under this subsection.

(i) In addition to the authority to release information under Subsection (b)(6) [(b)(5)], a juvenile probation department may release information contained in its records without leave of the juvenile court pursuant to guidelines adopted by the juvenile board.

SECTION 12. Subchapter A, Chapter 58, Family Code, is amended by adding Section 58.008 to read as follows:

Sec. 58.008. CONFIDENTIALITY OF LAW ENFORCEMENT RECORDS. (a)

This section applies only to the inspection, copying, and maintenance of a record concerning a child and to the storage of information, by electronic means or otherwise, concerning the child from which a record could be generated and does not affect the collection, dissemination, or maintenance of information as provided by Subchapter B. This section does not apply to a record or file relating to a child that is:

(1) required or authorized to be maintained under the laws regulating the operation of motor vehicles in this state;

(2) maintained by a municipal or justice court; or

(3) subject to disclosure under Chapter 62, Code of Criminal Procedure.

(b) Except as provided by Subsection (d), law enforcement records concerning a child and information concerning a child that are

(b-1) A person who is the subject of the records is entitled to access the records for the purpose of preparing and presenting a motion or application to seal the records.

(g) For the purpose of offering a record as evidence in the punishment phase of a criminal proceeding, a prosecuting attorney may obtain the record of a defendant's adjudication that is admissible under Section 3(a), Article 37.07, Code of Criminal Procedure, by submitting a request for the record to the juvenile court that made the adjudication. If a court receives a request from a prosecuting attorney under this subsection, the court shall, if the court possesses the requested record of adjudication, certify and provide the prosecuting attorney with a copy of the record. If a record has been sealed under this chapter, the juvenile court may not provide a copy of the record to a prosecuting attorney under this subsection.

(i) In addition to the authority to release information under Subsection (b)(6) [(b)(5)], a juvenile probation department may release information contained in its records without leave of the juvenile court pursuant to guidelines adopted by the juvenile board.

SECTION 13. Subchapter A, Chapter 58, Family Code, is amended by adding Section 58.008 to read as follows:

Sec. 58.008. CONFIDENTIALITY OF LAW ENFORCEMENT RECORDS. (a)

This section applies only to the inspection, copying, and maintenance of a record concerning a child and to the storage of information, by electronic means or otherwise, concerning the child from which a record could be generated and does not affect the collection, dissemination, or maintenance of information as provided by Subchapter B. This section does not apply to a record relating to a child that is:

(1) required or authorized to be maintained under the laws regulating the operation of motor vehicles in this state;

(2) maintained by a municipal or justice court; or

(3) subject to disclosure under Chapter 62, Code of Criminal Procedure.

(b) Except as provided by Subsection (d), law enforcement records concerning a child and information concerning a child that are

stored by electronic means or otherwise and from which a record could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult records;

(2) if maintained electronically in the same computer system as adult records, accessible only under controls that are separate and distinct from the controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subsection (c) or Subchapter B, D, or E.

(c) The law enforcement records of a person with a determinate sentence who is transferred to the Texas Department of Criminal Justice may be transferred to a central state or federal depository for adult records after the date of transfer and may be shared in accordance with the laws governing the adult records in the depository.

(d) Law enforcement records concerning a child may be inspected or copied by:

(1) a juvenile justice agency, as defined by Section 58.101;

(2) a criminal justice agency, as defined by Section 411.082, Government Code;

(3) the child; or

(4) the child's parent or guardian.

(e) Before a child or a child's parent or guardian may inspect or copy a record concerning the child under Subsection (d), the custodian of the record shall redact:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or any other law.

(f) If a child has been reported missing by a parent, guardian, or conservator of that child, information about the child may be forwarded to and disseminated by the Texas Crime Information Center and the National Crime Information Center.

SECTION 13. Section 58.0072, Family Code, is redesignated as Section 58.009, Family Code, and amended to read as follows:

Sec. 58.009 [58.0072]. DISSEMINATION OF JUVENILE JUSTICE INFORMATION BY THE TEXAS JUVENILE JUSTICE

stored by electronic means or otherwise and from which a record could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult records;

(2) if maintained electronically in the same computer system as adult records, accessible only under controls that are separate and distinct from the controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subsection (c) or Subchapter B, D, or E.

(c) The law enforcement records of a person with a determinate sentence who is transferred to the Texas Department of Criminal Justice may be transferred to a central state or federal depository for adult records after the date of transfer and may be shared in accordance with the laws governing the adult records in the depository.

(d) Law enforcement records concerning a child may be inspected or copied by:

(1) a juvenile justice agency, as defined by Section 58.101;

(2) a criminal justice agency, as defined by Section 411.082, Government Code;

(3) the child; or

(4) the child's parent or guardian.

(e) Before a child or a child's parent or guardian may inspect or copy a record concerning the child under Subsection (d), the custodian of the record shall redact:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or any other law.

(f) If a child has been reported missing by a parent, guardian, or conservator of that child, information about the child may be forwarded to and disseminated by the Texas Crime Information Center and the National Crime Information Center.

SECTION 14. Section 58.0072, Family Code, is redesignated as Section 58.009, Family Code, and amended to read as follows:

Sec. 58.009 [58.0072]. DISSEMINATION OF JUVENILE JUSTICE INFORMATION BY THE TEXAS JUVENILE JUSTICE

DEPARTMENT. (a) Except as provided by this section, juvenile justice information collected and maintained by the Texas Juvenile Justice Department for statistical and research purposes is confidential information for the use of the department and may not be disseminated by the department.

(b) Juvenile justice information consists of information of the type described by Section 58.104, including statistical data in any form or medium collected, maintained, or submitted to the Texas Juvenile Justice Department under Section 221.007, Human Resources Code.

(c) The Texas Juvenile Justice Department may grant the following entities access to juvenile justice information for research and statistical purposes or for any other purpose approved by the department:

- (1) criminal justice agencies as defined by Section 411.082, Government Code;
- (2) the Texas Education Agency, as authorized under Section 37.084, Education Code;
- (3) any agency under the authority of the Health and Human Services Commission; or
- (4) a public or private university.

(d) The Texas Juvenile Justice Department may grant the following entities access to juvenile justice information only for a purpose beneficial to and approved by the department to:

(1) a person working on a research or statistical project that:

(A) is funded in whole or in part by state or federal funds; and

(B) meets the requirements of and is approved by the department; or

(2) a person working on a research or statistical project that:

(A) meets the requirements of and is approved by the department; and

(B) [governmental entity that] has a specific agreement with the department that[, if the agreement]:

(i) [(A)] specifically authorizes access to information;

(ii) [(B)] limits the use of information to the purposes for which the information is given;

(iii) [(C)] ensures the security and confidentiality of the information; and

(iv) [(D)] provides for sanctions if a requirement imposed under Subparagraph (i), (ii), or (iii) [Paragraph (A), (B), or (C)]

DEPARTMENT. (a) Except as provided by this section, juvenile justice information collected and maintained by the Texas Juvenile Justice Department for statistical and research purposes is confidential information for the use of the department and may not be disseminated by the department.

(b) Juvenile justice information consists of information of the type described by Section 58.104, including statistical data in any form or medium collected, maintained, or submitted to the Texas Juvenile Justice Department under Section 221.007, Human Resources Code.

(c) The Texas Juvenile Justice Department may grant the following entities access to juvenile justice information for research and statistical purposes or for any other purpose approved by the department:

- (1) criminal justice agencies as defined by Section 411.082, Government Code;
- (2) the Texas Education Agency, as authorized under Section 37.084, Education Code;
- (3) any agency under the authority of the Health and Human Services Commission; or
- (4) a public or private university.

(d) The Texas Juvenile Justice Department may grant the following entities access to juvenile justice information only for a purpose beneficial to and approved by the department to:

(1) a person working on a research or statistical project that:

(A) is funded in whole or in part by state or federal funds; and

(B) meets the requirements of and is approved by the department; or

(2) a person working on a research or statistical project that:

(A) meets the requirements of and is approved by the department; and

(B) [governmental entity that] has a specific agreement with the department that[, if the agreement]:

(i) [(A)] specifically authorizes access to information;

(ii) [(B)] limits the use of information to the purposes for which the information is given;

(iii) [(C)] ensures the security and confidentiality of the information; and

(iv) [(D)] provides for sanctions if a requirement imposed under Subparagraph (i), (ii), or (iii) [Paragraph (A), (B), or (C)]

is violated.

(e) The Texas Juvenile Justice Department shall grant access to juvenile justice information for legislative purposes under Section 552.008, Government Code.

(f) The Texas Juvenile Justice Department may not release juvenile justice information in identifiable form, except for information released under Subsection (c)(1), (2), or (3) or under the terms of an agreement entered into under Subsection (d)(2). For purposes of this subsection, identifiable information means information that contains a juvenile offender's name or other personal identifiers or that can, by virtue of sample size or other factors, be reasonably interpreted as referring to a particular juvenile offender.

~~[(g) The Texas Juvenile Justice Department is not required to release or disclose juvenile justice information to any person not identified under this section.]~~

SECTION 14. Section 58.102(c), Family Code, is amended.

SECTION 15. Sections 58.104(a), (b), and (f), Family Code, are amended.

SECTION 16. Sections 58.106(a-2) and (b), Family Code, are amended.

SECTION 17. Chapter 58, Family Code, is amended by adding Subchapter C-1 to read as follows:

SUBCHAPTER C-1. SEALING AND DESTRUCTION OF JUVENILE RECORDS

Sec. 58.251. DEFINITIONS.

Sec. 58.252. EXEMPTED RECORDS.

Sec. 58.253. SEALING RECORDS WITHOUT APPLICATION: DELINQUENT CONDUCT.

Sec. 58.254. CERTIFICATION OF ELIGIBILITY FOR SEALING RECORDS WITHOUT APPLICATION FOR DELINQUENT CONDUCT.

Sec. 58.255. SEALING RECORDS WITHOUT APPLICATION: CONDUCT INDICATING NEED FOR

is violated.

(e) The Texas Juvenile Justice Department shall grant access to juvenile justice information for legislative purposes under Section 552.008, Government Code.

(f) The Texas Juvenile Justice Department may not release juvenile justice information in identifiable form, except for information released under Subsection (c)(1), (2), or (3) or under the terms of an agreement entered into under Subsection (d)(2). For purposes of this subsection, identifiable information means information that contains a juvenile offender's name or other personal identifiers or that can, by virtue of sample size or other factors, be reasonably interpreted as referring to a particular juvenile offender.

(g) Except as provided by Subsection (e), the [The] Texas Juvenile Justice Department is permitted but not required to release or disclose juvenile justice information to any person [not] identified under this section.

SECTION 15. Same as introduced version.

SECTION 16. Same as introduced version.

SECTION 17. Same as introduced version.

SECTION 18. Chapter 58, Family Code, is amended by adding Subchapter C-1 to read as follows:

SUBCHAPTER C-1. SEALING AND DESTRUCTION OF JUVENILE RECORDS

Sec. 58.251. DEFINITIONS.

Sec. 58.252. EXEMPTED RECORDS.

Sec. 58.253. SEALING RECORDS WITHOUT APPLICATION: DELINQUENT CONDUCT.

Sec. 58.254. CERTIFICATION OF ELIGIBILITY FOR SEALING RECORDS WITHOUT APPLICATION FOR DELINQUENT CONDUCT.

Sec. 58.255. SEALING RECORDS WITHOUT APPLICATION: CONDUCT INDICATING NEED FOR

SUPERVISION.

Sec. 58.256. APPLICATION FOR SEALING RECORDS.

Sec. 58.257. HEARING REGARDING SEALING OF RECORDS.

Sec. 58.258. ORDER SEALING RECORDS. (a) An order sealing the records of a person under this subchapter must include either the following information or the reason one or more of the following is not included in the order:

- (1) the person's:
 - (A) full name;
 - (B) sex;
 - (C) race or ethnicity;
 - (D) date of birth;
 - (E) driver's license or identification card number; and
 - (F) social security number;
 - (2) each instance of conduct indicating a need for supervision or delinquent conduct alleged against the person or for which the person was referred to the juvenile justice system;
 - (3) the date on which and the county in which each instance of conduct was alleged to have occurred;
 - (4) if any petitions relating to the person were filed in juvenile court, the cause number assigned to each petition and the court and county in which each petition was filed; and
 - (5) a list of the entities believed to be in possession of the records that have been ordered sealed, including the entities listed under Subsection (b).
- (b) Not later than the 60th day after the date of the entry of the order, the court shall provide a copy of the order to:
- (1) the Department of Public Safety;
 - (2) the Texas Juvenile Justice Department, if the person was committed to the department;
 - (3) the clerk of court;
 - (4) the juvenile probation department serving the court;
 - (5) the prosecutor's office;
 - (6) each law enforcement agency that had contact with the person in relation to the conduct that is the subject of the sealing order;
 - (7) each public or private agency that had

SUPERVISION.

Sec. 58.256. APPLICATION FOR SEALING RECORDS.

Sec. 58.257. HEARING REGARDING SEALING OF RECORDS.

Sec. 58.258. ORDER SEALING RECORDS. (a) An order sealing the records of a person under this subchapter must include either the following information or the reason one or more of the following is not included in the order:

- (1) the person's:
 - (A) full name;
 - (B) sex;
 - (C) race or ethnicity;
 - (D) date of birth;
 - (E) driver's license or identification card number; and
 - (F) social security number;
 - (2) each instance of conduct indicating a need for supervision or delinquent conduct alleged against the person or for which the person was referred to the juvenile justice system;
 - (3) the date on which and the county in which each instance of conduct was alleged to have occurred;
 - (4) if any petitions relating to the person were filed in juvenile court, the cause number assigned to each petition and the court and county in which each petition was filed; and
 - (5) a list of the entities believed to be in possession of the records that have been ordered sealed, including the entities listed under Subsection (b).
- (b) Not later than the 60th day after the date of the entry of the order, the court shall provide a copy of the order to:
- (1) the Department of Public Safety;
 - (2) the Texas Juvenile Justice Department, if the person was committed to the department;
 - (3) the clerk of court;
 - (4) the juvenile probation department serving the court;
 - (5) the prosecutor's office;
 - (6) each law enforcement agency that had contact with the person in relation to the conduct that is the subject of the sealing order;
 - (7) each public or private agency that had

custody of or that provided supervision or services to the person in relation to the conduct that is the subject of the sealing order; and

(8) each official, agency, or other entity that the court has reason to believe has any record containing information that is related to the conduct that is the subject of the sealing order.

(c) On entry of the order, all adjudications relating to the person are vacated and the proceedings are dismissed and treated for all purposes as if the adjudication had never occurred. The clerk of court shall:

(1) seal all court records relating to the proceedings, including any records created in the clerk's case management system; and

(2) send copies of the order to all entities listed in the order.

Sec. 58.259. ACTIONS TAKEN ON RECEIPT OF ORDER TO SEAL RECORDS. (a) An entity receiving an order to seal the records of a person issued under this subchapter shall, not later than the 61st day after the date of receiving the order, take the following actions, as applicable:

(1) the Department of Public Safety shall:

(A) limit access to the records relating to the person in the juvenile justice information system to only the Texas Juvenile Justice Department for the purpose of conducting research and statistical studies;

(B) destroy any other records relating to the person in the department's possession, including DNA records as provided by Section 411.151, Government Code; and

(C) send written verification of the limitation and destruction of the records to the issuing court;

(2) the Texas Juvenile Justice Department shall:

(A) seal all records relating to the person, other than those exempted from sealing under Section 58.252; and

(B) send written verification of the sealing of the records to the issuing court;

(3) a public or private agency or institution that had custody of or provided supervision or services to the person who is the subject of the records, the juvenile probation department, a law enforcement entity, or a prosecuting attorney shall:

(A) seal all records relating to the person;

custody of or that provided supervision or services to the person in relation to the conduct that is the subject of the sealing order; and

(8) each official, agency, or other entity that the court has reason to believe has any record containing information that is related to the conduct that is the subject of the sealing order.

(c) On entry of the order, all adjudications relating to the person are vacated and the proceedings are dismissed and treated for all purposes as though the proceedings had never occurred. The clerk of court shall:

(1) seal all court records relating to the proceedings, including any records created in the clerk's case management system; and

(2) send copies of the order to all entities listed in the order.

Sec. 58.259. ACTIONS TAKEN ON RECEIPT OF ORDER TO SEAL RECORDS. (a) An entity receiving an order to seal the records of a person issued under this subchapter shall, not later than the 61st day after the date of receiving the order, take the following actions, as applicable:

(1) the Department of Public Safety shall:

(A) limit access to the records relating to the person in the juvenile justice information system to only the Texas Juvenile Justice Department for the purpose of conducting research and statistical studies;

(B) destroy any other records relating to the person in the department's possession, including DNA records as provided by Section 411.151, Government Code; and

(C) send written verification of the limitation and destruction of the records to the issuing court;

(2) the Texas Juvenile Justice Department shall:

(A) seal all records relating to the person, other than those exempted from sealing under Section 58.252; and

(B) send written verification of the sealing of the records to the issuing court;

(3) a public or private agency or institution that had custody of or provided supervision or services to the person who is the subject of the records, the juvenile probation department, a law enforcement entity, or a prosecuting attorney shall:

(A) seal all records relating to the person;

and

(B) send written verification of the sealing of the records to the issuing court; and

(4) any other entity that receives an order to seal a person's records shall:

(A) send any records relating to the person to the issuing court;

(B) delete all index references to the person's records; and

(C) send written verification of the deletion of the index references to the issuing court.

(b) Physical or electronic records are considered sealed, regardless of whether the records are destroyed, if the records are securely stored in a manner that only allows access to the records by the entity's custodian of records.

(c) If an entity that received an order to seal records relating to a person later receives an inquiry about a person or the matter contained in the records, the entity must respond that no records relating to the person or the matter exist.

(d) If an entity receiving an order to seal records under this subchapter is unable to comply with the order because the information in the order is incorrect or insufficient to allow the entity to identify the records that are subject to the order, the entity shall notify the issuing court not later than the 30th day after the date of receipt of the order. The court shall take any actions necessary and possible to provide the needed information to the entity, including contacting the person who is the subject of the order or the person's attorney.

(e) If an entity receiving a sealing order under this subchapter has no records related to the person who is the subject of the order, the entity shall provide written verification of that fact to the issuing court not later than the 30th day after the date of receipt of the order.

Sec. 58.260. INSPECTION AND RELEASE OF SEALED RECORDS. (a) A juvenile court may allow, by order, the inspection of records sealed under this subchapter only by:

(1) a person named in the order, on the petition of the person who is the subject of the records; or

(2) a prosecutor, on the petition of the prosecutor, for the purpose of reviewing the

and

(B) send written verification of the sealing of the records to the issuing court; and

(4) any other entity that receives an order to seal a person's records shall:

(A) send any records relating to the person to the issuing court;

(B) delete all index references to the person's records; and

(C) send written verification of the deletion of the index references to the issuing court.

(b) Physical or electronic records are considered sealed if the records are not destroyed but are stored in a manner that allows access to the records only by the custodian of records for the entity possessing the records.

(c) If an entity that received an order to seal records relating to a person later receives an inquiry about a person or the matter contained in the records, the entity must respond that no records relating to the person or the matter exist.

(d) If an entity receiving an order to seal records under this subchapter is unable to comply with the order because the information in the order is incorrect or insufficient to allow the entity to identify the records that are subject to the order, the entity shall notify the issuing court not later than the 30th day after the date of receipt of the order. The court shall take any actions necessary and possible to provide the needed information to the entity, including contacting the person who is the subject of the order or the person's attorney.

(e) If an entity receiving a sealing order under this subchapter has no records related to the person who is the subject of the order, the entity shall provide written verification of that fact to the issuing court not later than the 30th day after the date of receipt of the order.

Sec. 58.260. INSPECTION AND RELEASE OF SEALED RECORDS. (a) A juvenile court may allow, by order, the inspection of records sealed under this subchapter or under Section 58.003, as that law existed before September 1, 2017, only by:

(1) a person named in the order, on the petition of the person who is the subject of the records;

(2) a prosecutor, on the petition of the prosecutor, for the purpose of reviewing the

records for possible use:

- (A) in a capital prosecution; or
- (B) for the enhancement of punishment under Section 12.42, Penal Code.

(b) After a petitioner inspects records under this section, the court may order the release of any or all of the records to the petitioner on the motion of the petitioner.

Sec. 58.261. EFFECT OF SEALING RECORDS. (a) A person whose records have been sealed under this subchapter is not required to state in any proceeding or in any application for employment, licensing, admission, housing, or other public or private benefit that the person has been the subject of a juvenile matter.

(b) A person's denial of the existence of records sealed under this subchapter or of the person's involvement in a juvenile matter, the information in the records, or the fact that the records once existed may not be used against the person in any manner, including in:

- (1) a perjury prosecution or other criminal proceeding;
- (2) a civil proceeding, including an administrative proceeding involving a governmental entity;
- (3) an application process for licensing or certification; or
- (4) an admission, employment, or housing decision.

(c) A person who is the subject of records sealed under this subchapter may not waive the protected status of the records or the consequences of the protected status.

Sec. 58.262. INFORMATION GIVEN TO CHILD REGARDING SEALING OF RECORDS. (a) When a child is referred to the juvenile probation department, an employee of the juvenile probation department shall give the child and the child's parent, guardian, or custodian a written explanation describing the process of sealing records under this subchapter and a copy of this subchapter.

(b) On the final discharge of a child, or on the last official action in the matter if there

records for possible use:

- (A) in a capital prosecution; or
- (B) for the enhancement of punishment under Section 12.42, Penal Code; or
- (3) a court, the Texas Department of Criminal Justice, or the Texas Juvenile Justice Department for the purposes of Article 62.007(e), Code of Criminal Procedure.

(b) After a petitioner inspects records under this section, the court may order the release of any or all of the records to the petitioner on the motion of the petitioner.

Sec. 58.261. EFFECT OF SEALING RECORDS. (a) A person whose records have been sealed under this subchapter or under Section 58.003, as that law existed before September 1, 2017, is not required to state in any proceeding or in any application for employment, licensing, admission, housing, or other public or private benefit that the person has been the subject of a juvenile matter.

(b) If a person's records have been sealed, the information in the records, the fact that the records once existed, or the person's denial of the existence of the records or of the person's involvement in a juvenile matter may not be used against the person in any manner, including in:

- (1) a perjury prosecution or other criminal proceeding;
- (2) a civil proceeding, including an administrative proceeding involving a governmental entity;
- (3) an application process for licensing or certification; or
- (4) an admission, employment, or housing decision.

(c) A person who is the subject of the sealed records may not waive the protected status of the records or the consequences of the protected status.

Sec. 58.262. INFORMATION GIVEN TO CHILD REGARDING SEALING OF RECORDS. (a) When a child is referred to the juvenile probation department, an employee of the juvenile probation department shall give the child and the child's parent, guardian, or custodian a written explanation describing the process of sealing records under this subchapter and a copy of this subchapter.

(b) On the final discharge of a child, or on the last official action in the matter if there

is no adjudication, a probation officer or official at the Texas Juvenile Justice Department, as appropriate, shall give the child and the child's parent, guardian, or custodian a written explanation regarding the eligibility of the child's records for sealing under this subchapter and a copy of this subchapter.

(c) The written explanation provided to a child under Subsections (a) and (b) must include the requirements for a record to be eligible for sealing, including an explanation of the records that are exempt from sealing under Section 58.252, and the following information:

(1) that, regardless of whether the child's conduct was adjudicated, the child has a juvenile record with the Department of Public Safety and the Federal Bureau of Investigation;

(2) the child's juvenile record is a permanent record unless the record is destroyed under this subchapter;

(3) except as provided by Section 58.260, the child's juvenile record, other than treatment records made confidential by law, may be accessed by a police officer, sheriff, prosecutor, probation officer, correctional officer, or other criminal or juvenile justice official unless the record is sealed as provided by this subchapter;

(4) sealing of the child's records under Section 58.253 or Section 58.255, as applicable, does not require any action by the child or the child's family, including the filing of an application or hiring of a lawyer, but occurs automatically at age 18, 19, 25, or 31, as applicable based on the child's referral and adjudication history;

(5) the child's juvenile record may be eligible for an earlier sealing date under Section 58.256, but an earlier sealing requires the child or an attorney for the child to file an application with the court;

(6) the impact of sealing records on the child; and

(7) the circumstances under which a sealed record may be reopened.

(d) The Texas Juvenile Justice Department shall adopt rules to implement this section and to facilitate the effective explanation of the information required to be communicated by this section.

Sec. 58.263. DESTRUCTION OF

is no adjudication, a probation officer or official at the Texas Juvenile Justice Department, as appropriate, shall give the child and the child's parent, guardian, or custodian a written explanation regarding the eligibility of the child's records for sealing under this subchapter and a copy of this subchapter.

(c) The written explanation provided to a child under Subsections (a) and (b) must include the requirements for a record to be eligible for sealing, including an explanation of the records that are exempt from sealing under Section 58.252, and the following information:

(1) that, regardless of whether the child's conduct was adjudicated, the child has a juvenile record with the Department of Public Safety and the Federal Bureau of Investigation;

(2) the child's juvenile record is a permanent record unless the record is sealed under this subchapter;

(3) except as provided by Section 58.260, the child's juvenile record, other than treatment records made confidential by law, may be accessed by a police officer, sheriff, prosecutor, probation officer, correctional officer, or other criminal or juvenile justice official unless the record is sealed as provided by this subchapter;

(4) sealing of the child's records under Section 58.253 or Section 58.255, as applicable, does not require any action by the child or the child's family, including the filing of an application or hiring of a lawyer, but occurs automatically at age 18, 19, or 25, as applicable based on the child's referral and adjudication history;

(5) the child's juvenile record may be eligible for an earlier sealing date under Section 58.256, but an earlier sealing requires the child or an attorney for the child to file an application with the court;

(6) the impact of sealing records on the child; and

(7) the circumstances under which a sealed record may be reopened.

(d) The Texas Juvenile Justice Department shall adopt rules to implement this section and to facilitate the effective explanation of the information required to be communicated by this section.

Sec. 58.263. DESTRUCTION OF

RECORDS: NO PROBABLE CAUSE.

Sec. 58.264. PERMISSIBLE DESTRUCTION OF RECORDS. (a)

Subject to Subsections (b) and (c) of this section, Section 202.001, Local Government Code, and any other restrictions imposed by an entity's records retention guidelines, the following persons may authorize the destruction of records in a closed juvenile matter, regardless of the date the records were created:

(1) a juvenile board, in relation to the records in the possession of the juvenile probation department;

(2) the head of a law enforcement agency, in relation to the records in the possession of the agency; and

(3) a prosecuting attorney, in relation to the records in the possession of the prosecuting attorney's office.

(b) The records related to a person referred to a juvenile probation department may be destroyed if the person:

(1) is at least 18 years of age, and:

(A) the most serious conduct for which the person was adjudicated was conduct indicating a need for supervision;

(B) the most serious conduct for which the person was referred was conduct indicating a need for supervision and the person was not adjudicated as having engaged in the conduct; or

(C) the referral or information did not relate to conduct indicating a need for supervision or delinquent conduct and the juvenile probation department, prosecutor, or juvenile court did not take action on the referral or information for that reason;

(2) is at least 21 years of age, and:

(A) the most serious conduct for which the person was adjudicated was delinquent conduct that violated a penal law of the grade of misdemeanor; or

(B) the most serious conduct for which the person was referred was delinquent conduct and the person was not adjudicated as having engaged in the conduct; or

(3) is at least 31 years of age and the most serious conduct for which the person was adjudicated was delinquent conduct that violated a penal law of the grade of felony.

(c) If a record contains information relating to more than one person referred to a juvenile probation department, the record

RECORDS: NO PROBABLE CAUSE.

Sec. 58.264. PERMISSIBLE DESTRUCTION OF RECORDS. (a)

Subject to Subsections (b) and (c) of this section, Section 202.001, Local Government Code, and any other restrictions imposed by an entity's records retention guidelines, the following persons may authorize the destruction of records in a closed juvenile matter, regardless of the date the records were created:

(1) a juvenile board, in relation to the records in the possession of the juvenile probation department;

(2) the head of a law enforcement agency, in relation to the records in the possession of the agency; and

(3) a prosecuting attorney, in relation to the records in the possession of the prosecuting attorney's office.

(b) The records related to a person referred to a juvenile probation department may be destroyed if the person:

(1) is at least 18 years of age, and:

(A) the most serious conduct for which the person was referred was conduct indicating a need for supervision, whether or not the person was adjudicated; or

(B) the referral or information did not relate to conduct indicating a need for supervision or delinquent conduct and the juvenile probation department, prosecutor, or juvenile court did not take action on the referral or information for that reason;

(2) is at least 21 years of age, and:

(A) the most serious conduct for which the person was adjudicated was delinquent conduct that violated a penal law of the grade of misdemeanor; or

(B) the most serious conduct for which the person was referred was delinquent conduct and the person was not adjudicated as having engaged in the conduct; or

(3) is at least 31 years of age and the most serious conduct for which the person was adjudicated was delinquent conduct that violated a penal law of the grade of felony.

(c) If a record contains information relating to more than one person referred to a juvenile probation department, the record

may only be destroyed if:

(1) the destruction of the record is authorized under this section; and

(2) information in the record that may be destroyed under this section can be separated from information that is not authorized to be destroyed.

(d) Electronic records are considered to be destroyed if the electronic records, including the index to the records, are deleted.

(e) Converting physical records to electronic records and subsequently destroying the physical records while maintaining the electronic records is not considered destruction of a record under this subchapter.

(f) This section does not authorize the destruction of the records of the juvenile court or clerk of court.

(g) This section does not authorize the destruction of records maintained for statistical and research purposes by the Texas Juvenile Justice Department in a juvenile information and case management system authorized under Section 58.403.

(h) This section does not affect the destruction of physical records and files authorized by the Texas State Library Records Retention Schedule.

Sec. 58.265. JUVENILE RECORDS NOT SUBJECT TO EXPUNCTION.

SECTION 18. Section 58.112, Family Code, is transferred to Chapter 203, Human Resources Code, and redesignated as Section 203.019, Human Resources Code.

SECTION 19. Section 411.151(a), Government Code, is amended.

SECTION 20. The following provisions of the Family Code are repealed:

- (1) Section 58.001(b);
- (2) Section 58.003;
- (3) Section 58.006;
- (4) Sections 58.007(c), (d), (e), and (f);
- (5) Section 58.0071;
- (6) Section 58.00711;
- (7) Section 58.106(a-1); and
- (8) Subchapter C, Chapter 58.

SECTION 21. (a) Except as provided by Subsection (b), the changes in law made by this Act apply only to records relating to

may only be destroyed if:

(1) the destruction of the record is authorized under this section; and

(2) information in the record that may be destroyed under this section can be separated from information that is not authorized to be destroyed.

(d) Electronic records are considered to be destroyed if the electronic records, including the index to the records, are deleted.

(e) Converting physical records to electronic records and subsequently destroying the physical records while maintaining the electronic records is not considered destruction of a record under this subchapter.

(f) This section does not authorize the destruction of the records of the juvenile court or clerk of court.

(g) This section does not authorize the destruction of records maintained for statistical and research purposes by the Texas Juvenile Justice Department in a juvenile information and case management system authorized under Section 58.403.

(h) This section does not affect the destruction of physical records and files authorized by the Texas State Library Records Retention Schedule.

Sec. 58.265. JUVENILE RECORDS NOT SUBJECT TO EXPUNCTION.

SECTION 19. Same as introduced version.

SECTION 20. Same as introduced version.

SECTION 21. Same as introduced version.

SECTION 22. The changes in law made by this Act apply to records created before, on, or after the effective date of this Act.

conduct that occurs on or after the effective date of this Act. Conduct that occurred before the effective date of this Act is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurred before the effective date of this Act if any element of the conduct occurred before the effective date of this Act.

(b) Section 58.264, Family Code, as added by this Act, applies to records relating to conduct that occurred before, on, or after the effective date of this Act.

SECTION 22. This Act takes effect September 1, 2017.

SECTION 23. Same as introduced version.