

- SUBJECT:** Confidential youth records for certain dismissals, deferred dispositions
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 8 ayes — Herrero, Carter, Burnam, Canales, Leach, Moody, Schaefer, Toth
0 nays
1 absent — Hughes
- SENATE VOTE:** On final passage, March 21 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** *(On House companion bill, HB 3058)*
For — Marc Levin, Texas Public Policy Foundation Center for Effective Justice; *(Registered, but did not testify:* Yannis Banks, Texas NAACP; Cathy Dewitt, Texas Association of Business; Kristin Etter and David Gonzalez, Texas Criminal Defense Lawyers Association; Kay Forth, American Civil Liberties Union of Texas; Andrea Marsh, Texas Fair Defense Project; Lauren Rose, Texans Care For Children; Michael Vitris, Texas Appleseed)

Against — None

On — *(Registered, but did not testify:* Becky Kerbow (Justices of the Peace and Constable Association of Texas)
- BACKGROUND:** Under Code of Criminal Procedure (CCP), art. 45.0217(a), justice and municipal court records, files, and information relating to children who are convicted of and have satisfied the judgment for fine-only misdemeanor offenses, other than traffic offenses, are confidential. Such records, including those held by law enforcement, may not be disclosed to the public. CCP, art. 45.0217(b) makes this otherwise confidential information available only to judges and court staff, criminal justice agencies, the Department of Public Safety, attorneys involved in the case, the child, and the child's parent or guardian.

Under CCP, art. 44.2811, which governs appeals, these records also are confidential, as well as records in cases in which a child is convicted and then the case is affirmed. Family Code, sec. 58.00711 makes confidential these same records in the state juvenile justice information system.

Under deferred disposition a judge puts off the determination of guilt while the youth works on meeting the requirements of the court. This can result in the case being dismissed.

DIGEST: SB 394 would make confidential all records, files, and information in justice and municipal courts relating to a child who received a dismissal after a deferred disposition for a fine-only misdemeanor, other than a traffic offense. The same confidentiality requirements would be applied to juvenile justice information system records of these non-traffic, fine-only misdemeanors when cases were dismissed after a deferred disposition.

The bill would take effect September 1, 2013, and would apply only to the disclosure of records or files on or after that date, regardless of when the offense was committed.

SUPPORTERS SAY: SB 394 is necessary to address an oversight in current law that makes the criminal court records of some juveniles convicted of fine-only misdemeanors confidential but does not include the same confidentiality for those who have had their cases dismissed after a deferred disposition.

In 2011, the 82nd Legislature revised the law dealing with access to the criminal records of juveniles to give them greater protection and more confidentiality. The revisions included making confidential the records of juveniles who were convicted by justice and municipal courts of fine-only misdemeanors, such as truancy and disorderly conduct, and who completed the terms of their sentence. However, due to an oversight, the revisions did not make confidential the records of juveniles who had charges dismissed after a deferred disposition.

SB 394 would address this issue by extending to youths who have these type of cases dismissed after a deferred disposition the same confidentiality protections given to those who were convicted and had satisfied their judgments. Youths who have avoided being found guilty by successfully meeting the courts' requirements should have the same confidentiality as those who have been found guilty in these types of

cases.

Keeping these records confidential would be consistent with the state's broad policy on juvenile records. Confidentiality in these cases would treat these juveniles equitably, ensuring that their information was protected and that they had the opportunity to move forward without a public record after involvement with the courts.

SB 394 would enact an August 2012 recommendation of the Texas Judicial Council.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The House companion bill, HB 3058 by Herrero, was left pending in the House Criminal Jurisprudence Committee on April 23.

HB 528 by Sylvester Turner, which would make confidential the court records relating to children who were charged with, found not guilty of, had charges dismissed for, or were granted deferred disposition for non-traffic, fine-only misdemeanors, was passed by the House on April 23. It has been referred to the Senate Jurisprudence Committee.