

BILL ANALYSIS

Senate Research Center
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H.B. 263
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, a person's juvenile records relating to delinquent conduct may be sealed under certain conditions. Interested parties assert that many persons are unaware of this eligibility and do not go through the application process to have their records sealed. As a result, access to these records by potential employers, schools, and landlords can contribute to a lack of employment opportunities and inhibit other pursuits. H.B. 263 seeks to address this issue.

H.B. 263 amends current law relating to the sealing in certain cases of juvenile records of adjudications of delinquent conduct or conduct indicating a need for supervision and access by certain persons to sealed 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 amending Subsections (a), (e), (f), (g), and (h) and adding Subsections (a-1), (a-2), and (a-3), as follows:

(a) Requires the court, except as provided by Subsections (b) and (c), on the application of a person who has been found to have engaged in delinquent conduct or conduct indicating a need for supervision or who was taken into custody to determine whether the person engaged in delinquent conduct or conduct indicating a need for supervision or, if the court receives notice under Subsection (a-1) that the person may be eligible to have the person's records sealed, on the juvenile court's own motion, to immediately order the sealing of the person's records if the court finds that:

(1) either:

(A) Creates this subdivision from existing text; or

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

(2) since the time specified in Subdivision (1)(A) or (B), as applicable, rather than Subdivision (1), 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-2).

Makes nonsubstantive changes.

(a-1) Provides that notice to the court that a person may be eligible under Subsection (a) to have the person's records sealed may be provided by:

(1) the person or the person's attorney; or

(2) a juvenile probation officer or school attendance officer, by signed statement or notarized affidavit.

(a-2) Requires the court, on a person becoming eligible under Subsection (a)(1), to:

(1) determine whether the person meets the requirements of Subsection (a)(2); and

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

(e) Requires the court to hold a hearing before sealing a person's records under Subsection (c), rather than 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 certain persons set forth in this subsection.

(f) Requires that a copy of the sealing order be sent to each agency or official named in the order and to the Department of Public Safety of the State of Texas (DPS).

(g) Provides that, on entry of the order, DPS shall certify the records for restricted access under Section 58.203 (Certification), Family Code.

(h) Authorizes inspection or copying of the sealed records to be permitted by an order of the juvenile court on the petition of the person who is the subject of the records and only by those persons named in the order.

SECTION 2. Amends Section 58.203(a), Family Code, as follows:

(a) Requires DPS to certify to the juvenile probation department to which a referral was made that resulted in information being submitted to the juvenile justice information system that the records relating to a person's juvenile case are subject to automatic restriction of access if:

(1) the person is at least 17 years of age, the juvenile case did not include conduct resulting in determinate sentence proceedings in the juvenile court under Section 53.045 (Offenses Eligible for Determinate Sentence), and the juvenile case was not certified for trial in criminal court under Section 54.02 (Waiver of Jurisdiction and Discretionary Transfer to Criminal Court); or

(2) the person's records with respect to the juvenile case were sealed under Section 58.003 (Sealing of Records).

SECTION 3. Provides that the change in law made by this Act applies to the sealing of and restricting or granting 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 4. Effective date: upon passage or September 1, 2015.