

1-1 By: White, Wu (Senate Sponsor - Perry) H.B. No. 1760
1-2 (In the Senate - Received from the House April 29, 2019;
1-3 April 29, 2019, read first time and referred to Committee on
1-4 Administration; May 3, 2019, reported favorably by the following
1-5 vote: Yeas 4, Nays 0; May 3, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10			X	
1-11	X			
1-12			X	
1-13			X	
1-14	X			

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the confidentiality, sharing, sealing, and destruction
1-18 of juvenile records and certain records of at-risk youth.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Section 58.005, Family Code, is amended by
1-21 amending Subsection (a-1) and adding Subsection (c) to read as
1-22 follows:

1-23 (a-1) Except as provided by Article 15.27, Code of Criminal
1-24 Procedure, the records and information to which this section
1-25 applies may be disclosed only to:

1-26 (1) the professional staff or consultants of the
1-27 agency or institution;

1-28 (2) the judge, probation officers, and professional
1-29 staff or consultants of the juvenile court;

1-30 (3) an attorney for the child;

1-31 (4) a governmental agency if the disclosure is
1-32 required or authorized by law;

1-33 (5) an individual [a person] or entity to whom the
1-34 child is referred for treatment or services, including assistance
1-35 in transitioning the child to the community after the child's
1-36 release or discharge from a juvenile facility [if the agency or
1-37 institution disclosing the information has entered into a written
1-38 confidentiality agreement with the person or entity regarding the
1-39 protection of the disclosed information];

1-40 (6) the Texas Department of Criminal Justice and the
1-41 Texas Juvenile Justice Department for the purpose of maintaining
1-42 statistical records of recidivism and for diagnosis and
1-43 classification; ~~or~~

1-44 (7) a prosecuting attorney;

1-45 (8) a parent, guardian, or custodian with whom a child
1-46 will reside after the child's release or discharge from a juvenile
1-47 facility;

1-48 (9) a governmental agency or court if the record is
1-49 necessary for an administrative or legal proceeding and the
1-50 personally identifiable information about the child is redacted
1-51 before the record is disclosed; or

1-52 (10) with permission from the juvenile court, any
1-53 other individual [person], agency, or institution having a
1-54 legitimate interest in the proceeding or in the work of the court.

1-55 (c) An individual or entity that receives confidential
1-56 information under this section may not disclose the information
1-57 unless otherwise authorized by law.

1-58 SECTION 2. Subsection (b-1), Section 58.0052, Family Code,
1-59 as added by Chapter 1021 (H.B. 1521), Acts of the 85th Legislature,
1-60 Regular Session, 2017, is redesignated as Subsection (b-3), Section
1-61 58.0052, Family Code, to read as follows:

2-1 **(b-3)** [~~(b-1)~~] At the request of a state or local juvenile
 2-2 justice agency, the Department of Family and Protective Services or
 2-3 a single source continuum contractor who contracts with the
 2-4 department to provide foster care services shall, not later than
 2-5 the 14th business day after the date of the request, share with the
 2-6 juvenile justice agency information in the possession of the
 2-7 department or contractor that is necessary to improve and maintain
 2-8 community safety or that assists the agency in the continuation of
 2-9 services for or providing services to a multi-system youth who:

2-10 (1) is or has been in the temporary or permanent
 2-11 managing conservatorship of the department;

2-12 (2) is or was the subject of a family-based safety
 2-13 services case with the department;

2-14 (3) has been reported as an alleged victim of abuse or
 2-15 neglect to the department;

2-16 (4) is the perpetrator in a case in which the
 2-17 department investigation concluded that there was a reason to
 2-18 believe that abuse or neglect occurred; or

2-19 (5) is a victim in a case in which the department
 2-20 investigation concluded that there was a reason to believe that
 2-21 abuse or neglect occurred.

2-22 SECTION 3. Section 58.007, Family Code, is amended by
 2-23 amending Subsection (b) and adding Subsection (c) to read as
 2-24 follows:

2-25 (b) Except as provided by Section 54.051(d-1) and by Article
 2-26 15.27, Code of Criminal Procedure, the records, whether physical or
 2-27 electronic, of a juvenile court, a clerk of court, a juvenile
 2-28 probation department, or a prosecuting attorney relating to a child
 2-29 who is a party to a proceeding under this title may be inspected or
 2-30 copied only by:

2-31 (1) the judge, probation officers, and professional
 2-32 staff or consultants of the juvenile court;

2-33 (2) a juvenile justice agency as that term is defined
 2-34 by Section 58.101;

2-35 (3) an attorney representing the child's parent [~~a~~
 2-36 ~~party~~] in a proceeding under this title;

2-37 (4) an attorney representing the child;

2-38 (5) a prosecuting attorney;

2-39 (6) an individual [~~a person~~] or entity to whom the
 2-40 child is referred for treatment or services, including assistance
 2-41 in transitioning the child to the community after the child's
 2-42 release or discharge from a juvenile facility [~~, if the agency or~~
 2-43 ~~institution disclosing the information has entered into a written~~
 2-44 ~~confidentiality agreement with the person or entity regarding the~~
 2-45 ~~protection of the disclosed information];~~

2-46 (7) [~~(5)~~] a public or private agency or institution
 2-47 providing supervision of the child by arrangement of the juvenile
 2-48 court, or having custody of the child under juvenile court order; or

2-49 (8) [~~(6)~~] with permission from the juvenile court, any
 2-50 other individual [~~person~~], agency, or institution having a
 2-51 legitimate interest in the proceeding or in the work of the court.

2-52 (c) An individual or entity that receives confidential
 2-53 information under this section may not disclose the information
 2-54 unless otherwise authorized by law.

2-55 SECTION 4. Section 58.008(b), Family Code, is amended to
 2-56 read as follows:

2-57 (b) Except as provided by Subsection (c) [~~(d)~~], law
 2-58 enforcement records concerning a child and information concerning a
 2-59 child that are stored by electronic means or otherwise and from
 2-60 which a record could be generated may not be disclosed to the public
 2-61 and shall be:

2-62 (1) if maintained on paper or microfilm, kept separate
 2-63 from adult records;

2-64 (2) if maintained electronically in the same computer
 2-65 system as adult records, accessible only under controls that are
 2-66 separate and distinct from the controls to access electronic data
 2-67 concerning adults; and

2-68 (3) maintained on a local basis only and not sent to a
 2-69 central state or federal depository, except as provided by

3-1 Subsection (c) or Subchapter B, D, or E.

3-2 SECTION 5. Sections 58.009(d) and (f), Family Code, are
 3-3 amended to read as follows:

3-4 (d) The Texas Juvenile Justice Department may grant the
 3-5 following individuals or entities access to juvenile justice
 3-6 information only for a purpose beneficial to and approved by the
 3-7 department to:

3-8 (1) an individual or entity [a person] working on a
 3-9 research or statistical project that:

3-10 (A) is funded in whole or in part by state or
 3-11 federal funds; and

3-12 (B) meets the requirements of and is approved by
 3-13 the department; or

3-14 (2) an individual or entity [a person working on a
 3-15 research or statistical project] that:

3-16 (A) is working on a research or statistical
 3-17 project that meets the requirements of and is approved by the
 3-18 department; and

3-19 (B) has a specific agreement with the department
 3-20 that:

3-21 (i) specifically authorizes access to
 3-22 information;

3-23 (ii) limits the use of information to the
 3-24 purposes for which the information is given;

3-25 (iii) ensures the security and
 3-26 confidentiality of the information; and

3-27 (iv) provides for sanctions if a
 3-28 requirement imposed under Subparagraph (i), (ii), or (iii) is
 3-29 violated.

3-30 (f) The Texas Juvenile Justice Department may not release
 3-31 juvenile justice information in identifiable form, except for
 3-32 information released under Subsection (c)(1), (2), ~~(3)~~, or (4)
 3-33 or under the terms of an agreement entered into under Subsection
 3-34 (d)(2). For purposes of this subsection, identifiable information
 3-35 means information that contains a juvenile offender's name or other
 3-36 personal identifiers or that can, by virtue of sample size or other
 3-37 factors, be reasonably interpreted as referring to a particular
 3-38 juvenile offender.

3-39 SECTION 6. Section 58.255(a), Family Code, is amended to
 3-40 read as follows:

3-41 (a) A person who was referred to a juvenile court [probation
 3-42 department] for conduct indicating a need for supervision is
 3-43 entitled to have all records related to all conduct indicating a
 3-44 need for supervision matters sealed without applying to the
 3-45 juvenile court if the person:

3-46 (1) has records relating to the conduct filed with the
 3-47 court clerk;

3-48 (2) is at least 18 years of age;

3-49 ~~(3) [(2)]~~ has not been referred to the juvenile
 3-50 probation department for delinquent conduct;

3-51 ~~(4) [(3)]~~ has not as an adult been convicted of a
 3-52 felony; and

3-53 ~~(5) [(4)]~~ does not have any pending charges as an
 3-54 adult for a felony or a misdemeanor punishable by confinement in
 3-55 jail.

3-56 SECTION 7. Subchapter C-1, Chapter 58, Family Code, is
 3-57 amended by adding Section 58.2551 to read as follows:

3-58 Sec. 58.2551. SEALING RECORDS WITHOUT APPLICATION: FINDING
 3-59 OF NOT TRUE. A juvenile court, on the court's own motion and
 3-60 without a hearing, shall immediately order the sealing of all
 3-61 records related to the alleged conduct if the court enters a finding
 3-62 that the allegations are not true.

3-63 SECTION 8. Section 58.256(c), Family Code, is amended to
 3-64 read as follows:

3-65 (c) Except as provided by Subsection (d), the juvenile court
 3-66 may order the sealing of records related to all matters for which
 3-67 the person was referred to the juvenile probation department if the
 3-68 person:

3-69 (1) is at least 17 ~~[18]~~ years of age, or is younger

4-1 than 17 [~~18~~] years of age and at least one year has [~~two years~~ have]
4-2 elapsed after the date of final discharge in each matter for which
4-3 the person was referred to the juvenile probation department;

4-4 (2) does not have any delinquent conduct matters
4-5 pending with any juvenile probation department or juvenile court;

4-6 (3) was not transferred by a juvenile court to a
4-7 criminal court for prosecution under Section 54.02;

4-8 (4) has not as an adult been convicted of a felony; and

4-9 (5) does not have any pending charges as an adult for a
4-10 felony or a misdemeanor punishable by confinement in jail.

4-11 SECTION 9. Section 58.258(c), Family Code, is amended to
4-12 read as follows:

4-13 (c) On entry of the order, all adjudications relating to the
4-14 person are vacated and the proceedings are dismissed and treated
4-15 for all purposes as though the proceedings had never occurred. The
4-16 clerk of court shall:

4-17 (1) seal all court records relating to the
4-18 proceedings, including any records created in the clerk's case
4-19 management system; and

4-20 (2) send copies of the order to all entities listed in
4-21 the order by any reasonable method, including certified mail,
4-22 regular mail, or e-mail.

4-23 SECTION 10. Section 58.263, Family Code, is amended to read
4-24 as follows:

4-25 Sec. 58.263. DESTRUCTION OF RECORDS: NO PROBABLE CAUSE.
4-26 The court shall order the destruction of the records relating to the
4-27 conduct for which a child is taken into custody or referred to
4-28 juvenile court without being taken into custody, including records
4-29 contained in the juvenile justice information system, if:

4-30 (1) a determination is made under Section 53.01 that
4-31 no probable cause exists to believe the child engaged in the conduct
4-32 and the case is not referred to a prosecutor for review under
4-33 Section 53.012; or

4-34 (2) a determination that no probable cause exists to
4-35 believe the child engaged in the conduct is made by a prosecutor
4-36 under Section 53.012.

4-37 SECTION 11. Section 203.0065, Human Resources Code, is
4-38 amended by adding Subsections (g) and (h) to read as follows:

4-39 (g) The records related to a youth who was provided
4-40 prevention and intervention services under this section are
4-41 confidential and may only be inspected or copied by an individual or
4-42 entity to whom the youth is referred for treatment or services.

4-43 (h) An individual or entity that receives information under
4-44 this section may not disclose the information unless otherwise
4-45 authorized by law.

4-46 SECTION 12. The following provisions of the Family Code are
4-47 repealed:

4-48 (1) Section 58.003(c-3);

4-49 (2) Section 58.0053; and

4-50 (3) Section 58.007(j).

4-51 SECTION 13. The changes in law made by this Act apply to
4-52 records created before, on, or after the effective date of this Act.

4-53 SECTION 14. This Act takes effect September 1, 2019.

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