

1-1 By: Perry S.B. No. 1025
1-2 (In the Senate - Filed February 22, 2019; March 7, 2019,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 April 23, 2019, reported favorably by the following vote: Yeas 6,
1-5 Nays 0; April 23, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Whitmire	X		
1-9	Huffman	X		
1-10	Buckingham	X		
1-11	Flores	X		
1-12	Hughes		X	
1-13	Miles	X		
1-14	Perry	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:

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

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

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

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

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

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

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

(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, 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 the child's parent [~~a party~~] in a proceeding under this title;

(4) an attorney representing the child;

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

(6) [~~(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

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

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

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

(b) Except as provided by Subsection (c) [~~(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.

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

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

(1) an individual or entity ~~[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) an individual or entity ~~[a person working on a research or statistical project]~~ that:

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

(B) has a specific agreement with the department that:

(i) specifically authorizes access to information;

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

(iii) ensures the security and confidentiality of the information; and

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

(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 (4) 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.

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

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

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

(2) is at least 18 years of age;

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

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

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

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

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

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

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

(1) is at least 17 ~~[18]~~ years of age, or is younger than 17 ~~[18]~~ years of age and at least one year has ~~[two years have]~~

elapsed after the date of final discharge in each matter for which the person was referred to the juvenile probation department;

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

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

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

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

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

(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 by any reasonable method, including certified mail, regular mail, or e-mail.

SECTION 10. Section 58.263, Family Code, is amended to read as follows:

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

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

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

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

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

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

SECTION 12. The following provisions of the Family Code are repealed:

(1) Section 58.003(c-3);

(2) Section 58.0053; and

(3) Section 58.007(j).

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

SECTION 14. This Act takes effect September 1, 2019.

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