

1 AN ACT

2 relating to the sealing of and restricting access to juvenile
3 records of adjudications of delinquent conduct or conduct
4 indicating a need for supervision and to the confidentiality of
5 records of certain misdemeanor convictions of a child.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Chapter 44, Code of Criminal Procedure, is
8 amended by adding Article 44.2811 to read as follows:

9 Art. 44.2811. RECORDS RELATING TO CHILDREN CONVICTED OF
10 FINE-ONLY MISDEMEANORS. All records and files and information
11 stored by electronic means or otherwise, from which a record or file
12 could be generated, relating to a child who is convicted of and has
13 satisfied the judgment for a fine-only misdemeanor offense other
14 than a traffic offense are confidential and may not be disclosed to
15 the public except as provided under Article 45.0217(b). All
16 records and files and information stored by electronic means or
17 otherwise, from which a record or file could be generated, relating
18 to a child whose conviction for a fine-only misdemeanor other than a
19 traffic offense is affirmed are confidential upon satisfaction of
20 the judgment and may not be disclosed to the public except as
21 provided under Article 45.0217(b).

22 SECTION 2. Subchapter B, Chapter 45, Code of Criminal
23 Procedure, is amended by adding Article 45.0217 to read as follows:

24 Art. 45.0217. CONFIDENTIAL RECORDS RELATED TO THE

1 CONVICTION OF A CHILD. (a) Except as provided by Article 15.27 and
2 Subsection (b), all records and files, including those held by law
3 enforcement, and information stored by electronic means or
4 otherwise, from which a record or file could be generated, relating
5 to a child who is convicted of and has satisfied the judgment for a
6 fine-only misdemeanor offense other than a traffic offense are
7 confidential and may not be disclosed to the public.

8 (b) Information subject to Subsection (a) may be open to
9 inspection only by:

10 (1) judges or court staff;

11 (2) a criminal justice agency for a criminal justice
12 purpose, as those terms are defined by Section 411.082, Government
13 Code;

14 (3) the Department of Public Safety;

15 (4) an attorney for a party to the proceeding;

16 (5) the child defendant; or

17 (6) the defendant's parent, guardian, or managing
18 conservator.

19 SECTION 3. Section 58.003(c), Family Code, is amended to
20 read as follows:

21 (c) Subject to Subsection (b), a court may order the sealing
22 of records concerning a person adjudicated as having engaged in
23 delinquent conduct that violated a penal law of the grade of felony
24 only if:

25 (1) the person is 19 [~~21~~] years of age or older;

26 (2) the person was not transferred by a juvenile court
27 under Section 54.02 to a criminal court for prosecution;

1 (3) the records have not been used as evidence in the
2 punishment phase of a criminal proceeding under Section 3(a),
3 Article 37.07, Code of Criminal Procedure; and

4 (4) the person has not been convicted of a penal law of
5 the grade of felony after becoming age 17.

6 SECTION 4. Subchapter A, Chapter 58, Family Code, is
7 amended by adding Section 58.00711 to read as follows:

8 Sec. 58.00711. RECORDS RELATING TO CHILDREN CONVICTED OF
9 FINE-ONLY MISDEMEANORS. Except as provided by Article 45.0217(b),
10 Code of Criminal Procedure, all records and files and information
11 stored by electronic means or otherwise, from which a record or file
12 could be generated, relating to a child who is convicted of and has
13 satisfied the judgment for a fine-only misdemeanor offense other
14 than a traffic offense are confidential and may not be disclosed to
15 the public.

16 SECTION 5. Section 58.203(a), Family Code, is amended to
17 read as follows:

18 (a) The department shall certify to the juvenile probation
19 department to which a referral was made that resulted in
20 information being submitted to the juvenile justice information
21 system that the records relating to a person's juvenile case are
22 subject to automatic restriction of access if:

23 (1) the person is at least 17 [~~21~~] years of age;

24 (2) the juvenile case did not include violent or
25 habitual felony conduct resulting in proceedings in the juvenile
26 court under Section 53.045; and

27 (3) the juvenile case was not certified for trial in

1 criminal court under Section 54.02 [~~and~~

2 [~~(4) the department has not received a report in its~~
3 ~~criminal history system that the person was granted deferred~~
4 ~~adjudication for or convicted of a felony or a misdemeanor~~
5 ~~punishable by confinement in jail for an offense committed after~~
6 ~~the person became 17 years of age].~~

7 SECTION 6. Section 58.208, Family Code, is amended to read
8 as follows:

9 Sec. 58.208. INFORMATION TO CHILD ON DISCHARGE. On the
10 final discharge of a child from the juvenile system or on the last
11 official action in the case, if there is no adjudication, the
12 appropriate juvenile justice official shall provide to the child:

13 (1) a written explanation of how automatic restricted
14 access under this subchapter works;

15 (2) a copy of this subchapter; and

16 (3) a statement that if the child wishes to receive
17 notification of an action restricting access to the child's records
18 under Section 58.207(a), the child must before the child's 17th
19 [~~21st~~] birthday provide the juvenile probation department with a
20 current address where the child can receive notification.

21 SECTION 7. Section 58.209(a), Family Code, is amended to
22 read as follows:

23 (a) When a child is placed on probation for an offense that
24 may be eligible for automatic restricted access at age 17 [~~21~~] or
25 when a child is received by the Texas Youth Commission on an
26 indeterminate commitment, a probation officer or an official at the
27 Texas Youth Commission reception center, as soon as practicable,

1 shall explain the substance of the following information to the
2 child:

3 (1) if the child was adjudicated as having committed
4 delinquent conduct for a felony or jailable misdemeanor, that the
5 child probably has a juvenile record with the department and the
6 Federal Bureau of Investigation;

7 (2) that the child's juvenile record is a permanent
8 record that is not destroyed or erased unless the record is eligible
9 for sealing and the child or the child's family hires a lawyer and
10 files a petition in court to have the record sealed;

11 (3) that the child's juvenile record, other than
12 treatment records made confidential by law, can be accessed by
13 police, sheriff's officers, prosecutors, probation officers,
14 correctional officers, and other criminal and juvenile justice
15 officials in this state and elsewhere;

16 (4) that the child's juvenile record, other than
17 treatment records made confidential by law, can be accessed by
18 employers, educational institutions, licensing agencies, and other
19 organizations when the child applies for employment or educational
20 programs;

21 (5) if the child's juvenile record is placed on
22 restricted access when the child becomes 17 [~~21~~] years of age, that
23 access will be denied to employers, educational institutions, and
24 others except for criminal justice agencies; and

25 (6) [~~that to have the child's juvenile record placed on~~
26 ~~restricted access at age 21, the child must not:~~

27 [~~(A) commit a felony or jailable misdemeanor; and~~

1 ~~[(B) receive deferred adjudication for or be~~
2 ~~convicted in adult court of a felony or jailable misdemeanor, and~~
3 ~~[(7)]~~ that restricted access does not require any
4 action by the child or the child's family, including the filing of a
5 petition or hiring of a lawyer, but occurs automatically at age 17
6 ~~[21 if the child does not commit a criminal offense in the future]~~.

7 SECTION 8. Section 411.0851(a), Government Code, is amended
8 to read as follows:

9 (a) A private entity that compiles and disseminates for
10 compensation criminal history record information shall destroy and
11 may not disseminate any information in the possession of the entity
12 with respect to which the entity has received notice that:

13 (1) an order of expunction has been issued under
14 Article 55.02, Code of Criminal Procedure; or

15 (2) an order of nondisclosure has been issued under
16 Section 411.081(d) ~~[or (f-1)]~~.

17 SECTION 9. The heading to Section 552.142, Government Code,
18 is amended to read as follows:

19 Sec. 552.142. EXCEPTION: RECORDS OF CERTAIN DEFERRED
20 ADJUDICATIONS ~~[AND CERTAIN MISDEMEANORS PUNISHABLE BY FINE ONLY]~~.

21 SECTION 10. Section 552.142(a), Government Code, is amended
22 to read as follows:

23 (a) Information is excepted from the requirements of
24 Section 552.021 if an order of nondisclosure with respect to the
25 information has been issued under Section 411.081(d) ~~[or (f-1)]~~.

26 SECTION 11. Section 552.1425(a), Government Code, is
27 amended to read as follows:

1 (a) A private entity that compiles and disseminates for
2 compensation criminal history record information may not compile or
3 disseminate information with respect to which the entity has
4 received notice that:

5 (1) an order of expunction has been issued under
6 Article 55.02, Code of Criminal Procedure; or

7 (2) an order of nondisclosure has been issued under
8 Section 411.081(d) [~~or (f-1)~~].

9 SECTION 12. Sections 411.081(f-1) and (j), Government Code,
10 are repealed.

11 SECTION 13. Sections 58.003(c), 58.203(a), 58.208, and
12 58.209(a), Family Code, as amended by this Act, apply to the sealing
13 of and restricting access to records in the adjudication of a
14 juvenile case on or after the effective date of this Act, regardless
15 of whether the adjudication occurred before, on, or after the
16 effective date of this Act.

17 SECTION 14. Articles 44.2811 and 45.0217, Code of Criminal
18 Procedure, and Section 58.00711, Family Code, as added by this Act,
19 and Sections 411.0851(a), 552.142, and 552.1425(a), Government
20 Code, as amended by this Act, apply to convictions before, on, or
21 after the effective date of this Act.

22 SECTION 15. This Act takes effect immediately if it
23 receives a vote of two-thirds of all the members elected to each
24 house, as provided by Section 39, Article III, Texas Constitution.
25 If this Act does not receive the vote necessary for immediate
26 effect, this Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 961 was passed by the House on May 4, 2011, by the following vote: Yeas 141, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 961 was passed by the Senate on May 25, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor