

Texas Juvenile Justice System Files and Records

A Juvenile's Guide to Understanding Juvenile Records and Sealing

Who has a juvenile record in Texas?

Anyone referred to juvenile court for conduct that happened while age 10-16 (before 17) has a juvenile record, even if not taken into custody by police. Referrals are for delinquent conduct (Class A or B misdemeanor or felony offenses) or conduct indicating a need for supervision (CINS) (e.g. Class C misdemeanors, running away, "sexting"). Juvenile records exist with probation, law enforcement, prosecutors, courts, and in the Juvenile Justice Information System (JJIS) computer database maintained by the Texas Department of Public Safety.

Who can access juvenile records?

Juvenile records are confidential. The law says who can access them. This includes entities that need access for community safety or to provide services to juveniles. DPS may share the records in JJIS only with: criminal and juvenile justice agencies; TJJD and the Ombudsman for TJJD; courts having jurisdiction over juveniles; the Department of Family and Protective Services for certain background checks; the military (only with the juvenile's permission); and noncriminal justice agencies if allowed by federal law or executive order. Law enforcement, probation, prosecutors, and courts are also limited in how they may share records. Once records are sealed, no one may access them.

How do I get my records sealed?

If the only reason you were referred to juvenile court was for CINS and there are court records, your records will be sealed when you turn 18 if you do not have an adult felony conviction or pending adult charges. If you were referred to juvenile court for delinquent conduct (felony or misdemeanor) but were never adjudicated (i.e. "found guilty") or you were adjudicated for a misdemeanor but not a felony, your records will be sealed when you turn 19 if you do not have an adult conviction for a felony or jailable misdemeanor and do not have pending adult or juvenile charges. You do not have to apply to the court for this type of sealing.

If you were adjudicated for a felony or you do not meet the criteria for sealing above, you may file an application asking the court to seal your records. You do not need an attorney to do this, but you may choose to hire one. You are allowed to file this application if you are 17 and have been discharged from probation or the case against you is closed. If you are under 17, you may file if it has been at least a year since you were discharged from probation or the case was closed. The court can only seal your records if you do not have any adult felony convictions or any pending adult charges, are not currently required to register as a sex offender, and are not currently committed to TJJD. The court may choose to seal your records without a hearing or may hold a hearing to decide whether or not to seal the records. The court cannot deny your application for sealing without first having a hearing. You should contact the probation department that provided services for information on the sealing process there.

Are there any records that can't be sealed?

Your records cannot be sealed if you were certified to stand trial as an adult or were given a determinate sentence (probation or TJJD commitment). If required to register as a sex offender, your records cannot be sealed until your requirement to register has expired. If committed to TJJD without a determinate sentence, your records cannot be sealed until you have been discharged from TJJD. Records in a JP or municipal court (Class C misdemeanors) cannot be sealed because they are not juvenile records. Records in the gang database cannot be sealed, though they can be removed in certain circumstances. Only criminal justice agencies can access them and only for criminal justice purposes.

What happens when records are sealed?

When records are sealed, it means that all records showing you were referred to juvenile court are stored in a way that they cannot be seen anymore. Any adjudications are removed and it is treated like you were never even taken into custody or referred to juvenile court. The law says that you are not required to state in any proceeding or in any application for employment, licensing, admission, housing, or other public or private benefit that the records ever existed or that you were ever arrested, prosecuted, or adjudicated.

Additionally, the law states that once records are sealed, the information in the records, the fact that they once existed, or your denial of the existence of the records may not be used against you in any manner. This includes a perjury prosecution or other criminal proceeding, a civil proceeding, including an administrative proceeding involving a governmental entity, an application process for licensing or certification, or an admission, employment, or housing decision. So even if someone finds out you once had juvenile records, that cannot be used against you.

Can sealed records be reopened?

A court can open sealed records if you ask them to. The court can also reopen the records if a prosecutor asks them to for limited purposes, including a future prosecution for a capital offense or a future prosecution for an offense for which punishment can be enhanced based on your juvenile record. Re-opening a sealed record does not mean that the record is "unsealed." The protections that come with sealing a record remain in place, but the documents can be used for the specified reasons.

What about records in a justice or municipal court?

For those of juvenile age, Class C misdemeanors in justice or municipal court are confidential and may not be disclosed to the public. If you have only one conviction prior to your 17th birthday, you may be able to have certain offenses "expunged" or removed from your record.

Where can I get additional information?

Texas Family Code Chapter 58 and Code of Criminal Procedure Article 45. You can access Texas laws online at: www.statutes.legis.state.tx.us

Prepared by the
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www.tjjd.texas.gov

Texas Family Code Chapter 58
SUBCHAPTER C-1. SEALING AND DESTRUCTION OF JUVENILE RECORDS

Sec. 58.251. DEFINITIONS. In this subchapter:

- (1) "Electronic record" means an entry in a computer file or information on microfilm, microfiche, or any other electronic storage media.
- (2) "Juvenile matter" means a referral to a juvenile court or juvenile probation department and all related court proceedings and outcomes, if any.
- (3) "Physical record" means a paper copy of a record.
- (4) "Record" means any documentation related to a juvenile matter, including information contained in that documentation.

Sec. 58.252. EXEMPTED RECORDS. The following records are exempt from this subchapter:

- (1) records relating to a criminal combination or criminal street gang maintained by the Department of Public Safety or a local law enforcement agency under Chapter 61, Code of Criminal Procedure;
- (2) sex offender registration records maintained by the Department of Public Safety or a local law enforcement agency under Chapter 62, Code of Criminal Procedure; and
- (3) records collected or maintained by the Texas Juvenile Justice Department for statistical and research purposes, including data submitted under Section 221.007, Human Resources Code, and personally identifiable information.

Sec. 58.253. SEALING RECORDS WITHOUT APPLICATION: DELINQUENT CONDUCT. (a) This section does not apply to the records of a child referred to a juvenile court or juvenile probation department solely for conduct indicating a need for supervision.

(b) A person who was referred to a juvenile probation department for delinquent conduct is entitled to have all records related to the person's juvenile matters, including records relating to any matters involving conduct indicating a need for supervision, sealed without applying to the juvenile court if the person:

- (1) is at least 19 years of age;
- (2) has not been adjudicated as having engaged in delinquent conduct or, if adjudicated for delinquent conduct, was not adjudicated for delinquent conduct violating a penal law of the grade of felony;
- (3) does not have any pending delinquent conduct matters;
- (4) has not been transferred by a juvenile court to a criminal court for prosecution under Section 54.02;
- (5) has not as an adult been convicted of a felony or a misdemeanor punishable by confinement in jail; and
- (6) does not have any pending charges as an adult for a felony or a misdemeanor punishable by confinement in jail.

Sec. 58.254. CERTIFICATION OF ELIGIBILITY FOR SEALING RECORDS WITHOUT APPLICATION FOR DELINQUENT CONDUCT. (a) The Department of Public Safety shall certify to a juvenile probation department that has submitted records to the juvenile justice information system that the records relating to a person referred to the juvenile probation department appear to be eligible for sealing under Section 58.253.

(b) The Department of Public Safety may issue the certification described by Subsection (a) by electronic means, including by electronic mail.

(c) Except as provided by Subsection (d), not later than the 60th day after the date the juvenile probation department receives a certification under Subsection (a), the juvenile probation department shall:

(1) give notice of the receipt of the certification to the juvenile court; and

(2) provide the court with a list of all referrals received by the department relating to that person and the outcome of each referral.

(d) If a juvenile probation department has reason to believe the records of the person for whom the department received a certification under Subsection (a) are not eligible to be sealed, the juvenile probation department shall notify the Department of Public Safety not later than the 15th day after the date the juvenile probation department received the certification. If the juvenile probation department later determines that the person's records are eligible to be sealed, the juvenile probation department shall notify the juvenile court and provide the court the information described by Subsection (c) not later than the 30th day after the date of the determination.

(e) If, after receiving a certification under Subsection (a), the juvenile probation department determines that the person's records are not eligible to be sealed, the juvenile probation department and the Department of Public Safety shall update the juvenile justice information system to reflect that determination and no further action related to the records is required.

(f) Not later than the 60th day after the date a juvenile court receives notice from a juvenile probation department under Subsection (c), the juvenile court shall issue an order sealing all records relating to the person named in the certification.

Sec. 58.255. SEALING RECORDS WITHOUT APPLICATION: CONDUCT INDICATING NEED FOR SUPERVISION.

(a) A person who was referred to a juvenile court 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) has not been referred to the juvenile probation department for delinquent conduct;

(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.

(b) The juvenile probation department shall:

(1) give the juvenile court notice that a person's records are eligible for sealing under Subsection (a); and

(2) provide the juvenile court with a list of all referrals relating to that person received by the department and the outcome of each referral.

(c) Not later than the 60th day after the date the juvenile court receives notice from the juvenile probation department under Subsection (b), the juvenile court shall issue an order sealing all records relating to the person named in the notice.

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.

Sec. 58.256. APPLICATION FOR SEALING RECORDS. (a) Notwithstanding Sections 58.253 and 58.255, a person may file an application for the sealing of records related to the person in the juvenile court served by the juvenile probation department to which the person was referred. The court may not charge a fee for filing the application, regardless of the form of the application.

(a-1) An application filed under this section may be sent to the juvenile court by any reasonable method authorized under Rule 21, Texas Rules of Civil Procedure, including secure electronic means.

(b) An application filed under this section must include either the following information or the reason that one or more of the following is not included in the application:

(1) the person's:

- (A) full name;
- (B) sex;
- (C) race or ethnicity;
- (D) date of birth;
- (E) driver's license or identification card number; and
- (F) social security number;

(2) the conduct for which the person was referred to the juvenile probation department, including the date on which the conduct was alleged or found to have been committed;

(3) the cause number assigned to each petition relating to the person filed in juvenile court, if any, and the court in which the petition was filed; and

(4) a list of all entities the person believes have possession of records related to the person, including the applicable entities listed under Section 58.258(b).

(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 years of age, or is younger than 17 years of age and at least one year has 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.

(d) A court may not order the sealing of the records of a person who:

(1) received a determinate sentence for engaging in:

- (A) delinquent conduct that violated a penal law listed under Section 53.045; or
- (B) habitual felony conduct as described by Section 51.031;

(2) is currently required to register as a sex offender under Chapter 62, Code of Criminal Procedure;

or

(3) was committed to the Texas Juvenile Justice Department or to a post-adjudication secure correctional facility under Section 54.04011, unless the person has been discharged from the agency to which the person was committed.

(e) On receipt of an application under this section, the court may:

(1) order the sealing of the person's records immediately, without a hearing; or

(2) hold a hearing under Section 58.257 at the court's discretion to determine whether to order the sealing of the person's records.

Sec. 58.257. HEARING REGARDING SEALING OF RECORDS. (a) A hearing regarding the sealing of a person's records must be held not later than the 60th day after the date the court receives the person's application under Section 58.256.

(b) The court shall give reasonable notice of a hearing under this section to:

- (1) the person who is the subject of the records;
- (2) the person's attorney who made the application for sealing on behalf of the person, if any;
- (3) the prosecuting attorney for the juvenile court;
- (4) all entities named in the application that the person believes possess eligible records related to the person; and
- (5) any individual or entity whose presence at the hearing is requested by the person or prosecutor.

Sec. 58.258. ORDER SEALING RECORDS. (a) An order sealing the records of a person under this subchapter must include either the following information or the reason one or more of the following is not included in the order:

- (1) the person's:
 - (A) full name;
 - (B) sex;
 - (C) race or ethnicity;
 - (D) date of birth;
 - (E) driver's license or identification card number; and
 - (F) social security number;
- (2) each instance of conduct indicating a need for supervision or delinquent conduct alleged against the person or for which the person was referred to the juvenile justice system;
- (3) the date on which and the county in which each instance of conduct was alleged to have occurred;
- (4) if any petitions relating to the person were filed in juvenile court, the cause number assigned to each petition and the court and county in which each petition was filed; and
- (5) a list of the entities believed to be in possession of the records that have been ordered sealed, including the entities listed under Subsection (b).

(b) Not later than the 60th day after the date of the entry of the order, the court shall provide a copy of the order to:

- (1) the Department of Public Safety;
- (2) the Texas Juvenile Justice Department, if the person was committed to the department;
- (3) the clerk of court;
- (4) the juvenile probation department serving the court;
- (5) the prosecutor's office;
- (6) each law enforcement agency that had contact with the person in relation to the conduct that is the subject of the sealing order;
- (7) each public or private agency that had custody of or that provided supervision or services to the person in relation to the conduct that is the subject of the sealing order; and
- (8) each official, agency, or other entity that the court has reason to believe has any record containing information that is related to the conduct that is the subject of the sealing order.

(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 or secure electronic means.

Sec. 58.259. ACTIONS TAKEN ON RECEIPT OF ORDER TO SEAL RECORDS. (a) An entity receiving an order to seal the records of a person issued under this subchapter shall, not later than the 61st day after the date of receiving the order, take the following actions, as applicable:

(1) the Department of Public Safety shall:
(A) limit access to the records relating to the person in the juvenile justice information system to only the Texas Juvenile Justice Department for the purpose of conducting research and statistical studies;
(B) destroy any other records relating to the person in the department's possession, including DNA records as provided by Section 411.151, Government Code; and
(C) send written verification of the limitation and destruction of the records to the issuing court;

(2) the Texas Juvenile Justice Department shall:
(A) seal all records relating to the person, other than those exempted from sealing under Section 58.252; and

(B) send written verification of the sealing of the records to the issuing court;
(3) a public or private agency or institution that had custody of or provided supervision or services to the person who is the subject of the records, the juvenile probation department, a law enforcement entity, or a prosecuting attorney shall:

(A) seal all records relating to the person; and
(B) send written verification of the sealing of the records to the issuing court; and

(4) any other entity that receives an order to seal a person's records shall:

(A) send any records relating to the person to the issuing court;
(B) delete all index references to the person's records; and
(C) send written verification of the deletion of the index references to the issuing court.

(b) Physical or electronic records are considered sealed if the records are not destroyed but are stored in a manner that allows access to the records only by the custodian of records for the entity possessing the records.

(c) If an entity that received an order to seal records relating to a person later receives an inquiry about a person or the matter contained in the records, the entity must respond that no records relating to the person or the matter exist.

(d) If an entity receiving an order to seal records under this subchapter is unable to comply with the order because the information in the order is incorrect or insufficient to allow the entity to identify the records that are subject to the order, the entity shall notify the issuing court not later than the 30th day after the date of receipt of the order. The court shall take any actions necessary and possible to provide the needed information to the entity, including contacting the person who is the subject of the order or the person's attorney.

(e) If an entity receiving a sealing order under this subchapter has no records related to the person who is the subject of the order, the entity shall provide written verification of that fact to the issuing court not later than the 30th day after the date of receipt of the order.

Sec. 58.260. INSPECTION AND RELEASE OF SEALED RECORDS. (a) A juvenile court may allow, by order, the inspection of records sealed under this subchapter or under Section 58.003, as that law existed before September 1, 2017, only by:

(1) a person named in the order, on the petition of the person who is the subject of the records;
(2) a prosecutor, on the petition of the prosecutor, for the purpose of reviewing the records for possible use:

(A) in a capital prosecution; or
(B) for the enhancement of punishment under Section 12.42, Penal Code; or

(3) a court, the Texas Department of Criminal Justice, or the Texas Juvenile Justice Department for the purposes of Article 62.007(e), Code of Criminal Procedure.

(b) After a petitioner inspects records under this section, the court may order the release of any or all of the records to the petitioner on the motion of the petitioner.

Sec. 58.261. EFFECT OF SEALING RECORDS. (a) A person whose records have been sealed under this subchapter or under Section 58.003, as that law existed before September 1, 2017, is not required to state in any proceeding or in any application for employment, licensing, admission, housing, or other public or private benefit that the person has been the subject of a juvenile matter.

(b) If a person's records have been sealed, the information in the records, the fact that the records once existed, or the person's denial of the existence of the records or of the person's involvement in a juvenile matter may not be used against the person in any manner, including in:

- (1) a perjury prosecution or other criminal proceeding;
- (2) a civil proceeding, including an administrative proceeding involving a governmental entity;
- (3) an application process for licensing or certification; or
- (4) an admission, employment, or housing decision.

(c) A person who is the subject of the sealed records may not waive the protected status of the records or the consequences of the protected status.

Sec. 58.262. INFORMATION GIVEN TO CHILD REGARDING SEALING OF RECORDS. (a) When a child is referred to the juvenile probation department, an employee of the juvenile probation department shall give the child and the child's parent, guardian, or custodian a written explanation describing the process of sealing records under this subchapter and a copy of this subchapter.

(b) On the final discharge of a child, or on the last official action in the matter if there is no adjudication, a probation officer or official at the Texas Juvenile Justice Department, as appropriate, shall give the child and the child's parent, guardian, or custodian a written explanation regarding the eligibility of the child's records for sealing under this subchapter and a copy of this subchapter.

(c) The written explanation provided to a child under Subsections (a) and (b) must include the requirements for a record to be eligible for sealing, including an explanation of the records that are exempt from sealing under Section 58.252, and the following information:

- (1) that, regardless of whether the child's conduct was adjudicated, the child has a juvenile record with the Department of Public Safety and the Federal Bureau of Investigation;
- (2) the child's juvenile record is a permanent record unless the record is sealed under this subchapter;
- (3) except as provided by Section 58.260, the child's juvenile record, other than treatment records made confidential by law, may be accessed by a police officer, sheriff, prosecutor, probation officer, correctional officer, or other criminal or juvenile justice official unless the record is sealed as provided by this subchapter;
- (4) sealing of the child's records under Section 58.253 or Section 58.255, as applicable, does not require any action by the child or the child's family, including the filing of an application or hiring of a lawyer, but occurs automatically at age 18 or 19 as applicable based on the child's referral and adjudication history;
- (5) the child's juvenile record may be eligible for an earlier sealing date under Section 58.256, but an earlier sealing requires the child or an attorney for the child to file an application with the court;
- (6) the impact of sealing records on the child; and
- (7) the circumstances under which a sealed record may be reopened.

(d) The Texas Juvenile Justice Department shall adopt rules to implement this section and to facilitate the effective explanation of the information required to be communicated by this section.

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.

Sec. 58.264. PERMISSIBLE DESTRUCTION OF RECORDS. (a) Subject to Subsections (b) and (c) of this section, Section 202.001, Local Government Code, and any other restrictions imposed by an entity's records retention guidelines, the following persons may authorize the destruction of records in a closed juvenile matter, regardless of the date the records were created:

(1) a juvenile board, in relation to the records in the possession of the juvenile probation department;

(2) the head of a law enforcement agency, in relation to the records in the possession of the agency; and

(3) a prosecuting attorney, in relation to the records in the possession of the prosecuting attorney's office.

(b) The records related to a person referred to a juvenile probation department may be destroyed if the person:

(1) is at least 18 years of age, and:

(A) the most serious conduct for which the person was referred was conduct indicating a need for supervision, whether or not the person was adjudicated; or

(B) the referral or information did not relate to conduct indicating a need for supervision or delinquent conduct and the juvenile probation department, prosecutor, or juvenile court did not take action on the referral or information for that reason;

(2) is at least 21 years of age, and:

(A) the most serious conduct for which the person was adjudicated was delinquent conduct that violated a penal law of the grade of misdemeanor; or

(B) the most serious conduct for which the person was referred was delinquent conduct and the person was not adjudicated as having engaged in the conduct; or

(3) is at least 31 years of age and the most serious conduct for which the person was adjudicated was delinquent conduct that violated a penal law of the grade of felony.

(c) If a record contains information relating to more than one person referred to a juvenile probation department, the record may only be destroyed if:

(1) the destruction of the record is authorized under this section; and

(2) information in the record that may be destroyed under this section can be separated from information that is not authorized to be destroyed.

(d) Electronic records are considered to be destroyed if the electronic records, including the index to the records, are deleted.

(e) Converting physical records to electronic records and subsequently destroying the physical records while maintaining the electronic records is not considered destruction of a record under this subchapter.

(f) This section does not authorize the destruction of the records of the juvenile court or clerk of court.

(g) This section does not authorize the destruction of records maintained for statistical and research purposes by the Texas Juvenile Justice Department in a juvenile information and case management system authorized under Section 58.403.

(h) This section does not affect the destruction of physical records and files authorized by the Texas State Library Records Retention Schedule.

Sec. 58.265. JUVENILE RECORDS NOT SUBJECT TO EXPUNCTION. Records to which this chapter applies are not subject to an order of expunction issued by any court.