



MOST SIGNIFICANT CHANGE


- Entities in Ch. 411 Government Code who may have access to adult criminal records **NO LONGER** have access to any juvenile records
- Includes non-criminal justice agencies that get access to adult records, such as:
 - Medical Board
 - Board of Law Examiners
 - Board of Nursing


 **JUVENILE RECORDS LAWS**
Effective September 1, 2017

 **JUVENILE JUSTICE**
DEPARTMENT

Applicability

- Records created before, on, or after the effective date

 **JUVENILE RECORDS LAWS**
Effective September 1, 2017

 **JUVENILE JUSTICE**
DEPARTMENT

DPS Sharing

- **58.106 (a-1) repealed**
- DPS can share JJIS data only with:
 - Military, with permission of juvenile
 - Criminal justice agency
 - Noncriminal justice agency if authorized by federal law or executive order to receive JJ info
 - Juvenile justice agency
 - TJJD
 - Office of Independent Ombudsman
 - Court exercising jurisdiction over a juvenile
 - DFPS for background checks for placement purposes

FC 58.106(a) SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Restricted Access Repealed

FC 58, Subchapter C SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



SUBCHAPTER A, CHAPTER 58

- **CREATION AND CONFIDENTIALITY OF JUVENILE RECORDS**



JUVENILE RECORDS LAWS
Effective September 1, 2017



Law Enforcement Collection and Transmittal of Records of Children

- Modified Heading
- Repealed 58.001(b)
- Forward to DPS info of child taken into custody and referred to juvenile (includes prints)
- Destroy if not referred in 10 days

FC 58.001 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Temporary Custody

- LE may take temporary custody to get fingerprints if
 - PC to believe child engaged in DC
 - Other prints found during investigation
 - PC to believe child's prints will match the other prints

FC 58.0021



JUVENILE RECORDS LAWS
Effective September 1, 2017



Temporary Custody

- May take temporary custody to take photo if:
 - PC to believe child engaged in DC and
 - PC to believe photograph will be of material assistance
- May get photo from JPD without taking into custody

FC 58.0021 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Section 58.003

- Repealed
- Sealing moved to new Subchapter C-1

FC 58.003 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Victim Info Redaction

- Before disclosing any juvenile court record or file, the custodian must redact info of victim under 18 (when conduct occurred) unless:
 - Necessary for agency to provide victim services
 - Necessary for law enforcement purposes
 - Shared within JCMS

FC 58.004



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Effective September 1, 2017



Victim Info Redaction

- Shared with attorney representing child in Title 3 proceeding
- Shared with attorney representing other person in juvenile or criminal proceeding arising from same incident

FC 58.004 SB 1304
Effective 9/1/17



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Effective September 1, 2017



Confidentiality of Probation Department,
Prosecutor, and Court Records

- Judge, probation officers, and professional staff or consultants of juvenile court
- Juvenile justice agency
- Public or private agency providing supervision/having custody of the child under juvenile court order
- With **permission** of juvenile court, person with legitimate interest in work of court

FC 58.007 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Confidentiality of Probation Department,
Prosecutor, and Court Records

- Person/entity child referred to for treatment if have written confidentiality agreement

FC 58.007 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Confidentiality of Probation Department,
Prosecutor, and Court Records

- Court may disseminate if subject of DTA or warrant

FC 58.007 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Confidentiality of Probation Department, Prosecutor, and Court Records

- Clarified that only an attorney representing a party in the Title 3 proceeding can have access

FC 58.007 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Confidentiality of Probation Department, Prosecutor, and Court Records

- Juvenile can have access to prepare motion for sealing – moved from 58.210
- If child reported missing by parent, information may be forwarded and disseminated by TCIC/NCIC
- Prosecutor may get information for purposes of offering into evidence in punishment phase of criminal proceeding
- Made clear if sealed, prosecutor cannot access

FC 58.007 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Confidentiality of Law Enforcement Records

- May be inspected or copied by:
 - Juvenile justice agency
 - Criminal justice agency
 - Child*
 - Parents*
- * Must redact others' info before sharing

FC 58.008 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Confidentiality of Law Enforcement Records

- Must keep separate from adult records, both on paper and electronically
- Must be kept local only and not sent to state or federal depository except as allowed by Chapter 58
- If transferred from TJJD to TDCJ, records can transfer to central state or federal depository for adult records
- If child reported missing, can be forwarded to TCIC/NCIC

FC 58.008 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Confidentiality of Facility Records

- Modified Section 58.005 to apply to all records of a facility having custody of juveniles

FC 58.005 SB 1304
Effective 9/1/17



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Effective September 1, 2017



Juvenile Service Provider

- A governmental entity that provides juvenile justice or prevention, medical, education, or other supports to a juvenile. Includes:
 - State or local juvenile justice agency (58.101 FC)
 - Health and human services agencies
 - DPS, TEA, ISD, JJAEP, charter school
 - Local mental health or MR authority
 - Court with jurisdiction over juveniles
 - DA or county attorney's office
 - Children's Advocacy Center (264.402 FC)

FC 58.0051



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Multi-System Youth

- Upon request, JSP must share with another JSP the personal health info or history of governmental services, including
 - Identity **records**
 - Medical **and dental** records
 - Assessment **or diagnostic test** results
 - Special needs
 - Program placements
 - Psychological diagnoses
 - **Other related records or information**

FC 58.0052 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Multi-System Youth

- **Emphasized that** sharing is required/allowed only for the purposes of:
 - Identifying a multi-system youth
 - Coordinating and monitoring care
 - Improving the quality of juvenile services provided

FC 58.0052 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Educational Records

- Upon request, school districts and charter schools required to share confidential educational records with JSP if child:
 - taken into custody under Section 52.01 or
 - referred to juvenile court
- JSP must certify won't share info
- JSP may use info only to verify identity and provide delinquency prevention or treatment services

FC 58.0051



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Sharing Info with CPS



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Effective September 1, 2017



58.0052(b-1) #1

- TJJJ and DFPS to coordinate and develop protocols for sharing with one another, upon request, any other information necessary to
 - identify and coordinate provision of services to youth and prevent duplication
 - enhance rehabilitation
 - improve and maintain community safety

FC 58.0052(b-1) HB 7
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



58.0052(b-1) #2

- At request of a state or local juvenile justice agency, DFPS (or certain contractors) must share information necessary to improve and maintain community safety or that assists in continuing services for or providing services to a youth who:
 - is/was in conservatorship of DFPS (temp or perm)
 - is/was subject of family-based safety services
 - has been reported as alleged victim of abuse/neglect to DFPS
 - is perpetrator or victim in case in which DFPS found RTB for abuse/neglect

FC 58.0052(b-1) HB 1521
Effective 9/1/17



JUVENILE RECORDS LAWS
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58.0052(b-2)

- At request of DFPS or certain contractors, a state or local juvenile justice agency shall share information necessary to improve and maintain community safety or that assists in continuation of services for or providing services to a multi-system youth

FC 58.0052(b-2) HB 1521
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Probation Terms

- On request of DFPS, juvenile probation officer must share terms of probation
- DFPS and TJJD have MOU

FC 58.0053



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Subchapter B - JJIS

- Consists of information relating to delinquent conduct (jailable misdemeanor or higher)
- Fine only offenses not included

FC 58.104(a)



JUVENILE RECORDS LAWS
Effective September 1, 2017



Subchapter B - JJIS

- Information relates to:
 - Juvenile
 - Intake or referral to juvenile justice system
 - Detention, prosecution, disposition
 - Probation or commitment
 - Termination of Probation or Discharge from Commitment

FC 58.104(a) SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Subchapter B - JJIS

- Includes:
 - Name and aliases; date and place of birth; address
 - Physical description; SID and other identifying information; fingerprints
 - Address
 - Custodial/Detention information (agency and date)
 - Conduct taken into custody/referred for
 - Juvenile intake and probation name and dispositions
 - Prosecutor office and disposition
 - Court and disposition, including custody and probation
 - Date Probation or Deferred Prosecution terminated
 - TJJD commitment and release, including dates
 - Appeals

FC 58.104(b) SB 1304
Effective 9/1/17



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Effective September 1, 2017



Subchapter D - Local JJIS

- May include (partial list):
 - Case management resources for juvenile courts, clerks, prosecuting attorneys, and probation
 - Case docket management and calendaring
 - Reporting of charges filed, adjudications, and dispositions of juveniles by municipal and justice courts and the juvenile court and transfers to juvenile court
 - Reporting to schools as required by 15.27, CCP
 - Records of adjudications and dispositions
- Partner agencies (partial list):
 - Juvenile court and court clerk
 - JP and municipal courts

FC 58.301 - 305



JUVENILE RECORDS LAWS
Effective September 1, 2017



Subchapter D - Local JJIS

- ACCESS LEVEL 1: Information relates to a child who:
 - A school official has reasonable grounds to believe has committed offense for which report is required under 37.015, Education Code or has been expelled due to requirement to expel under 52.041 FC AND
 - Has not been charged with a fineable only offense, status offense, or delinquent conduct
- ACCESS LEVEL 2: Information relates to a child who:
 - Is alleged in justice or municipal court to have committed a fineable only offense, municipal ordinance violation, or status offense and
 - Has not been charged with delinquent conduct
- ACCESS LEVEL 3: Information relates to a child who:
 - Is alleged to have engaged in delinquent conduct or CINS

Juvenile Court and Court Clerk: Access Level 3 – includes Level 2 and Level 1

FC 58.306



JUVENILE RECORDS LAWS
Effective September 1, 2017



Subchapter D Local JJIS

- Local JJIS can be used for case management for juveniles in juvenile facilities
- Local JJIS can include information obtained for diagnosis, examination, evaluation, treatment, or referral for treatment – court, clerk, probation department, and government and private facilities can access
- Contract facilities can be included in JJIS
- Encryption level up to 2048-bit from 128-bit

FC 58.301 et seq HB 3705
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Reports on County Websites

- If county has population of 600,000 or more
- Juvenile court judge must post report on county website that includes:
 - Total number committed to TJJD or Travis County post-adjudication program
 - Each child's offense, year committed, age range, race, and gender
- No information that personally identifies child may be included

FC 58.351-353



JUVENILE RECORDS LAWS
Effective September 1, 2017



Subchapter C-1

SEALING AND DESTRUCTION OF JUVENILE RECORDS

SB 1304
Effective 9/1/17



DEFINITIONS

- “Electronic record” – any entry in computer file or info on microfilm, microfiche, or any other electronic storage media
- “Juvenile matter” – referral and all related court proceedings and outcomes
- “Physical record” – paper copy of record
- “Record” – any documentation related to a juvenile matter, including information contained in that documentation

FC 58.251 SB 1304
Effective 9/1/17



Exempted

- DPS or local law enforcement:
 - Gang database
 - Sex offender registration
- Records maintained by TJJD for statistical and research purposes

FC 58.252 SB 1304
Effective 9/1/17



Sealing Without Application – Delinquent Conduct

- Misdemeanor adjudication or referral of misdemeanor or felony with no adjudication
- Entitled to sealing with no application if:
 - 19 years of age
 - No pending charges (adult/juvenile)
 - No adult Class B or higher conviction
 - Never certified as adult
- Does not apply to CINS

FC 58.253 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Certification of Eligibility

- DPS will certify to JPD that submitted the information to JJIS that the records appear eligible for sealing
- Within 60 days, JPD gives court notice and list of all referrals and outcomes
- Court shall order sealing within 60 days

FC 58.254 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Appears Ineligible

- JPD contacts DPS within 15 days after getting notice
- If determine not eligible, JJIS updated; no further action taken
- If determine eligible, JPD has 30 days from date of determination to give court the info on referrals and outcomes
- Court shall seal within 60 days

FC 58.254 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Sealing Without Application - CINS

- If referred for CINS only, entitled to have all records sealed if:
 - At least 18
 - No delinquent conduct referrals
 - No adult felony conviction or pending adult charges (any level)
- JPD identifies and gives court notice
- Court shall order sealing within 60 days

FC 58.255 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Sealing With Application

- Regardless of eligibility for sealing without application, juvenile can apply for sealing
- No court/filing fee may be charged
- Application must contain certain information set out in statute

FC 58.256(a) and (b) SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Sealing With Application

- Court has discretion to seal if:
 - 18 years of age or if not 18, 2 years since final discharge on every matter referred
 - No pending delinquent conduct matters or adult charges
 - No adult felony conviction
 - Never certified and no determinate sentence
 - Not currently required to register as sex offender (can apply when duty has expired.
 - If committed to TJJD (or Travis), has been discharged
- Court can seal with or without hearing

FC 58.256(c)-(e) SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Hearing on Application

- Held no later than 60 days after court receives application
- Must give reasonable notice to
 - Person who is subject of records and attorney (if any)
 - Prosecutor
 - All entities named in application as having records
 - Any individual or entity if person or prosecutor has requested their presence

FC 58.257 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Order Sealing

- All adjudications vacated
- Proceedings dismissed and treated for all purposes as if they never occurred
- Clerk seals court records, including those in clerk's case management system
- Clerk sends copy to all entities listed in the order – within 60 days

FC 58.258 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Actions Taken When Receive Order - DPS

- Within 61 days, DPS must:
 - Limit access to records to only TJJD for research and statistical studies
 - Destroy other records, including DNA
 - Send written verification to juvenile court

FC 58.259(a)(1) SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



“Sealed”

- Records considered sealed if:
 - Not destroyed and
 - Stored in a manner that allows access only by the custodian of records for the entity possessing the records

FC 58.259(b) SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Actions Taken When Receive Order - TJJJ

- Within 61 days, TJJJ must:
 - Seal all records other than those exempt under 58.252 (records for statistical purposes)
 - Send written verification to juvenile court

FC 58.259(a)(2) SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Actions Taken When Receive Order – Agency Providing Supervision or Services, Law Enforcement, Prosecutor

- Within 61 days, other agency or entity that had custody of or provided supervision of or services to juvenile under court order must:
 - Seal all records
 - Send written verification to juvenile court

FC 58.259(a)(3) SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Actions Taken When Receive Order - Others

- Within 61 days, any other entity receiving order must:
 - Send all records to court
 - Delete all index references
 - Send written verification of deletion to juvenile court

FC 58.259(a)(4) SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Unable to Comply

- If information incorrect or insufficient, entity must notify court within 30 days
- Court to take necessary action to correct, including getting additional information

FC 58.259(d) SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



No Records

- If entity has no records, shall provide written verification of that fact to court within 30 days

FC 58.259(e) SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Later Inquiry

- Must respond “no records exist”

FC 58.259(c) SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Effect of Sealing On Person

- Not required to state was subject of juvenile matter:
 - in any proceeding
 - on housing application
 - on employment application
 - on admission application
 - on licensure application
 - on application for other public or private benefit
- Info in records, fact they once existed, or denial cannot be used against person in any manner
- Subject cannot waive the protected status of the records

FC 58.261 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Motion to Inspect

- Subject of order can ask court to open records for inspection for any reason
- Prosecutor can ask court to open records to review for possible use in:
 - Capital prosecution or
 - For enhancement under Section 12.42, Penal Code
- Court, TDCJ, TJJJ can request records be opened for sex offender screening purposes

FC 58.260 SB 1304
Effective 9/1/17



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Effective September 1, 2017



Information to Child

- On referral to JPD, employee to give child and parent written explanation describing sealing and a copy of the law
- On final discharge (or last official action if no adjudication), probation officer or TJJD official, as appropriate, gives child and parent written explanation regarding eligibility for sealing and copy of the law
- Law gives specific info that must be included
- TJJD to adopt rules to implement

FC 58.262 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Not Included

- Specialty court sealing
- Sealing for not true findings



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Destruction



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Effective September 1, 2017



No Probable Cause

- If no probable cause found at intake or by prosecutor, court shall order records destroyed
- Moved from 58.006

FC 58.263 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Permissible Destruction (Spring Cleaning)

- At age 18 if CINS is most serious conduct referred, whether or not adjudicated
- At age 21 if misdemeanor must serious conduct adjudicated or if referred for felony or misdemeanor and not adjudicated
- At age 31 if adjudicated for felony
- Probation, prosecutor, law enforcement, with permission of agency head



JUVENILE RECORDS LAWS
Effective September 1, 2017



Permissible Destruction (Spring Cleaning)

- Applies to all records of probation, prosecutor, and law enforcement, no matter when created
- Clarified court can never fully destroy records
- Clarified that if an entity converts paper records to electronic, destroying paper records while keeping electronic does not equal "destruction" under statute
- Does not authorize destruction of records maintained by TJJD for research and statistical purposes

FC 58.264 SB 1304
Effective 9/1/17



JUVENILE RECORDS LAWS
Effective September 1, 2017



Expunction

- Juvenile records are not subject to an order of expunction issued by any court

FC 58.265 SB 1304
Effective 9/1/17



Access to Records – Detention Hearing

- Prior to detention hearing, court must provide attorney for child with access to all written matter to be considered by court in making detention decision
- Court may order counsel not to reveal items to child or child's parent, guardian, or GAL if disclosure would materially harm treatment and rehabilitation of child or would substantially decrease likelihood of receiving information from same or similar sources in the future

FC 54.01(c)



Access to Records – Certification Hearing

- At least 5 days before certification hearing, court must provide attorney for child and prosecutor with access to all written matter to be considered by court in making certification decision
- Court may order counsel not to reveal items to child or child's parent, guardian, or GAL if disclosure would materially harm treatment and rehabilitation of child or would substantially decrease likelihood of receiving information from same or similar sources in the future

FC 54.02(e)



Access to Records – Disposition Hearing

- On or before 2nd day before date of disposition hearing, court must provide attorney for child and prosecutor with access to all written matter to be considered by court in making decision
- Court may order counsel not to reveal items to child or child's parent, guardian, or GAL if disclosure would materially harm treatment and rehabilitation of child or would substantially decrease likelihood of receiving information from same or similar sources in the future

FC 54.04(b)



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Access to Records – Modification Hearing

- On or before 2nd day before date of modification hearing, court must provide attorney for child and prosecutor with access to all written matter to be considered by court in making decision
- Court may order counsel not to reveal items to child or child's parent, guardian, or GAL if disclosure would materially harm treatment and rehabilitation of child or would substantially decrease likelihood of receiving information from same or similar sources in the future

FC 54.05(e)



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Where to Get More Information

Juvenile Law Section, State Bar of Texas
www.juvenilelaw.org

Texas Juvenile Justice Department
www.tjjd.texas.gov

TJJD Legal Help Desk
512-490-7121 legalhelp@tjjd.texas.gov



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