

## **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 occurring before age 17 has a record, even if not taken into custody by police before the referral. Referrals to juvenile court may be for delinquent conduct (generally Class A or B misdemeanor or felony offenses) or for conduct indicating a need for supervision (CINS) (e.g. class C misdemeanors, conduct that would not be against the law if committed by an adult, like drinking or running away, and other specific offenses, such as “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. They may be shared only with people the law says may access them. The law allows sharing with 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. If the records are sealed, no one may access the records except with a court order, which may be issued in limited circumstances. Entities that provide occupational licenses are not authorized to access the information in JJIS whether or not the records are sealed.

#### **How do I get my records sealed?**

If you were referred to juvenile court for CINS and never referred for delinquent conduct and actually have records with the court, your records will be sealed when you turn 18 as long as 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 as long as you do not have an adult conviction for a jailable misdemeanor or felony and don't 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 otherwise meet the criteria for sealing above, you may file an application (with or without an attorney) asking the court to seal your records. You may do this if you are at least 17, no matter how long ago the case was closed. If you are younger than 17, you may apply when one year has passed since you were discharged from probation or since the case was closed without probation. The court can only seal your records if you do not have any adult felony convictions or any pending adult charges (other than Class C misdemeanors), are not currently required to register as a sex offender, and are not currently committed to TJJD. The court may choose to order the records sealed without a hearing or may hold a hearing to decide whether or not to seal the records. The court cannot deny an application for sealing without first having a hearing.

#### **Are there any records that can't be sealed?**

You cannot get your records sealed if you were ever certified by the juvenile court to stand trial as an adult or were ever given a determinate sentence (probation or commitment). If you are required to register as a sex offender, you cannot get your records sealed until your obligation to register has expired. If you were committed to TJJD, you are not eligible for sealing until you have been discharged.

Sealing does not apply to records in a justice or municipal court related to a Class C misdemeanor. Those records may be eligible for expunction, though. Sealing also does not apply to records in the gang database; however, these records may only be shared with criminal justice agencies for criminal justice purposes and may be removed in certain circumstances.

### **What happens when records are sealed?**

When records are sealed, all adjudications are vacated and it is as though the referral to juvenile court never happened. 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, including in an 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.

### **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.

### **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?**

Confidentiality of Juvenile Records Texas Family Code §§58.005-58.008

Sealing Texas Family Code Chapter 58, Subchapter C-1

Expunction Code of Criminal Procedure §45.0216; §45.0541

You can access Texas laws online at [www.statutes.legis.state.tx.us](http://www.statutes.legis.state.tx.us)

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