

§ **58.003**. Sealing of Records

(a) Except as provided by Subsections (b) and (c), on the application of a person who has been found to have engaged in delinquent conduct or conduct indicating a need for supervision, or a person taken into custody to determine whether the person engaged in delinquent conduct or conduct indicating a need for supervision, on the juvenile court's own motion the court shall order the sealing of the records in the case if the court finds that:

(1) two years have elapsed since final discharge of the person or since the last official action in the person's case if there was no adjudication; and

(2) since the time specified in Subdivision (1), the person has not been convicted of a felony or a misdemeanor involving moral turpitude or found to have engaged in delinquent conduct or conduct indicating a need for supervision and no proceeding is pending seeking conviction or adjudication.

(b) A court may not order the sealing of the records of a person who has received a determinate sentence for engaging in delinquent conduct that violated a penal law listed in Section 53.045 or engaging in habitual felony conduct as described by Section 51.031.

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

(1) the person is 21 years of age or older;

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

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

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

(d) The court may grant the relief authorized in Subsection (a) at any time after final discharge of the person or after the last official action in the case if there was no adjudication. If the child is referred to the juvenile court for conduct constituting any offense and at the adjudication hearing the child is found to be not guilty of each offense alleged, the court shall immediately order the sealing of all files and records relating to the case.

(e) Reasonable notice of the hearing shall be given to:

- (1) the person who made the application or who is the subject of the records named in the motion;
 - (2) the prosecuting attorney for the juvenile court;
 - (3) the authority granting the discharge if the final discharge was from an institution or from parole;
 - (4) the public or private agency or institution having custody of records named in the application or motion; and
 - (5) the law enforcement agency having custody of files or records named in the application or motion.
- (f) A copy of the sealing order shall be sent to each agency or official named in the order.
- (g) On entry of the order:
- (1) all law enforcement, prosecuting attorney, clerk of court, and juvenile court records ordered sealed shall be sent before the 61st day after the date the order is received to the court issuing the order;
 - (2) all records of a public or private agency or institution ordered sealed shall be sent before the 61st day after the date the order is received to the court issuing the order;
 - (3) all index references to the records ordered sealed shall be deleted before the 61st day after the date the order is received, and verification of the deletion shall be sent before the 61st day after the date of the deletion to the court issuing the order;
 - (4) the juvenile court, clerk of court, prosecuting attorney, public or private agency or institution, and law enforcement officers and agencies shall properly reply that no record exists with respect to the person on inquiry in any matter; and
 - (5) the adjudication shall be vacated and the proceeding dismissed and treated for all purposes other than a subsequent capital prosecution, including the purpose of showing a prior finding of delinquent conduct, as if it had never occurred.
- (g-1) Any records collected or maintained by the Texas Juvenile Probation Commission, including statistical data submitted under Section 141. 044, Human Resources Code, are not subject to a sealing order issued under this section.
- (h) Inspection of the sealed records may be permitted by an order of the juvenile court on the petition of the person who is the subject of the records and only by those persons named in the order.
- (i) On the final discharge of a child or on the last official action in the case if there is no adjudication, the child shall be given a written explanation of the child's rights under this section and a copy of the provisions of this section.

(j) A person whose records have been sealed under this section is not required in any proceeding or in any application for employment, information, or licensing to state that the person has been the subject of a proceeding under this title and any statement that the person has never been found to be a delinquent child shall never be held against the person in any criminal or civil proceeding.

(k) A prosecuting attorney may, on application to the juvenile court, reopen at any time the files and records of a person adjudicated as having engaged in delinquent conduct that violated a penal law of the grade of felony sealed by the court under this section for the purposes of Sections 12.42(a)-(c) and (e), Penal Code.

(l) On the motion of a person in whose name records are kept or on the court's own motion, the court may order the destruction of records that have been sealed under this section if:

- (1) the records relate to conduct that did not violate a penal law of the grade of felony or a misdemeanor punishable by confinement in jail;
- (2) five years have elapsed since the person's 16th birthday; and
- (3) the person has not been convicted of a felony.

(m) On request of the Department of Public Safety, a juvenile court shall reopen and allow the department to inspect the files and records of the juvenile court relating to an applicant for a license to carry a concealed handgun under Subchapter H, Chapter 411, Government Code.

(n) A record created or maintained under Chapter 62, Code of Criminal Procedure, may not be sealed under this section if the person who is the subject of the record has a continuing obligation to register under that chapter.

(o) An agency or official named in the order that cannot seal the records because the information required in the order under Subsection (p) is incorrect or insufficient shall notify the court issuing the order before the 61st day after the date the agency or official receives the order. The court shall notify the person who made the application or who is the subject of the records named in the motion, or the attorney for that person, before the 61st day after the date the court receives the notice that the agency or official cannot seal the records because there is incorrect or insufficient information in the order.

(p) A person who is eligible to seal records may file an application for the sealing of records in a juvenile court of the county in which the proceedings occurred. The application and sealing order entered on the application must include the following information or an explanation for why one or more of the following is not included:

- (1) the applicant'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 offense charged against the applicant or for which the applicant was referred to the juvenile justice system;

(3) the date on which and the county where the offense was alleged to have been committed; and

(4) if a petition was filed in the juvenile court, the cause number assigned to the petition and the court and county in which the petition was filed.

[◆ Stats. 1995 74th Leg. Sess. Ch. 262, effective January 1, 1996; ◆ ◆ Stats. 1997 75th Leg. Sess. Chs. 165, 1086, effective September 1, 1997; ◆ ◆ Stats. 1999 76th Leg. Sess. Chs. 62, 147, effective September 1, 1999; ◆ Stats. 2003 78th Leg. Sess. Ch. 283, effective September 1, 2003; ◆ Stats. 2005 79th Leg. Sess., Ch. 949 \(H.B. 1575\), § 16, effective September 1, 2005.](#)

CAUSE NO. JV- _____

IN THE INTEREST OF § IN THE COUNTY COURT AT LAW NO. 1
§
§ OF DENTON COUNTY, TEXAS
§
_____, Respondent § SITTING AS JUVENILE COURT

MOTION TO SEAL RECORDS

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the above-named Respondent, by and through his/her attorney of record, Kimberly McCary, and files this Motion to Seal Records and in support thereof would show unto the Court as follows:

Respondent stood charged with the offense(s) of “ _____”, alleged to have occurred in _____, Denton County, Texas, on or about _____.

RESPONDENT’S IDENTIFIERS:

Respondent’s full name: _____ Race: _____
Date of birth: _____ Place of birth: _____
SS#: _____ Sex: _____
Texas DL or Identification Card #, if any: _____

Respondent was NOT adjudicated for a felony grade offense (which would require the Respondent to await his/her 21st birthday before requesting sealing relief.) Respondent has been finally discharged from his probation requirements in the above matter. Pursuant to §58.003(d) of the Texas Family Code, Respondent prays that this Court exercise its discretionary powers and immediately seal his/her records in the above case(s).

Respondent prays that the Court conduct hearing on Respondent’s Motion.

Respondent will serve the prosecuting attorney for the juvenile court; the authority granting the discharge if the final discharge was from an institution or from parole; the public or private agency or institution having custody of any records relating to this motion; and the law enforcement agency(s) having custody of any files or records relating to this motion with a copy of this motion and the notice of the hearing thereupon.

WHEREFORE, PREMISES CONSIDERED, Respondent requests that this Court grant his/her request and prays for all further relief to which he/she may be entitled.

Respectfully submitted,

Kimberly McCary
SBN 00787224
P.O. Box 493
Lewisville, TX 75067
972/436-3574
Fax No. 972/436-0122

NOTICE OF HEARING

A hearing on Respondent's Motion to Seal Records has been set for the ____ day of _____, 2006, at _____ in the County Court at Law #1 of Denton County, Texas, Sitting as a Juvenile Court.

Kimberly McCary

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing was served on the following entities or agencies on _____, as follows:

Denton County District Attorney's Office via hand delivery
Denton County Juvenile Probation Department via hand delivery
The _____ Police Department via fax transmission
The _____ Independent School District via fax
Department of Public Safety via certified mail

Kimberly McCary

CAUSE NO. JV-_____

IN THE INTEREST OF § IN THE COUNTY COURT AT LAW NO. 1
§
§ OF DENTON COUNTY, TEXAS
§
_____, Respondent § SITTING AS JUVENILE COURT

MOTION TO SEAL RECORDS

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the above-named Respondent, by and through his/her attorney of record, Kimberly McCary, and files this Motion to Seal Records and in support thereof would show unto the Court as follows:

Respondent stood charged with the offense(s) of “_____”, alleged to have occurred in _____, Denton County, Texas, on or about _____.

RESPONDENT’S IDENTIFIERS:

Respondent’s full name: _____ Race: _____
Date of birth: _____ Place of birth: _____
SS#: _____ Sex: _____
Texas DL or Identification Card #, if any: _____

Respondent was adjudicated as having engaged in delinquent conduct that violated a penal law of the grade of felony.

Respondent is 21 years of age or older.

Respondent was not transferred by a juvenile court to a criminal court for prosecution.

Respondent's records have not been used as evidence against him in a punishment phase of a criminal proceeding.

Respondent has not been convicted of a penal law of the grade of felony after becoming age 17.

Pursuant to §58.003(c) of the Texas Family Code, Respondent prays that this Court immediately seal his/her records in the above matter.

Respondent shall send proper notification of the filing of this Motion and the attendant hearing place, date and time, to the public or private agency or institution having custody of any records relating to this case and the law enforcement agency(s) having custody of any files or records relating to this case.

Respondent prays that the Court afford Respondent a formal hearing on Respondent's Motion.

WHEREFORE, PREMISES CONSIDERED, Respondent requests that this Court grant his/her request and prays for all further relief to which he/she may be entitled.

Respectfully submitted,

Kimberly McCary
SBN 00787224
P.O. Box 493
Lewisville, TX 75067
972/436-3574
Fax No. 972/436-0122

NOTICE OF HEARING

A hearing on Respondent's Motion to Seal Records has been set for the ____ day of _____, 200__, at _____:00 ____m. in the County Court at Law #1 of Denton County Sitting as a Juvenile Court.

Kimberly McCary

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing was served on the following entities or agencies on the ____ day of _____, 2006, by the method set forth below:

Denton County District Attorney's Office via hand delivery.
Denton County Juvenile Probation Department via hand delivery.
The _____ Department via fax transmission.
The _____ School District via fax transmission.
The Department of Public Safety via certified mail.

Kimberly McCary

CAUSE NO. JV-_____

IN THE INTEREST OF § IN THE COUNTY COURT AT LAW NO. 1
§
§ OF DENTON COUNTY, TEXAS
§
_____, Respondent § SITTING AS JUVENILE COURT

MOTION TO SEAL RECORDS

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the above-named Respondent, by and through his/her attorney of record, Kimberly McCary, and files this Motion to Seal Records and in support thereof would show unto the Court as follows:

Respondent stood charged with the offense(s) of “_____”, alleged to have occurred in _____, Denton County, Texas, on or about _____, and was adjudicated for that non-felony offense.

The identifying information for Respondent is:

Full name: _____ Date of birth: _____

Place of birth: _____ SS#: _____

Texas DL or Identification Card #, if any: _____

Race: _____ Sex: _____

Two years have elapsed since final discharge of Respondent regarding the above matters. Since the time specified above, Respondent has not been convicted of a felony or a misdemeanor involving moral turpitude or found to have engaged in delinquent conduct or conduct indicating a need for supervision and no proceeding is pending seeking conviction or adjudication.

Pursuant to §58.003(a) of the Texas Family Code, Respondent prays that this Court immediately seal his/her records in the above matter.

Respondent shall send proper notification of the filing of this Motion and the attendant hearing place, date and time, to the public or private agency or institution having custody of any records relating to this case and the law enforcement agency(s) having custody of any files or records relating to this case.

Respondent prays that the Court afford Respondent a formal hearing on Respondent's Motion.

WHEREFORE, PREMISES CONSIDERED, Respondent requests that this Court grant his/her request and prays for all further relief to which he/she may be entitled.

Respectfully submitted,

Kimberly McCary
SBN 00787224
P.O. Box 493
Lewisville, TX 75067
972/436-3574
Fax No. 972/436-0122

NOTICE OF HEARING

A hearing on Respondent's Motion to Seal Records has been set for the _____ day of _____, 2006, at _____ in the County Court at Law #1 of Denton County, Texas, Sitting as a Juvenile Court.

Kimberly McCary

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing was served on the following entities or agencies on _____, as follows:

Denton County District Attorney's Office via hand delivery
Denton County Juvenile Probation Department via hand delivery
The _____ Police Department via fax transmission
The _____ Independent School District via fax
Department of Public Safety via certified mail

Kimberly McCary

CAUSE NO. JV-_____

IN THE INTEREST OF § IN THE COUNTY COURT AT LAW NO. 1
§
§ OF DENTON COUNTY, TEXAS
§
_____, Respondent § SITTING AS JUVENILE COURT

MOTION TO SEAL RECORDS

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the above-named Respondent, by and through his/her attorney of record, Kimberly Cawley McCary, and files this Motion to Seal Records and in support thereof would show unto the Court as follows:

Respondent stood charged with the offense(s) of “_____”, alleged to have occurred in _____, Denton County, Texas, on or about _____. Respondent plead “not true” to such allegations and the allegations were, in fact, found “NOT TRUE” by the trier of fact.

RESPONDENT’S IDENTIFIERS:

Respondent’s full name: _____ Race: _____
Date of birth: _____ Place of birth: _____
SS#: _____ Sex: _____
Texas DL or Identification Card #, if any: _____

The Texas Family Code in §58.003(d) states that “the court shall immediately orderS

th sealing(of ald files)T§.546 0 TD-0.013 Tc-0.0012 Tw{c}-4.2ndrReco29(rd” or)-5(e)0.8(l)-5.2ae to(c)-4.2 c(c)-4.2su e e inas o

fe_. Pursao §58.003(d) th (Texas)-487(Fai)-5.2(iul)-6.2yi

Respondent prays that the Court dispense with the requirement of notification of the filing of this Motion to the public or private agency(ies) or institution(s) having custody of any records relating to this case and the law enforcement agency(s) having custody of any files or records relating to this case in that the Family Code directs that sealing in this situation is mandatory.

For the same reason, Respondent prays that the Court dispense with the necessity of a formal hearing on Respondent's Motion.

WHEREFORE, PREMISES CONSIDERED, Respondent requests that this Court grant his/her request and prays for all further relief to which he/she may be entitled.

Respectfully submitted,

Kimberly McCary
SBN 00787224
P.O. Box 493
Lewisville, TX 75067
972/436-3574
Fax No. 972/436-0122

NOTICE OF HEARING (If relief not immediately granted.)

A hearing on Respondent's Motion to Seal Records has been set for the _____ day of _____, 2006, at _____ in the County Court at Law #1 of Denton County, Texas, Sitting as a Juvenile Court.

Kimberly McCary

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing was served on the following entities or agencies on _____, as follows:

Denton County District Attorney's Office via hand delivery
Denton County Juvenile Probation Department via hand delivery

Kimberly McCary

Unfiled Offense

IN THE INTEREST OF § **IN THE COUNTY COURT AT LAW NO. 1**
§
§ **OF DENTON COUNTY, TEXAS**
§
_____, **Respondent** § **SITTING AS JUVENILE COURT**

MOTION TO SEAL RECORDS

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the above-named Respondent, by and through his/her attorney of record, Kimberly McCary, and files this Motion to Seal Records and in support thereof would show unto the Court as follows:

Respondent stood charged with the offense(s) of “ _____”, alleged to have occurred in _____, Denton County, Texas, on or about _____.

RESPONDENT’S IDENTIFIERS:

Respondent’s full name: _____ Race: _____
Date of birth: _____ Place of birth: _____
SS#: _____ Sex: _____
Texas DL or Identification Card #, if any: _____

The Respondent was offered and successfully completed Diversion, which amounted to the last official action in this/these matter(s). Pursuant to §58.003(d) of the Texas Family Code, Respondent prays that this Court immediately seal his/her records in the above case(s).

Respondent prays that the Court conduct hearing on Respondent’s Motion.

Respondent will serve the prosecuting attorney for the juvenile court; the authority granting the discharge if the final discharge was from an institution or from parole; the public or private agency or institution having custody of any records relating to this motion; and the law enforcement agency(s) having custody of any files or records relating to this motion with a copy of this motion and the notice of the hearing thereupon.

WHEREFORE, PREMISES CONSIDERED, Respondent requests that this Court grant his/her request and prays for all further relief to which he/she may be entitled.

Respectfully submitted,

Kimberly McCary
SBN 00787224
P.O. Box 493
Lewisville, TX 75067
972/436-3574
Fax No. 972/436-0122

NOTICE OF HEARING

A hearing on Respondent's Motion to Seal Records has been set for the _____ day of _____, 2006, at _____ in the County Court at Law #1 of Denton County, Texas, Sitting as a Juvenile Court.

Kimberly McCary

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing was served on the following entities or agencies on _____, as follows:

Denton County District Attorney's Office via hand delivery
Denton County Juvenile Probation Department via hand delivery
The _____ Police Department via fax transmission
The _____ Independent School District via fax
Department of Public Safety via certified mail

Kimberly McCary

CAUSE NO. JV- _____

IN THE INTEREST OF § IN THE COUNTY COURT AT LAW NO. 1
§
§ OF DENTON COUNTY, TEXAS
§
_____, Respondent § SITTING AS JUVENILE COURT

MOTION TO SEAL RECORDS

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the above-named Respondent, by and through his/her attorney of record, Kimberly McCary, and files this Motion to Seal Records and in support thereof would show unto the Court as follows:

Respondent stood charged with the offense(s) of “ _____”, alleged to have occurred in _____, Denton County, Texas, on or about _____.

RESPONDENT’S IDENTIFIERS:

Respondent’s full name: _____ Race: _____
Date of birth: _____ Place of birth: _____
SS#: _____ Sex: _____
Texas DL or Identification Card #, if any: _____

Petitioner, the State of Texas, will file/filed a Motion to Nonsuit the above case(s) which was/will be granted by the Court. The Court accordingly will sign/signed an Order of Nonsuit, which amounted to the last official action in this/these matter(s). Pursuant to §58.003(d) of the Texas Family Code, Respondent prays that this Court immediately seal his/her records in the above case(s).

Respondent prays that the Court conduct hearing on Respondent’s Motion.

Respondent will serve the prosecuting attorney for the juvenile court; the authority granting the discharge if the final discharge was from an institution or from parole; the public or private agency or institution having custody of any records relating to this motion; and the law enforcement agency(s) having custody of any files or records relating to this motion with a copy of this motion and the notice of the hearing thereupon.

WHEREFORE, PREMISES CONSIDERED, Respondent requests that this Court grant his/her request and prays for all further relief to which he/she may be entitled.

Respectfully submitted,

Kimberly McCary
SBN 00787224
P.O. Box 493
Lewisville, TX 75067
972/436-3574
Fax No. 972/436-0122

NOTICE OF HEARING

A hearing on Respondent's Motion to Seal Records has been set for the ____ day of _____, 2006, at _____ in the County Court at Law #1 of Denton County, Texas, Sitting as a Juvenile Court.

Kimberly McCary

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing was served on the following entities or agencies on _____, as follows:

Denton County District Attorney's Office via hand delivery
Denton County Juvenile Probation Department via hand delivery
The _____ Police Department via fax transmission
The _____ Independent School District via fax
Department of Public Safety via certified mail

Kimberly McCary

CAUSE NO. JV- _____

IN THE INTEREST OF § IN THE COUNTY COURT AT LAW NO. 1
§
§ OF DENTON COUNTY, TEXAS
§
_____, Respondent § SITTING AS JUVENILE COURT

ORDER ON MOTION TO SEAL RECORDS

On the date set forth below, Respondent’s Motion to Seal Records was duly presented to the Court. Appearing with Respondent was his/her attorney Kimberly McCary and, if the Respondent is a minor, his/her (mother/father/guardian). Appearing for the State of Texas was _____.

After hearing testimony and arguments of counsel, and after consideration thereof, it is the opinion of the Court that said Motion is with merit and accordingly the Motion is **GRANTED**.

IT IS THEREFORE ORDERED that the records in the above numbered case(s) involving _____ alleged to have occurred in _____, Denton County, Texas, on or about _____, are immediately sealed.

The identifying information for Respondent is:

Respondent’s full name: _____ Race: _____

Date of birth: _____ Place of birth: _____

SS#: _____ Sex: _____

Texas DL or Identification Card #, if any: _____

IT IS FURTHER ORDERED that the clerk of this Court shall give notice of this Order to the following entities or agencies:

The Denton County District Attorney's Office

The Denton County Probation Department

The Denton County Sheriff's Office

The Texas Department of Public Safety (who is Ordered to seal records in the above case whether they exist in the state-wide Juvenile Justice System data base, a gang record data base, or otherwise.)

The _____ Police Department

Any school district of the Respondent possessing information regarding the above case, including but not limited to: the _____ Independent School District.

The FBI

_____ The Texas Youth Commission, if checked.

_____ Civil Recovery Services, if checked.

The following entities or agencies: _____

IT IS FURTHER ORDERED that all law enforcement, prosecuting attorney, clerk of the court, and juvenile court records ordered sealed shall be sent before the 61st day after the date the Order is received to the Court issuing this Order.

IT IS FURTHER ORDERED that all records of a public or private agency or institution ordered sealed shall be sent before the 61st day after the date the Order is received to the Court issuing this Order.

IT IS FURTHER ORDERED that all index references to the records ordered sealed shall be deleted before the 61st day after the date the Order is received, and

verification of the deletion shall be sent before the 61st day after the date of the deletion to the Court issuing this Order.

IT IS FURTHER ORDERED that the above proceeding is dismissed and treated for all purposes other than a subsequent capital prosecution, as if it never occurred.

IT IS FURTHER ORDERED that inspection of the sealed records in this case may be permitted by Order of this court on the petition of Respondent only.

IT IS FURTHER ORDERED that, upon inquiry, the juvenile court, clerk of court, prosecuting attorney, probation department, public or private agency or institution, and the law enforcement officers and agencies possessing or who have possessed records involving the above case shall reply to the inquiry that nor records exist with respect to Respondent in this case.

IT IS FURTHER ORDERED that, with respect to the above cause number(s), Respondent is not required in any proceeding or in any application for employment, information, or licensing to state that Respondent has been the subject of a proceeding under the Juvenile Justice Code.

ENTERED this _____ day of _____, 200____.

Judge Presiding