

SB 1304

Relating to confidentiality, sharing, sealing and destruction of juvenile records.



- Contains revisions to Chapter 58, Family Code proposed by the Juvenile Records Advisory Committee.
- Limits access to DPS' JJIS to criminal justice agencies, military, certain federal entities, TJJD, OIO and DFPS.
- REPEALS restricted access.
- Authorizes sealing with or without an application using simpler eligibility criteria.
- Maintains DPS and TJJD data for recidivism studies.

SB 1304

Effective Date

September 1, 2017

Applicability

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





What are Protected Status Records?

- Texas law assigns a special “protected status” for confidential juvenile records to prevent or limit disclosures at key procedural stages or after a child exits the system.
- A record is placed on protected status by:
 - court order
 - operation of law
- Age, nature of the offense, statutory criteria, and subsequent history are also factors.

Who has a “Juvenile Record” in Texas?

Juvenile is a person Age 10 and < 17 (or under extended jurisdiction)

- Arrested
- Taken into Custody
- Charged with a with Class B or Higher Offense
- Also,
 - Class C, if the JP or Municipal Court transferred the case to juvenile court.



Juvenile Justice Information System “On Lock”

JJIS Records (2017)

- “On lock” (i.e., restricted) at the point of creation;
- Licensing entities under 411, GC no longer have access;
- Only disseminated to criminal justice entities listed in §58.106 (a) for cj purposes.



Juvenile Justice Information System

Limits on Dissemination

§58.106 (a), FC

- 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
 - Juvenile justice agency
 - TJJD
 - Office of Independent Ombudsman
 - Court exercising jurisdiction over a juvenile
 - DFPS for background checks for placement purposes



Juvenile Justice Information System

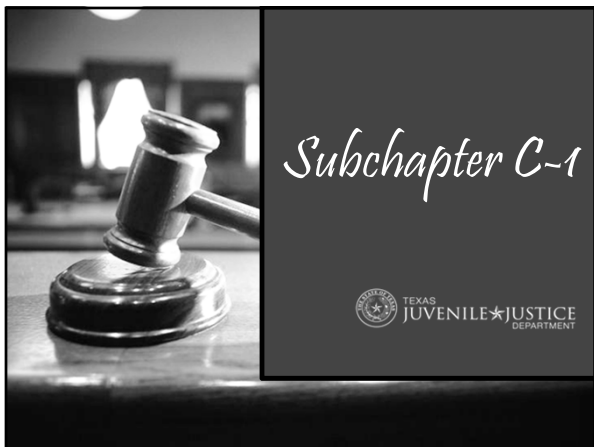
Reporting

§58.104(a) and (b), FC

Requires the following to be reported to DPS for inclusion in the JJIS:

- Date of termination of probation supervision
- Date of termination of deferred prosecution supervision
- Date of discharge from commitment





Definitions

Sealing and Destruction

§58.251, FC

- Record - All documentation related to a **juvenile matter**, including information contained in that documentation.

— Held by a juvenile probation department, court, prosecutor, law enforcement or other juvenile service provider.

Juvenile Matter. Referral and all related court proceedings and outcomes.

Electronic Records. An entry in a computer file, microfilm, or other electronic storage medium.

Physical Record. A paper copy of a record.

Exempted Records

Sealing and Destruction

§58.252, FC

The following records are not subject to Subchapter C-1:

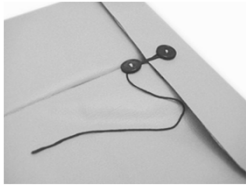
- DPS or local law enforcement:
 - Gang Database
 - Sex Offender Registry
- Records maintained by TJJD for statistical and research purposes





Sealing With Application

- The court-ordered sealing of juvenile records for protection and safekeeping. Sealed records may be inspected or released under limited circumstances.
- §58.256 - 58.259, FC



Sealing With Application Eligibility

AGE

- **18**; or
- If **under 18**--
 - 2 years since final discharge

Applies to Entire Record
Eligibility relates to every
matter referred.

OFFENSE CRITERIA

- No Pending Delinquent Conduct
- Never Certified as an Adult
- No Adult Felony Convictions
- No Pending Adult Charges (Felony or Jailable Misdemeanor)

§58.256 (c) – (e), FC

Sealing With Application Initiating the Process

§58.256, FC

- **Application** is submitted to the juvenile court to have records sealed in all matters relating to the person.
- The application should:
 - Contain info required in statute; and
 - Allege the person meets the eligibility criteria.
- **Filed by:**
 - Subject of juvenile records; or
 - Attorney on behalf of subject.
- **Fees**
 - Filing fees are prohibited.



Sealing With Application

Application/Order Prohibited

INELIGIBLE HISTORY

- Determinate Sentence/Habitual Felony Adjudication
 - SXO Registration – Active Duty
 - Committed to TJJD
 - Committed to Travis Co. PAdj. Facility
- §58.256 (d)(1-3) FC



Sealing With Application

Hearing on Application

HEARING

- The court may order sealing with or without a hearing;
- May not be DENIED without a hearing;

NOTICE & TIME FOR HEARING

- Held no later than 60 days after court receives application;
- Reasonable notice to listed parties.

§58.257, FC



Sealing Without Application

- The **scheduled** (i.e., *automatic*) court-ordered sealing of juvenile records based on age and eligibility criteria for protection and safekeeping.
- §58.253 - 58.255, FC



Sealing Without Application Eligibility

AGE

- **19**

DELINQUENT CONDUCT

Misdemeanor or Felony
Referrals -- No Adjudication

- Misdemeanor --
Adjudication

OFFENSE CRITERIA



- No Felony Adjudications
- No pending charges
(adult/juvenile)
- Never Certified as Adult
- No Adult Convictions
(jailable misdemeanor or
felony)

§58.253, FC

Sealing Without Application Initiating the Process – DPS Searches

DPS will:

- Conduct **daily eligibility searches** of delinquent offense history in JJIS.
- Identify the **persons eligible** for sealing based on criteria in Family Code
- Upload notices to the CJIS web portal.

JPD will:

- Retrieve notices by **logging onto the CJIS website** using county or department ORI number
- Use ORI Number to download notification.

– **Remember** -- DPS search includes adult history.



Certification of Eligibility



DPS Juvenile Seal Worklist

DPS Juvenile Seal Worklist

- Contains ALL RECORDS that qualify for sealing since January 1996 to date
- Users can search by DPS number, TRN, Date of Arrest, County Assigned, and Status
- Posted on CJIS/EDR Tab

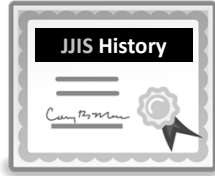


Certification of Eligibility

Sealing Without Application

§58.254, FC

- DPS will certify to JPD that records appear eligible for sealing;
- Within 60 days, JPD will provide court notice and list of all referrals and outcomes;
- Court shall order sealing within 60 days.



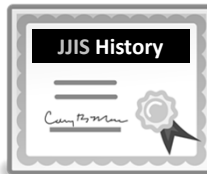
Certification of Eligibility

Sealing Without Application - Issues

§58.254, FC

Appears **INELIGIBLE**

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



CINS-Only Sealing

Without Application

§58.255, FC

Only CINS Referral History

- 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



CINS-Only Sealing

Initiating the Process – TJJD Search

TJJD Comprehensive CINS Report (As of 11/15/17)

- Sent Worklist of CINS – Only Referrals
- Comparative MATCH of JCMS monthly extract and DPS – CJIS;

- There is a built-in DELAY until the PID has been sealed and TJJD's receives the EDI extract the following month.

Subsequent Reports

- Contain CINS-Only referrals that turned 18 since the last report.
- Will not be compared to DPS after initial list.

CINS Only - Destruction

Possible Alternative to CINS Sealing

§58.264, FC

CINS-Only records may be destroyed under §58.264 as an alternative to CINS Sealing Without Application.

Must

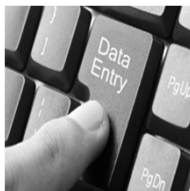
Meet Destruction Criteria
Have Juvenile Board Approval



Actions Taken Upon Receipt of Order

§58.259, FC

- DPS, TJJD, JPDs, Others must:
- Store sealed records so that they are accessible only to the custodian of records;
- Follow specific steps in statute;
- Send written verification to the court w/in 60 days



Sealed Records
Physical or Electronic Records

§58.259(b), FC

- Records are 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



Sealed Records
Unable to Comply

§58.259(d), FC

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



Actions Taken Upon Receipt of Order
No Records

§58.259(e), FC

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



Case Management Systems

Sealing and Destruction

After a sealing order has been issued or destruction is authorized...

- Do **NOT DELETE** records;
- Follow JCMS instructions to flag records as sealed;
- Use the same process for destruction;
- Records are no longer accessible to users, but only to DPS and TJJD for statistical purposes.



Verification After Sealing

Each agency that receives a Sealing Order must provide written verification that:

- Requirements of §58.259, FC have been met;
- All records have been sealed in a manner that limits access only to the custodian of records.



Verification must be returned to the issuing court.

Order Sealing Records

Procedural Aspects

§58.258, FC

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



Inspection and Release of Sealed Record Unsealing

§58.260, FC

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



Sealed Records

Later Inquiry - Records Do Not Exist

§58.259(c), FC

- After receipt of a sealing order, an entity must respond that **NO RECORDS EXIST** relating to the person or matter.



Effect of Sealing Record Subject of Juvenile Record

§58.261, FC

- 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

Information to Child

JPD Duty to Explain

§58.262, FC

- **On referral**, JPD employee shall give the child and parent written explanation of sealing process and a copy of law;
- **On final discharge** (or last official action if no adjudication), probation officer or TJJD official, shall give a written explanation of eligibility for sealing and a copy of the law
- Law gives specific info that must be included
- TJJD has prepared a one-pager (2017)



Sealing of Records

Recap

- **STEP ONE: DPS & TJJD Notifications**
 - **DPS** will conduct a daily search of age and offense history in (DC) JJIS – including adult history; [58.254, FC]
 - Initial batch is a “Worklist” of eligible juveniles;
 - **TJJD** will send notifications on juveniles with CINS Only records that have been matched by DPS.
- **STEP TWO: Local Review**
 - **JPDs** will retrieve notifications using ORI Number and conduct a local verification;
 - If not eligible, notify DPS w/in 15 days;
 - Identify agencies and other holders of records;
 - Send notice and list of referrals and outcomes to court.
 - *Note* – All records must meet eligibility criteria.



Sealing of Records

Recap

- **STEP THREE: Initiate Sealing Process**
 - Without Application (*i.e.*, *Automatic*)
 - With Application (*application to petition court*)
 - Court may not impose fees
- **STEP FOUR: Options for Hearing**
 - Court may order sealing without a hearing;
 - Court may not deny an application without a hearing;
 - Hearing must be held no later than 60th day after application.
- **STEP FIVE: Upon Entry of Sealing Order**
 - Sealing Order is issued within 60 days
 - Entities must take actions required in statute.





Sealing Orders Juvenile Law Sections Forms

- Sample Sealing Orders and Verification Forms will be developed.
- Incorporates the processes outlined in SB 1304 enacted during the 85th Session.
- Sample forms will be available online at the Juvenile Law Section website www.juvenilelaw.org.

Note -- Should be reviewed by local juvenile court prosecutor or legal counsel for sufficiency and adapted for the county's particular situation or drafting preferences.



Destruction of Records No Probable Cause

§58.263, FC

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



Permissible Destruction

Spring Cleaning



§58.264, FC

- At age 18 if CINS is most serious conduct referred, whether or not adjudicated
- At age 21 if misdemeanor most 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

Permissible Destruction

Spring Cleaning



§58.264, FC

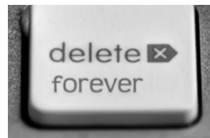
- Applies to all records, no matter when created
- Clarified that if an entity converts paper records to electronic, destroying paper records while keeping electronic does not equal "destruction" under statute
- Does not authorize destruction of records maintained by TJJD for research and statistical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

Juvenile Records Not Subject to Expunction

Clarification

§58.265, FC

- Juvenile records are not subject to an order of expunction issued by any court;
- Expunction statutes apply to criminal records of children in justice and municipal court;



SB 1304

Statewide Implementation & Consistency Goals

Informational Materials-- SB 1304

- Implementation Recommendations (*TJJD Website*)
- **Online** - Juvenile Records in Texas
- **Online** - Juvenile Records One-Pager and Statute
- **Online** – Sample Forms (*JLS Website*)
- Ongoing Training



2017 Special Legislative Issue



- State Bar Juvenile Law Section Report, Special Legislative Issue.
- Special feature on **SB 1304**.
- **TJJD Legal Education & Technical Assistance** and guest contributors prepared useful summaries and intent history of key juvenile justice bills enacted during the 85th Legislative Session.
- Available **online** at www.juvenilelaw.org and www.tjjd.texas.gov



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Sealing and Destruction of Juvenile Records

Summary of 2017 Legislative Changes

SEALING WITH APPLICATION	SEALING WITHOUT APPLICATION	DESTRUCTION	PERMISSIBLE DESTRUCTION
The court-ordered sealing of juvenile records for protection and safekeeping. Sealed records may only be inspected or released under certain circumstances. [§58.256, FC]	The scheduled court-ordered sealing of juvenile records based on age and eligibility criteria for protection and safekeeping. [§58.253 and 58.255 FC]	The permanent destruction of records pertaining to a juvenile matter as ordered by the juvenile court. [§58.263, FC]	The permanent destruction of records authorized by the head of an entity to facilitate efficient record storage and maintenance (i.e., “spring cleaning”. [§58.264].
ELIGIBILITY			
<p style="text-align: center;">All Matters</p> <p>Age 18; or Under 18 and 2 Yrs After Final Discharge Must meet statutory requirements. [§58.256(c) (1-5), FC]</p> <ul style="list-style-type: none"> ▪ No Pending Delinquent Conduct ▪ Never Certified as an Adult ▪ No Adult Felony Convictions ▪ No Pending Adult Charges (Felony or Jailable Misdemeanor) <p>Entire Record Eligibility relates to each referral in the juvenile’s entire record. [§58.256(c) and §58.258(a)(2), FC]</p> <p>Exceptions See <i>Ineligible History Below</i></p> <p>Special Sealing Provisions The provisions that allowed the court to seal records upon completion of a drug court, CINS prostitution, sexting and victims of human trafficking program were <u>REPEALED</u> in 2017. [SB 1304]</p>	<p style="text-align: center;">Delinquent Conduct</p> <p>Age 19 Misdemeanor Adjudications and No Adjudication Felony No Adjudication Must meet statutory requirements. [§58.253(b)(1-6), FC]</p> <ul style="list-style-type: none"> ▪ No Felony Adjudications ▪ No Pending Delinquent Conduct ▪ Never Certified as an Adult ▪ No Adult Convictions (Felony or Jailable Misdemeanor) ▪ No Pending Adult Charges (Felony or Jailable Misdemeanor) <p style="text-align: center;">CINS</p> <p>Age 18 Must meet statutory requirements. [§58.255(a)(1-4), FC]</p> <ul style="list-style-type: none"> ▪ No Delinquent Conduct Referrals ▪ No Adult Felony Convictions ▪ No Pending Adult Charges (Felony or Jailable Misdemeanor) 	<p style="text-align: center;">All Matters</p> <p>No Referral Fingerprints, photos and related custody event documents must be destroyed if the case is not referred to the juvenile court within 10 days. [§58.001, FC]</p> <p>No Probable Cause Finding Destruction is required when intake or the prosecutor determines no probable cause exist that the child engaged in conduct. [§58.263, FC]</p>	<p style="text-align: center;">All Matters</p> <p style="text-align: center;">CINS and Misdemeanors</p> <p>Age 18 CINS Alleged, Adjudicated Age 21 MISD Alleged, Adjudicated</p> <p style="text-align: center;">No Action</p> <p>Age 18 No Action, Referral was not CINS or Delinquent Conduct</p> <p style="text-align: center;">Felony</p> <p>Age 21 FELONY Alleged, No Adjudication Age 31 FELONY Adjudication [§58.264(b), FC]</p>

SEALING WITH APPLICATION	SEALING WITHOUT APPLICATION	DESTRUCTION	PERMISSIBLE DESTRUCTION
INELIGIBILITY			
Ineligible History <ul style="list-style-type: none"> See §58.256(c), FC; and Application/Order Prohibited <ul style="list-style-type: none"> Determinate Sentence/Habitual Felony Adjudications SXO Registration – Active Duty Committed to TJJD Committed to Travis Co. PS Facility [§58.256(d)(1-3), FC] 	Ineligible History <ul style="list-style-type: none"> See §58.253(b), FC; and Exempt Records (Sealing) <ul style="list-style-type: none"> Sex Offender Registration Records Gang Database Records Records maintained by TJJD and DPS for statistical purposes [§58.252, FC] 	Ineligible – Database Info Exempt Records (Destruction) <ul style="list-style-type: none"> Sex Offender Registration Records Gang Database Records Records maintained by TJJD and DPS for statistical purposes [§58.252, FC] 	Ineligible - Age and Offense <p>Records are not eligible for permissible destruction unless they meet the age of offense requirements of the statute. [§58.264, FC]</p>
NOT TRUE DISPOSITION; NO PROBABLE CAUSE			
Not True Disposition <p>Mandatory and immediate sealing under former §58.003(d), FC was REPEALED in 2017. [SB 1304]</p>	Not True Disposition <p>Mandatory and immediate sealing under former §58.003(d), FC was REPEALED in 2017. [SB 1304]</p>	No Probable Cause <p>The court must order records destroyed upon a no probable cause finding, including records in JJIS, based on the criteria in §58.263, FC.</p>	
PROCESS			
Process Initiation - Filing of Application <p>The applicant or an attorney on behalf of the applicant submits the following information:</p> <ul style="list-style-type: none"> Applicant's identifying Information Offense Information (offense, date, cause number, location, arresting agency, TRN/PID information, etc. Legal Basis for Sealing Eligibility Agencies and Entities w/ Records Verification Fees <p>Fees prohibited. [§58.256(a), FC].</p>	Process Initiation –DPS/JJIS Search - Delinquent Conduct <ul style="list-style-type: none"> DPS conducts JJIS/CCH search DPS sends notices to the CCH portal JPD retrieves and verifies; then sends eligibility list to court. Eligibility Issues <ul style="list-style-type: none"> If list contains discrepancies, JPD and DPS work together to update and correct, if needed If ineligible, no further action If eligible, the JPD forwards the list of referral and outcome information to court. [§58.254(f), FC]. Process Initiation – TJJD Search - CINS <p>TJJD CINS Offense History Report contains JPD monthly extract information on CINS-only history.</p> <ul style="list-style-type: none"> JPD verifies and sends eligibility list of referrals and outcomes to court. 	No Probable Cause Finding <ul style="list-style-type: none"> Intake finds NO PC; sends to Prosecutor; or Upon referral; Prosecutor finds NO PC [§58.263, FC] The court issues a destruction order. 	Resolution or Written Certification <p>The head of the following entities may authorize permanent destruction of closed juvenile matters by resolution or other form of written certification in accordance with §58.264, FC.</p> <ul style="list-style-type: none"> Juvenile Board, Law Enforcement and Prosecuting Attorney This provision does <u>not</u> apply to juvenile Clerk of Court records. [§58.264(f), FC] State Library Retention Schedule <p>These guidelines set destruction period for juvenile records under Local Schedules PS, DC and LC [13 Tex. Admin. Code, §7.125] or other local rules. [§58.264(a), FC]</p>

SEALING WITH APPLICATION	SEALING WITHOUT APPLICATION	DESTRUCTION	PERMISSIBLE DESTRUCTION
HEARING			
<p>Options for Hearing The court may, at its discretion, order sealing with or without a hearing on the application. [§58.256(e); §58.257, FC]</p> <p>Denial of Application The court may <u>not</u> deny an application without a hearing. [§58.256(e), FC]</p> <p>Notice and Time for Hearing</p> <ul style="list-style-type: none"> ▪ The hearing must be held no later than the 60th day after receipt of an application. [§58.257,(a) and (b), FC] ▪ The court shall give reasonable notice of the hearing to: <ul style="list-style-type: none"> ▪ Applicant (subject of records) ▪ Applicant's attorney, if any ▪ Prosecutor; ▪ Entities believed to possess records; or ▪ Other person. 	<p>No Hearing The juvenile court shall issue an order sealing all records within the 60th day after receiving notice from the juvenile probation department [§58.255(c), FC]</p>	<p>None A destruction order under §58.263, FC is triggered upon an administrative determination of no probable cause by the juvenile probation department intake or prosecuting attorney.</p>	<p>None Permissible destruction is an administrative determination by an agency or entity and exists for the efficiency and convenience of the record holders.</p>
ORDER			
<p>Order, With Application Sealing orders must contain the information in §58.258 (1-5), FC, including</p> <ul style="list-style-type: none"> ▪ Identifying information; ▪ Each instance of DC or CINS alleged or referred; ▪ Date and county of offense; ▪ If petition is filed --cause number, county, and court; and ▪ List of entities believed to possess records. <p>Upon Entry of Order</p> <ul style="list-style-type: none"> ▪ Sealing Order is issued within 60 days ▪ Entities must take actions required in statute. 	<p>Order, Without Application Sealing orders for sealing without application must contain the information required in §58.258 (1-5), FC. (<i>See With Application</i>)</p> <p>Upon Entry of Order</p> <ul style="list-style-type: none"> ▪ Sealing Order is issued within 60 days ▪ Entities must take actions required in statute. 	<p>Destruction Order A mandatory court order to destroy records must be issued.</p>	<p>Compliance with Entity Resolution The agency or entity may choose the appropriate method of destruction based on local policies and practices.</p>

SEALING WITH APPLICATION	SEALING WITHOUT APPLICATION	DESTRUCTION	PERMISSIBLE DESTRUCTION
ACTIONS UPON RECEIPT OF ORDER			
<p>Sealing in Place Records are considered sealed if they 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. [§58.259(b), FC]</p> <p>Within 61 days...</p> <p>DPS must:</p> <ul style="list-style-type: none"> ▪ Limit access to records to only TJJD for research and statistical studies; ▪ Destroy other records, incl. DNA; ▪ Send written verification to juvenile court <p>TJJD must:</p> <ul style="list-style-type: none"> ▪ Seal all records other than those exempt under §58.252 (records for statistical purposes); and ▪ Send written verification to juvenile court. <p>Agency or Entity Providing Custody, Supervision, or Services must:</p> <ul style="list-style-type: none"> ▪ Seal all records ; and ▪ Send written verification to juvenile court. <p>Other Entity Receiving Order must:</p> <ul style="list-style-type: none"> ▪ Send all records to court; • Delete all index references; and • Send written verification of deletion to juvenile court. <p>No Records If entity has no records, shall provide written verification to court within 30 days. [§58.259(e), FC]</p> <p>Case Management (JCMS) Use the process for sealing records. No case management records should be deleted.</p>	<p>Sealing in Place <i>See actions for Sealing With Application.</i></p> <p>Case Management (JCMS) Use the process for sealing records. Case management records should NOT be deleted.</p>	<p>Upon Entry of Order Destruction involves the irretrievable elimination by record holders of physical and electronic records, except those exempt under §58.252 (records for statistical purposes).</p> <p>Case Management (JCMS) Use the process for sealing records. Case management records should NOT be deleted.</p>	<p>Compliance with Entity Resolution Destruction involves the irretrievable elimination by record holders of physical and electronic records, except those exempt under §58.252 (records for statistical purposes).</p> <ul style="list-style-type: none"> ▪ Physical records include computer files and information in other electronic storage media. ▪ Electronic records are considered destroyed if the electronic record and index to the record are deleted. ▪ Destroying paper records converted to electronic is not “destruction”. <p>Case Management (JCMS) Use the process for sealing records. Case management records should NOT be deleted.</p>

SEALING WITH APPLICATION	SEALING WITHOUT APPLICATION	DESTRUCTION	PERMISSIBLE DESTRUCTION
INSPECTION AND RELEASE AFTER SEALING			
Inspection and Release <ul style="list-style-type: none"> Subject of order petitions the court to unseal for any reason Prosecutor can ask court to unseal to review for possible use in: <ul style="list-style-type: none"> Capital prosecution; or For enhancement under Sec. 12.42, Penal Code. Court, TDCJ, TJJD can request for sex offender screening purposes. [§58.260, FC] Order to Inspect or Release <ul style="list-style-type: none"> Court may issue an order to release any or all records to the petitioner. 	<i>See inspection and release of records sealed with application.</i>	None	None
EFFECT			
Juvenile All adjudications are vacated and proceedings are dismissed as if they never occurred. The subject of the record is not required to state he/she was subject of juvenile matter: <ul style="list-style-type: none"> in any proceeding on housing, employment, admission, or licensure application on application for other public or private benefit; and Info in records and the fact that they once existed or denial of existence cannot be used against person in any manner Subject cannot waive the protected status of the records “Records Do Not Exist” After receipt of a sealing order, an entity must respond that no records relating to the person or matter exists. [§58.259(c), FC]	<i>See effect of sealing (with/without application) on the juvenile subject and record holders.</i> [§2583.259 and 58.261, FC] <p>“Records Do Not Exist” After receipt of a sealing order, an entity must respond that no records relating to the person or matter exists. [§58.259(c), FC]</p>	Juvenile Case is non-suited or dismissed based on no probable cause and is treated for all purposes as if it never occurred.	Juvenile <ul style="list-style-type: none"> Subject of the record has no statutory right to request this type of destruction or deny the existence of a record. JJIS <ul style="list-style-type: none"> Although records are destroyed at the local level, JJIS information is not removed. <p>Nydia D. Thomas, J.D. Special Counsel TJJD Office of the General Counsel 11209 Metric Blvd • Building H Austin, Texas 78758 Legalhelp@tjtd.texas.gov 512.490.7121 <i>Transforming Young Lives & Creating Safer Communities</i></p>

This sample document has been provided for educational purposes only and must be reviewed by local counsel for legal sufficiency and local drafting preferences.

CAUSE NO. _____

IN THE MATTER OF

IN THE COUNTY COURT AT LAW OF
(COUNTY NAME) COUNTY, TEXAS

A CHILD

SITTING AS A JUVENILE COURT

APPLICATION FOR SEALING JUVENILE FILES AND RECORDS

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, _____, by and through:
(name of juvenile applicant requesting sealing)

() his/her attorney of record (name) _____

() his/her parent(s)/legal guardian(s)/custodian(s) (name[s]) _____

() he/she is the Juvenile-Respondent requesting sealing.

I.

Applicant has the following identifying information:

Last Name: _____ First Name: _____ Middle Name: _____

DOB: ____/____/____ Current Age: ____ Sex: Male Female Race: _____
(MM/DD/YYYY)

SSN: ____/____/____ DL # (if applicable): State ____ No. _____

Address: _____
(Street) (City) (State) (Zip)

Mailing Address (if different): _____

II.

Offense Information

Offense #1: _____

Statute/Citation: _____

Penal: _____ Health & Safety: _____ Criminal Procedure: _____

TRC: _____ Other: _____

Level/Degree (Offense Classification): _____

Misdemeanor: Class A ____ Class B ____

Felony: State Jail ____ 3rd Degree ____ 2nd Degree ____ 1st Degree ____ Capital ____

Arresting Agency: _____

Offensive Date: ____/____/____ TRN #: _____
(MM/DD/YYYY)

Location of Offense: _____

Juvenile Probation Dept. Information (on above offense):

PID: _____ Referral #: _____ Disposition Date: ____/____/____
(MM/DD/YYYY)

Supervision End Date: ____/____/____ Supervision Outcome: _____
(MM/DD/YYYY)

Cause No. (if applicable): _____ Court Where Petition Filed: _____

Type of Supervision: Deferred Prosecution ____ Probation ____ Conditional Release ____

Offense #2: _____

Statue/Citation:

Penal: _____ Health & Safety: _____ Criminal Procedure: _____

TRC: _____ Other: _____

Level/Degree (Offense Classification):

Misdemeanor: Class A ____ Class B ____

Felony: State Jail ____ 3rd Degree ____ 2nd Degree ____ 1st Degree ____ Capital ____

Arresting Agency: _____

Offensive Date: ____/____/____ TRN #: _____
(MM/DD/YYYY)

Location of Offense: _____

Juvenile Probation Dept. Information (on above offense):

PID: _____ Referral #: _____ Disposition Date: ____/____/____
(MM/DD/YYYY)

Supervision End Date: ____/____/____ Supervision Outcome: _____
(MM/DD/YYYY)

Cause No. (if applicable): _____ Court Where Petition Filed: _____

Type of Supervision: Deferred Prosecution ____ Probation ____ Conditional Release ____

Offense #3: _____

Statue/Citation:

Penal: _____ Health & Safety: _____ Criminal Procedure: _____

TRC: _____ Other: _____

Level/Degree (Offense Classification):

Misdemeanor: Class A ____ Class B ____

Felony: State Jail ____ 3rd Degree ____ 2nd Degree ____ 1st Degree ____ Capital ____
Arresting Agency: _____

Offensive Date: ____/____/____ TRN #: _____
(MM/DD/YYYY)

Location of Offense: _____

Juvenile Probation Dept. Information (on above offense):

PID: _____ Referral #: _____ Disposition Date: ____/____/____
(MM/DD/YYYY)

Supervision End Date: ____/____/____ Supervision Outcome: _____
(MM/DD/YYYY)

Cause No. (if applicable): _____ Court Where Petition Filed: _____

Type of Supervision: Deferred Prosecution ____ Probation ____ Conditional Release ____

III.

The applicant shows that he/she is entitled to have all files and records concerning the case sealed for the following reasons:

- (1) He/She is at least 18 years of age OR;
- (2) He/She is under 18 years of age and at least two years have elapsed after the date of final discharge in each matter for which the person was referred to the juvenile probation department;
- (3) Does not have any delinquent conduct matters pending with any juvenile probation department or juvenile court;
- (4) Was not 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; and
- (6) Does not have any pending charges as an adult for a felony or a misdemeanor punishable by confinement in jail.

IV.

The Applicant has reason to believe that the files and records relating to the Applicant are held by the following officials and agencies:

- (1) Texas Department of Public Safety, Criminal Records Department
- (2) (COUNTY NAME) County Sheriff's Department
- (3) Police Department, City of _____ (enter name of municipality)
- (4) (COUNTY NAME) County Clerk's Office
- (5) (COUNTY NAME) County Attorney's Office
- (6) (COUNTY NAME) County Juvenile Probation Department
- (7) _____ School District (enter name of school district)
- (8) Juvenile Justice Information System
- (9) Federal Bureau of Investigation NICS
- (10) Texas Juvenile Justice Department Facilities/Institutions _____

- (11) Pre-Adjudications (Detention) Facilities _____
- (12) Post-Adjudication Facilities _____
- (13) Private Party Criminal History Firms _____
- (14) Other (State Hospitals, Title IV-E Placement Facilities, Treatment Providers, etc.) _____

V.

Verification

COUNTY OF (COUNTY NAME)
STATE OF TEXAS

BEFORE ME, the undersigned authority, on this day personally appeared _____

_____, who after being duly sworn stated:

I am the Applicant who is the subject of the foregoing Application for the Sealing Files and Records. I have read the Application and swear that all of the allegations of fact contained therein are true and correct. Two years have elapsed since my final discharge from supervision or the last official action in this cause and I have 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 against me seeking conviction or adjudication.

Applicant Signature

SUBSCRIBED AND SWORN TO ME on the _____ day of _____, 20____.

Notary Public in and for the State of Texas

My Commission Expires:

Printed Name of Notary

This sample document has been provided for educational purposes only and must be reviewed by local counsel for legal sufficiency and local drafting preferences.

CAUSE NO. _____

IN THE MATTER OF § IN THE _____ JUDICIAL DISTRICT
 §
 § COURT OF
 §
_____, Respondent § _____ COUNTY TEXAS

ORDER TO DESTROY RECORDS

TO THE HONORABLE JUDGE OF SAID COURT:

The State's Motion to Destroy Records in the above-entitled and numbered cause having been presented to the Court and the same having been considered:

IT IS THEREFORE ORDERED, ADJUDGED, and DECREED that the _____ Police Department, _____ Independent School District, _____ County Juvenile Detention Center, County Attorney, _____ County Juvenile Probation Department, Texas Department of Public Safety and _____ County District Clerk shall destroy all records including electronic records in the above-entitled and numbered cause specifically related to CR43J, TRN _____, TRS _____.

IT IS FURTHER ORDERED that within thirty (30) days of receipt of this order the aforementioned agencies shall provide written document in _____ County Juvenile Probation Department that the destruction of all records including electronic records is complete.

Signed this the _____ day of _____, 20XX.

Juvenile Court Judge
Judge of the _____ District Court
_____ County, Texas

Sealing Records in JCMS

Records should be sealed in JCMS when the juvenile probation department receives a court order to seal. Sealing orders may require an offense, a referral or an entire juvenile's folder to be sealed. Sealing a folder removes any identifying information and prohibits the record(s) from being accessed in JCMS, but maintains information for statistical purposes. For example, if an Assault referral is sealed in JCMS, there is no way for the department to access this referral or any associated records; however, both TJJD and JCMS will include this referral and any associated records for reporting purposes. **Do not delete records that are ordered to be sealed.** Deleted records are deleted from both JCMS and from the TJJD database and are therefore excluded from statistical reports.

Sealing a Juvenile's Folder

To seal a juvenile's entire JCMS folder, to do the following:

- Access the juvenile's folder.
- Under Juvenile ID, verify that the folder has a Closed Status.



No Photo Available

Test, Juvenile Restricted

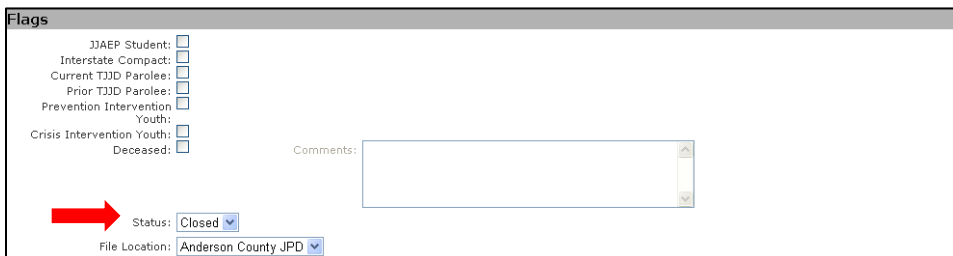
Race: White Sex: Female DOB: 06/05/1988 Age: 27yrs 5mos

Anderson JCMS: 0010001293 PID: 0010003664 SID: TSDS:

Status: Closed File Location: Anderson County JPD

PO Assigned: No Primary PO Assigned
PO Unit: No Assigned Unit
[Case History](#)

- If the Status is Active, select to Edit the Juvenile container.
- In the Flags section, change the Status to Closed and save the screen.



Flags

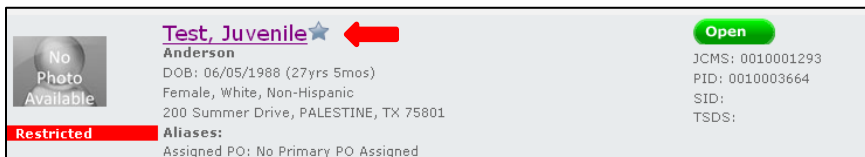
JJAEP Student: ☐
Interstate Compact: ☐
Current TJJD Parolee: ☐
Prior TJJD Parolee: ☐
Prevention Intervention Youth: ☐
Crisis Intervention Youth: ☐
Deceased: ☐

Comments:

➔ Status: Closed

File Location: Anderson County JPD

- From the Home Screen, select Maintenance.
- From Maintenance, select Seal Juvenile Record.
- Use the Select function to find the juvenile's folder.
- Click the star next to the juvenile's name to select this juvenile.



No Photo Available

Test, Juvenile ★ ➔

Anderson

DOB: 06/05/1988 (27yrs 5mos)
Female, White, Non-Hispanic
200 Summer Drive, PALESTINE, TX 75801

Restricted

Aliases:
Assigned PO: No Primary PO Assigned

Open

JCMS: 0010001293
PID: 0010003664
SID:
TSDS:


- Click Continue.
- A confirmation box will display. Check the box next to the verification statement.
- Click Seal to seal the folder.

Sealing Records in JCMS

Sealing a Referral

To seal a single referral without sealing the juvenile's folder, do the following:

- Access the juvenile's folder.
- Open the Referral Section.
- Click View to open the Referral to be sealed.
- Click the Seal button to the right of the screen.



Referral 0010010583

Edit **Delete** **Seal** **Move** **Copy**

Referral		Juvenile	
Type: Formal	Original Referral Date:	Juvenile's age at time of referral:	Intake Officer:
Date and Time: 09/06/2012 11:00	Original Referral Number:	16yrs 1mos	User, TJJD
Referral Source: Police Agency	Original Referral Primary Offense:	Resident status: County Resident	Referral Disposition: Adjudicated to Probation with Placement
Referring County, State, or Agency: Anderson		School Status: Home School	
Paper Complaint Date:		Education Standing: Passing And In	
Paper Complaint Time:		Appropriate Grade	
Originating Jurisdiction PID:		Last grade completed: 9	
		School at time of Referral:	
		In need of substance abuse services?	
		Yes, being treated	

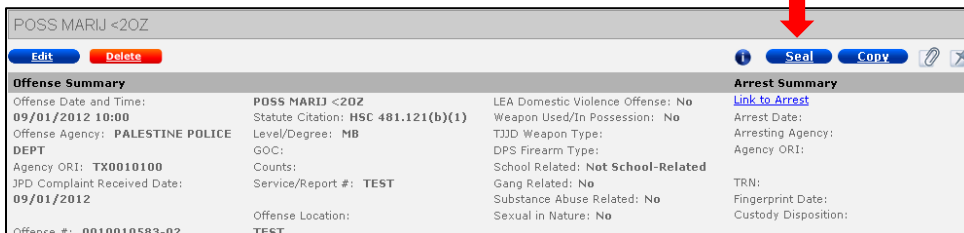
Offense(s)				
Agency	Offense Date	Complaint Received Date	Offenses	Indicator
PALESTINE POLICE DEPT	09/01/2012	09/01/2012	BURGLARY OF HABITATION Statute Citation: PC 30.02(c)(2) Level/Degree: F2 UCR: Offense #: 0010010583-01	IOI: Primary DOI: Primary

- A confirmation box will display. Check the box next to the verification statement. If this is the only referral for the juvenile, and the juvenile does not have a JJAEP entry, the entire juvenile record will be sealed.
- Click Seal to seal the Referral.
- JCMS will verify that there are no open records associated to this referral. If open records are found, an error will notify the user of the screens that must be closed prior to sealing.

Sealing an Offense

To seal an offense, do the following:

- Access the juvenile's folder.
- Open the Offense Section.
- Click View to open the Offense to be sealed.
- Click the Seal button to the right of the screen.



POSS MARIJ <20Z

Edit **Delete** **Seal** **Copy**

Offense Summary		Arrest Summary	
Offense Date and Time:	POSS MARIJ <20Z	LEA Domestic Violence Offense: No	Link to Arrest
09/01/2012 10:00	Statute Citation: HSC 481.121(b)(1)	Weapon Used/In Possession: No	Arrest Date:
Offense Agency: PALESTINE POLICE	Level/Degree: MB	TJJD Weapon Type:	Arresting Agency:
DEPT	GOC:	DPS Firearm Type:	Agency ORI:
Agency ORI: TX0010100	Counts:	School Related: Not School-Related	TRN:
JPD Complaint Received Date:	Service/Report #: TEST	Gang Related: No	Fingerprint Date:
09/01/2012	Offense Location:	Substance Abuse Related: No	Custody Disposition:
Offense #: 0010010583-02	TEST	Sexual in Nature: No	

- A confirmation box will display. Check the box next to the verification statement.
- Click Seal to seal the Offense.
- JCMS will verify that this is not the Primary Offense associated to a Referral. If this offense is Primary, you must designate a new Primary Offense for the associated referral prior to sealing.
- If this is the only offense in a Referral, seal the Referral.