





Law Enforcement

- If child taken into custody and referred to juvenile court, law enforcement must forward information to DPS
 - Includes fingerprints
 - Information is stored in JJIS

Family Code Section 58.001



Fingerprints and Photographs

- Juvenile court consent required unless child
 - taken into custody for delinquent conduct or
 - referred to juvenile court for delinquent conduct without being taken into custody

Family Code Section 58.002



Fingerprints and Photographs

- May take temporary custody to take prints if prints found in investigation and have PC to believe:
 - child engaged in delinquent conduct
 - and prints will match

Family Code Section 58.0021



Fingerprints and Photographs


- May take temporary to take photo if have PC to believe:
 - child engaged in delinquent conduct
 - and photo will be of material assistance to investigation
- May get a photo from juvenile probation without taking into custody

Family Code Section 58.0021



Fingerprints and Photographs

- May print and photograph to establish identity if:
 - PC to believe child is a runaway
 - and unable to determine identity after reasonable effort
- Must destroy once identify or determine cannot identify



Destruction

- If taken into custody but not referred within 10 days, LE must destroy record
 - Agency certifies destruction to juvenile board by 12/31
 - Board may audit to verify
 - If false, person who certified is subject to perjury prosecution
- If in First Offender program, destruction not required until 90 days after successful completion (can maintain info to determine future eligibility)



Probation Department

- Receives law enforcement records
- Makes initial decisions (probable cause, detention, disposition)
- Sends additional information to DPS for inclusion in JJIS
- Creates records



Prosecutor

- Receives law enforcement and probation intake records
- Makes decisions regarding probable cause and case disposition
- Sends additional information to DPS for inclusion in JJIS



Court

- All filings in a case
- Reports outcomes to DPS for inclusion in JJIS



Facilities

- Create own records
 - Education
 - Treatment
 - Behavior
 - Medical
- Dates admitted/released included in JJIS



Effect of a Juvenile Record



Not a Conviction

- Does not impose any civil disability ordinarily resulting from a conviction
- Does not operate to disqualify child in any civil service application or appointment
- Exceptions
 - Commitment to TJJD is considered conviction for future enhancement purposes
 - Sexting adjudication is conviction for enhancement purposes

Family Code Section 51.13




Limited Future Use

- May be used only in subsequent:
 - Title 3 proceedings in which child is party
 - Sentencing proceedings against child to extent allowed by CCP
 - Civil commitment proceedings under Ch. 841, HSC

Family Code Section 51.13




Access to Juvenile Records



DPS – JJIS Records

- Military, with permission of juvenile
- Criminal Justice Agency
- Noncriminal justice agency only if authorized by federal law or executive order
- Juvenile Justice Agency
- TJJD, Ombudsman
- Court exercising jurisdiction over the juvenile as a child
- DFPS for background checks for placement


Family Code Section 58.106



Law Enforcement Records

- Criminal Justice Agency
- Juvenile Justice Agency
- Child or Parent*
- * Must redact any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child and any information excepted from required disclosure under Ch. 552, Government Code or any other law


Family Code Section 58.008



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 by parent, guardian, or conservator, information may be forwarded to TCIC/NCIC

Family Code Section 58.008



Law Enforcement Records

- 58.008 provisions do not apply to record relating to a child that is:
 - Required or authorized to be maintained under the laws regulating the operation of motor vehicles in this state
 - Maintained by a municipal or justice court
 - Subject to disclosure under Ch. 62, CCP

Family Code Section 58.008



Facility Records

- TJJD or contract facility
- Agency or institution having custody under juvenile court order, including facility operated under contract with juvenile board

Family Code Section 58.008



Facility Records

- Professional staff or consultants of the facility
- Judge, probation officers, staff of juvenile court
- Attorney for child
- Governmental agency if disclosure required by law
- Person or entity to whom child referred for services, if enters into confidentiality agreement
- TDCJ and TJJD for statistical purposes
- With permission from juvenile court, any person with legitimate interest in work of court


Family Code Section 58.005



Probation Department, Prosecutor, Court Records

- Judge, probation officers, staff, consultants of juvenile court
- Juvenile justice agency
- Public or private agency providing supervision/having custody of child under juvenile court order
- Attorney representing a party in the Title 3 proceeding
- Person/entity child referred to for treatment if have written confidentiality agreement
- With permission from juvenile court, any person with legitimate interest in work of court


Family Code Section 58.007



Court

- May disseminate information if subject of DTA or warrant
 - Name, aliases
 - Physical description
 - Photograph
 - Description of alleged conduct


Family Code Section 58.007



Court

- Juvenile can have access to court records to prepare motion for sealing
- If adjudication admissible in adult punishment under 37.07, Section 3(a) CCP, court must provide certified copy to prosecutor (not available if sealed)


Family Code Section 58.007



Victim Redaction

- Court must redact victim under 18 info before release unless:
 - Necessary for agency to provide victim services
 - Necessary for law enforcement purposes
 - Shared within JCMS
 - Shared with attorney
 - representing child in Title 3 proceedings
 - representing other person in juvenile or criminal proceeding arising from same incident


Family Code Section 58.004



Military

- May have records with permission of the court
- May have records under guidelines adopted by the juvenile board

Family Code Section 58.007




Court

Question:
A reporter requests information related to a determinate sentence or certification case. Can anything be disclosed to the reporter?




Court



Court

- If juvenile's DS probation has been transferred to adult court, clerk's public record consists of only:
 - Petition
 - Grand jury approval
 - Judgment re: DS conduct
 - Transfer order


Family Code Section 54.051



Court

- If juvenile has been certified as an adult, clerk's public record consists of only:
 - Petition for discretionary transfer
 - Order of transfer
 - Order of commitment (to jail or juvenile detention)

Family Code Section 54.02(s)



Criminal Court Records of Child

- Records related to child charged with Class C misdemeanor (non-traffic) confidential and can't be disclosed to public
- Open to inspection only by:
 - Judges or court staff
 - Criminal justice agency for criminal justice purposes
 - DPS
 - Attorney for party to the proceeding
 - Child defendant or parent/guardian/managing conservator

Code of Criminal Procedure Article 45.0217



Sharing Between Juvenile Service Providers



Non-Educational Records

- At JSP request, another JSP must share:
 - personal health information or
 - history of governmental services provided to a multi-system youth
- Includes: identity records; medical records; assessment or diagnostic test results; special needs; program placements; psychological diagnoses; and other related records or information


Family Code Section 58.0052



Non-Educational Records

- Information may be disclosed only for purposes of:
 - Identifying a multi-system youth
 - Coordinating and monitoring care
 - Improving the quality of juvenile services provided


Family Code Section 58.0052



CPS and Juvenile Probation

- Upon request, state or local JJ agency and CPS or foster services provider must share information on a youth that is necessary to improve and maintain community safety or that assists in providing or continuing to provide services to a multi-system youth
- Have 14 business days to share


Family Code Section 58.0052



Educational Records

- At JSP request, ISD or charter school must disclose confidential information in educational record if student has been taken into custody under 52.01 or referred to juvenile court for DC or CINS
- School must make record and keep for at least 7 years

Family Code Section 58.0051



Notice to Schools

Applicable Offenses

- All felonies
- Misdemeanor unlawful restraint (20.02 PC)
- Misdemeanor indecent exposure (21.08 PC)
- Misdemeanor assault (22.01 PC)
- Misdemeanor deadly conduct (22.05 PC)
- Misdemeanor terroristic threat (22.07 PC)
- Misdemeanor engaging in organized criminal activity (71.02 PC)
- Unlawful use/sale/possession of a controlled substance, drug paraphernalia, or marijuana (Chapter 481, HSC)
- Unlawful possession of any of the weapons or devices listed in Sections 46.01(1)-(14) or (16), Penal Code, or a weapon listed as a prohibited weapon under Section 46.05, Penal Code

Code of Criminal Procedure Art. 15.27

Law Enforcement

- Orally notify superintendent (or designee) of arrest/referral
- Must be within 24 hours or before next school day, *whichever is earlier*
- Provide sufficient details for superintendent to determine if reasonable belief person committed a felony
- May give electronic notice instead of oral; if so, no written notice required

Code of Criminal Procedure Art. 15.27(a)

Prosecutor

- Orally notify superintendent (or designee) of conviction, adjudication, deferred prosecution, or deferred adjudication
- Must be within 24 hours of order or before next school day, *whichever is earlier*
- May give electronic notice instead of oral; if so, no written notice required

Code of Criminal Procedure Art. 15.27(b)



Parole or Probation Officer

- Orally notify superintendent (or designee) if student transfers or is removed and later returns to a different school than one attending when arrest or disposition occurred
- Must be within 24 hours of learning of transfer or re-enrollment or before next school day, *whichever is earlier*
- May give electronic notice instead of oral; if so, no written notice required

Code of Criminal Procedure Art. 15.27(c)



Dismissal or No Find

- Prosecutor or person designated by juvenile board must notify school district if student removed to DAEP and:
 - Prosecution refused for lack of merit or insufficient evidence or
 - Court found not true/not guilty
- Must be within 2 working days

Code of Criminal Procedure Art. 15.27(g)

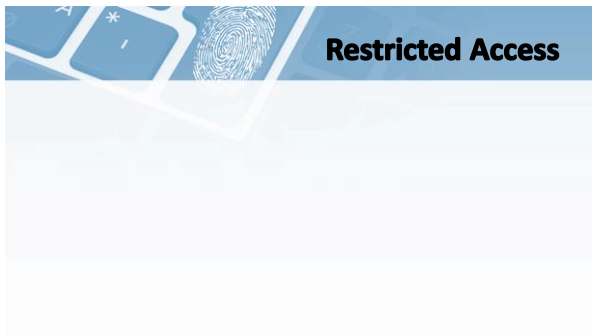


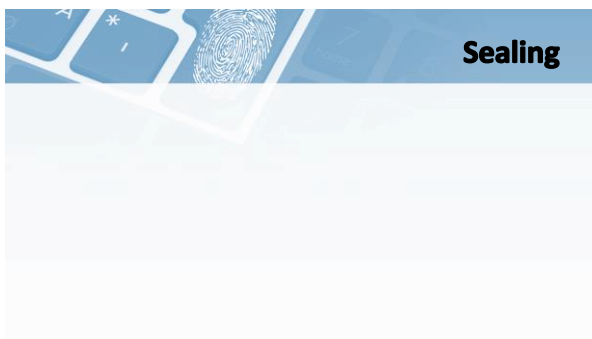
Failure to Provide Notice

- Superintendent must report failure of LEA to TCOLE
- Juvenile court judge or official must report failure of prosecuting attorney to the elected prosecutor
- Probation or parole supervisor must report failure of officer to the employing entity

Code of Criminal Procedure Art. 15.27(m) – (o)







Exempted

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

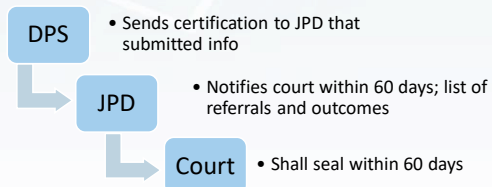
Family Code Section 58.252

Without Application Delinquent Conduct

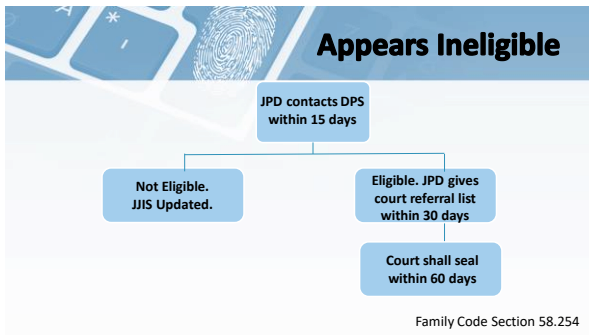
- Misdemeanor adjudication
- Referral for misdemeanor or felony and no adjudication
- Entitled to sealing at age 19 if:
 - 19 years old
 - No pending charges (adult or juvenile)
 - No Class B or higher adult conviction
 - Never certified as an adult

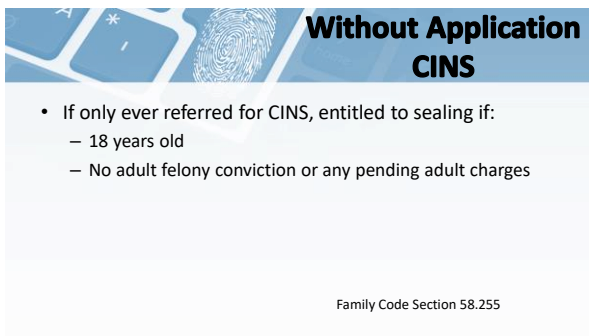
Family Code Section 58.253

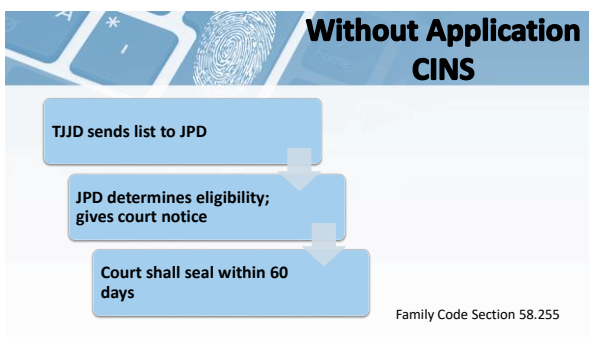
Certification of Eligibility



Family Code Section 58.254









With Application

- Regardless of eligibility for sealing without application, juvenile may apply for sealing
- No court/filing fee
- No attorney required
- Application must include information in statute

Family Code Section 58.256



With Application

- Court may seal if:
 - 18 years old or under 18 but at least 2 years since discharge on all matters
 - No pending delinquent conduct or adult charges
 - No adult felony conviction
 - Never certified; no DS
 - Not currently required to register as sex offender
 - If committed to TJJD or Travis County, has been discharged

Family Code Section 58.256



With Application Hearing

- Court may seal with or without hearing
- Hearing required to deny application to seal
- Hearing must be held within 60 days of application
- Notice to prosecutor, juvenile, entities listed in application, and anyone that prosecutor or juvenile requests be present

Family Code Section 58.257



Impact of Sealing Order

- All adjudications vacated
- Proceedings dismissed and treated for all purposes as though they never occurred

Family Code Section 58.258



Impact of Sealing Order

- 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 existed, or denial of them cannot be used against person in any way
- Person cannot waive protected status of the records

Family Code Section 58.261



Clerk Action

- Seals court records, including those in cases management system
- Sends copy to all entities listed in order (within 60 days)

Family Code Section 58.258



DPS Action

- Limits access to records to only TJJD for research and statistical purposes
- Destroys other records, including DNA
- Sends written verification to court
- Within 61 days

Family Code Section 58.259



"Sealed"

- Not destroyed
- Stored in a manner that allows access only by the custodian of records

Family Code Section 58.259



TJJD Action

- Seals all records other than those exempt from sealing (for statistical and research purposes)
- Sends written verification to court
- Within 61 days

Family Code Section 58.259



Probation, Prosecutor, Law Enforcement Action

- Seals records
- Sends written verification to court
- Within 61 days


Family Code Section 58.259



Others' Actions

- Send all records to court
- Delete all index references and send written verification of deletion to court
- Within 61 days

Family Code Section 58.259



Unable to Comply?

- If information incorrect or insufficient, entity notifies court within 30 days
- Court takes action necessary to correct, including obtaining additional information


Family Code Section 58.259



No Records?


- Provide court written verification of that fact within 30 days

Family Code Section 58.259



Later Inquiry?

Family Code Section 58.259




Motion to Inspect

- Subject of order can ask court to open records to inspect for any reason
- Prosecutor can ask court to open records to review for possible use in:
 - Capital prosecution
 - 12.42, PC enhancement
- Court, TDJC, TJJD can ask court to open for sex offender screening purposes

Family Code Section 58.260



Destruction



No Probable Cause

- If either intake or prosecutor finds no probable cause, court shall order the records destroyed

Family Code Section 58.263



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*

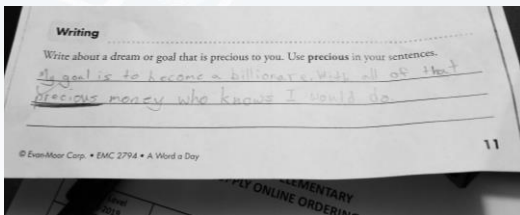
Family Code Section 58.264

Expunction

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

Family Code Section 58.265

Questions?



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www.juvenilelaw.org

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