

# 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 that happened while age 10-16 (before 17) has a juvenile record, even if not taken into custody by police. Referrals are for delinquent conduct (Class A or B misdemeanor or felony offenses) or conduct indicating a need for supervision (CINS) (e.g. Class C misdemeanors, running away, "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. The law says who can access them. This includes 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. Law enforcement, probation, prosecutors, and courts are also limited in how they may share records. Once records are sealed, no one may access them.

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

If the only reason you were referred to juvenile court was for CINS and there are court records, your records will be sealed when you turn 18 if 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 if you do not have an adult conviction for a felony or jailable misdemeanor and do not 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 meet the criteria for sealing above, you may file an application asking the court to seal your records. You do not need an attorney to do this, but you may choose to hire one. You are allowed to file this application if you are 17 and have been discharged from probation or the case against you is closed. If you are under 17, you may file if it has been at least a year since you were discharged from probation or the case was closed. The court can only seal your records if you do not have any adult felony convictions or any pending adult charges, are not currently required to register as a sex offender, and are not currently committed to TJJD. The court may choose to seal your records without a hearing or may hold a hearing to decide whether or not to seal the records. The court cannot deny your application for sealing without first having a hearing. You should contact the probation department that provided services for information on the sealing process there.

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

Your records cannot be sealed if you were certified to stand trial as an adult or were given a determinate sentence (probation or TJJD commitment). If required to register as a sex offender, your records cannot be sealed until your requirement to register has expired. If committed to TJJD without a determinate sentence, your records cannot be sealed until you have been discharged from TJJD. Records in a JP or municipal court (Class C misdemeanors) cannot be sealed because they are not juvenile records. Records in the gang database cannot be sealed, though they can be removed in certain circumstances. Only criminal justice agencies can access them and only for criminal justice purposes.

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

When records are sealed, it means that all records showing you were referred to juvenile court are stored in a way that they cannot be seen anymore. Any adjudications are removed and it is treated like you were never even taken into custody or referred to juvenile court. The law says that 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. This includes a 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. So even if someone finds out you once had juvenile records, that cannot be used against you.

## **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, but the documents can be used for the specified reasons.

## **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 17<sup>th</sup> birthday, you may be able to have certain offenses "expunged" or removed from your record.

## **Where can I get additional information?**

Texas Family Code Chapter 58 and Code of Criminal Procedure Article 45. You can access Texas laws online at: [www.statutes.legis.state.tx.us](http://www.statutes.legis.state.tx.us)

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