

How does the "Restricted Access" records system benefit my child?

If a juvenile's records are placed on restricted access, the juvenile may:

- deny the existence of the juvenile record; and
- deny the arrest, prosecution or adjudication ever happened.

For example, once your juvenile records are on restricted access, you may legally answer, "No" when a job application, educational or occupational licensing application asks, "Have you ever been arrested, convicted or adjudicated of a crime?"

It is important to understand that if you commit a crime after turning age 17 and you are convicted of or placed on deferred adjudication for the offense in adult criminal court, your records are not eligible for Restricted Access. You do not have the right to deny the existence of your juvenile record. If you deny in this situation, you could be prosecuted for perjury (failing to tell the truth).

If you commit a crime after turning 21, your records will be removed from restricted access. You would then also lose your right to deny the existence of your juvenile record.

What should I do to make sure my records are placed on "Restricted Access?"

To be sure your records are eligible for and placed on restricted access you must:

- successfully complete your period of probation or parole with no violations; and
- commit no criminal offense after becoming 17 years of age

The Restricted Access system truly gives juveniles the opportunity for rehabilitation and a fresh start if they do not commit any further criminal offenses.

When does this new system take effect?

The new law goes into effect September 1, 2001. It applies to all juvenile records created before, on or after September 1, 2001.

Should I still try to get my records sealed or destroyed?

The sealing and destruction of juvenile records procedures do offer some additional benefits to a juvenile and may be the preferred course of action. To have your record sealed, you must initiate a formal court proceeding and may need an attorney. Also, if you have criminal records in a justice or municipal court, special expungement procedures apply. If you have questions about any of these procedures, discuss them with your attorney or your probation or parole officer.

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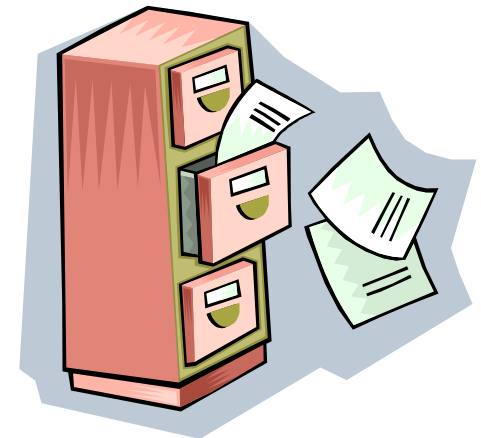
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Texas
Juvenile Justice System
Files and Records

A Parent and Child's Guide
to Understanding
Automatic Restriction of
Access to Records



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Who has a "Juvenile File and Record" in Texas?

If you have been arrested, taken into custody or charged with a criminal offense (Class A or B misdemeanor or any felony) that was committed when you were at least 10 years old but younger than 17 years old, you probably have a juvenile file and record. You may also have a juvenile record if you were charged with some Class C misdemeanor offenses if the justice or municipal court transferred your case to a juvenile court.



What are "Juvenile Justice Files and Records"?

Under the record keeping system for juvenile records in Texas, if a juvenile was adjudicated for delinquent conduct (Class A or B misdemeanor or any felony), the juvenile probably has a juvenile record with numerous entities including local law enforcement, the Texas Department of Public Safety (DPS) and the Federal Bureau of Investigation (FBI). That record is a permanent record that is not destroyed or erased unless the record is eligible for sealing and the child or the child's family hires a lawyer to file a petition in court to have the record sealed.

Who usually has access to Juvenile Records?



While juvenile files and records are generally confidential, there are some important exceptions. A juvenile record can be accessed by police, sheriff's officers, prosecutors, probation officers, correctional officers, and other criminal and juvenile justice officials in this state and elsewhere. Also, the record may be available to employers, educational institutions, licensing agencies, and other organizations when the person applies for employment or educational programs. Juvenile treatment records (counseling, placement, drug treatment, etc.) are confidential and accessible only to authorized users.

What is the "Automatic Restriction of Access to Records System"?

In Texas there now exists a records system that is designed to limit access to your juvenile records after you reach 21 years of age **if** you do not commit criminal offenses after becoming 17 years of age. The system is called "**Automatic Restriction of Access to Records.**" This is in addition to your opportunity to have your records sealed and destroyed under other provisions of the Texas Family Code.

Under automatic restriction of access to records, your records are not destroyed or sealed. They remain in place, but under restricted access. They are available only to criminal justice agencies for criminal justice purposes, such as investigating and prosecuting crimes. For all other inquiries--employment, education, etc.--the holder of the records is required to reply that the records "do not exist" and you are legally allowed to deny that you were ever arrested, prosecuted or adjudicated for a crime.

How do a Juvenile's Records become eligible for "Restricted Access"?



For restricted access to take place, no action is required by the child or the child's family. You do not have to file a petition or hire a lawyer. The process occurs automatically at age 21 if, since your 17th birthday, you have not

- committed a felony or a Class A or B misdemeanor; or
- received deferred adjudication for or been convicted in adult court of a Class A or B misdemeanor or a felony.

If you meet the requirements set out above you will be given a fresh start when you reach age 21. This allows you to pursue various employment and educational opportunities without your past record in the juvenile system to harm you. But remember, this opportunity will only happen if you do not commit any criminal offenses. If you commit a crime after turning 21, your records will be removed from restricted access.

What does it mean if records are placed on "Restricted Access"?

If a juvenile's record is placed on restricted access when the respondent becomes 21 years of age, access to the record will be denied to employers, educational institutions, and other persons who may want the information. Only criminal justice agencies will have access to these records and only for a criminal justice purpose, which includes investigation of crimes and for the screening of persons who apply for employment in a criminal justice agency (police officers, etc).

What records are not eligible for "Restricted Access"?

The only juvenile records that are not eligible for automatic restricted access are cases that were:

- handled as determinate sentence cases by the juvenile court;
- certified (transferred) to adult criminal court to be handled in the same manner as adult cases; or
- prosecuted in justice or municipal court.

What about Gang Records?



Information about gang activity is maintained by DPS in gang book records as authorized by law. These records are exempt from the new system because the access to these records is already limited to criminal justice agencies for a criminal justice purpose.

What about Sex Offender Records?

Sex offender registration records are exempt from the Restricted Access system because the purpose of registration is to notify the public. If you are a registered juvenile sex offender, you may have a right to have your records sealed once your obligation to register expires. Also, there are other legal proceedings that may allow reconsideration of your obligation to register. Talk to your probation or parole officer about these, or speak to a private attorney.