

VERNON'S TEXAS STATUTES AND CODES ANNOTATED  
FAMILY CODE  
**TITLE 3. JUVENILE JUSTICE CODE**  
**CHAPTER 58. RECORDS; JUVENILE JUSTICE INFORMATION SYSTEM**  
Current through the end of the 2004 Fourth Called Session

**SUBCHAPTER A. RECORDS**

**§ 58.001. Collection of Records of Children**

(a) Law enforcement officers and other juvenile justice personnel shall collect information described by [Section 58.104](#) as a part of the juvenile justice information system created under Subchapter B. [\[FN1\]](#)

(b) The information is available as provided by Subchapter B.

(c) A law enforcement agency shall forward information, including fingerprints, relating to a child who has been taken into custody under [Section 52.01](#) by the agency to the Department of Public Safety for inclusion in the juvenile justice information system created under Subchapter B, but only if the child is referred to juvenile court on or before the 10th day after the date the child is taken into custody under [Section 52.01](#). If the child is not referred to juvenile court within that time, the law enforcement agency shall destroy all information, including photographs and fingerprints, relating to the child unless the child is placed in a first offender program under [Section 52.031](#) or on informal disposition under [Section 52.03](#). The law enforcement agency may not forward any information to the Department of Public Safety relating to the child while the child is in a first offender program under [Section 52.031](#), or during the 90 days following successful completion of the program or while the child is on informal disposition under [Section 52.03](#). Except as provided by Subsection (f), after the date the child completes an informal disposition under [Section 52.03](#) or after the 90th day after the date the child successfully completes a first offender program under [Section 52.031](#), the law enforcement agency shall destroy all information, including photographs and fingerprints, relating to the child.

(d) If information relating to a child is contained in a document that also contains information relating to an adult and a law enforcement agency is required to destroy all information relating to the child under this section, the agency shall alter the document so that the information relating to the child is destroyed and the information relating to the adult is preserved.

(e) The deletion of a computer entry constitutes destruction of the information contained in the entry.

(f) A law enforcement agency may maintain information relating to a child after the 90th day after the date the child successfully completes a first offender program under [Section 52.031](#) only to determine the child's eligibility to participate in a first offender program.

[\[FN1\]](#) [V.T.C.A., Family Code § 58.101](#) et seq.

**§ 58.002. Photographs and Fingerprints of Children**

(a) Except as provided by Chapter 63, Code of Criminal Procedure, a child may not be photographed or fingerprinted without the consent of the juvenile court unless the child is taken into custody or referred to the juvenile court for conduct that constitutes a felony or a misdemeanor punishable by confinement in jail.

(b) On or before December 31 of each year, the head of each municipal or county law enforcement agency located in a county shall certify to the juvenile board for that county that the photographs and fingerprints required to be destroyed under [Section 58.001](#) have been destroyed. The juvenile board shall conduct or cause to be conducted an audit of the records of the law enforcement agency to verify the destruction of the photographs and fingerprints and the law enforcement agency shall make its records available for this purpose. If the audit shows that the certification provided by the head of the law enforcement agency is false, that person is subject to prosecution for perjury under Chapter 37, Penal Code.

(c) This section does not prohibit a law enforcement officer from photographing or fingerprinting a child who is not in custody if the child's parent or guardian voluntarily consents in writing to the photographing or fingerprinting of the child.

(d) This section does not apply to fingerprints that are required or authorized to be submitted or obtained for an application for a driver's license or personal identification card.

(e) This section does not prohibit a law enforcement officer from fingerprinting or photographing a child as provided by [Section 58.0021](#).

#### **§ 58.0021. Fingerprints or Photographs for Comparison in Investigation**

(a) A law enforcement officer may take temporary custody of a child to take the child's fingerprints if:

- (1) the officer has probable cause to believe that the child has engaged in delinquent conduct;
- (2) the officer has investigated that conduct and has found other fingerprints during the investigation; and
- (3) the officer has probable cause to believe that the child's fingerprints will match the other fingerprints.

(b) A law enforcement officer may take temporary custody of a child to take the child's photograph if:

- (1) the officer has probable cause to believe that the child has engaged in delinquent conduct; and
- (2) the officer has probable cause to believe that the child's photograph will be of material assistance in the investigation of that conduct.

(c) Temporary custody for the purpose described by Subsection (a) or (b):

- (1) is not a taking into custody under [Section 52.01](#); and
- (2) may not be reported to the juvenile justice information system under Subchapter B. [\[FN1\]](#)

(d) If a law enforcement officer does not take the child into custody under [Section 52.01](#), the child shall be released from temporary custody authorized under this section as soon as the fingerprints or photographs are obtained.

(e) A law enforcement officer who under this section obtains fingerprints or photographs from a child shall:

- (1) immediately destroy them if they do not lead to a positive comparison or identification; and
- (2) make a reasonable effort to notify the child's parent, guardian, or custodian of the action taken.

(f) A law enforcement officer may under this section obtain fingerprints or photographs from a child at:

- (1) a juvenile processing office; or
- (2) a location that affords reasonable privacy to the child.

[\[FN1\]](#) V.T.C.A., Family [§ 58.101](#) et seq.

#### **§ 58.0022. Fingerprints or Photographs to Identify Runaways**

A law enforcement officer who takes a child into custody with probable cause to believe that the child has engaged in conduct indicating a need for supervision as described by [Section 51.03\(b\)\(3\)](#) and who after reasonable effort is unable to determine the identity of the child, may fingerprint or photograph the child to establish the child's identity.

On determination of the child's identity or that the child cannot be identified by the fingerprints or photographs, the law enforcement officer shall immediately destroy all copies of the fingerprint records or photographs of the child.

### § 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 or on receipt of a certification from the Department of Public Safety of the State of Texas that the records of a person are eligible for sealing under this section, 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.

(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 there is incorrect or insufficient information in the order 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.

**§ 58.004. Repealed by Acts 1997, 75th Leg., ch. 1086, § 49(a), eff. Sept. 1, 1997**

**§ 58.005. Confidentiality of Records**

(a) Records and files concerning a child, including personally identifiable information, and information obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court may be disclosed only to:

- (1) the professional staff or consultants of the agency or institution;
- (2) the judge, probation officers, and professional staff or consultants of the juvenile court;
- (3) an attorney for the child;
- (4) a governmental agency if the disclosure is required or authorized by law;
- (5) a person or entity to whom the child is referred for treatment or services if the agency or institution disclosing the information has entered into a written confidentiality agreement with the person or entity regarding the protection of the disclosed information;
- (6) the Texas Department of Criminal Justice and the Texas Juvenile Probation Commission for the purpose of maintaining statistical records of recidivism and for diagnosis and classification; or
- (7) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

(b) This section does not apply to information collected under [Section 58.104](#).

**§ 58.0051. Interagency Sharing of Records**

(a) Within each county, a district school superintendent and the juvenile probation department may enter into a written interagency agreement to share information about juvenile offenders. The agreement must specify the conditions under which summary criminal history information is to be made available to appropriate school personnel and the conditions under which school records are to be made available to appropriate juvenile justice agencies.

(b) Information disclosed under this section by a school district must relate to the juvenile system's ability to serve, before adjudication, the student whose records are being released.

(c) A juvenile justice agency official who receives educational information under this section shall certify in writing that the institution or individual receiving the personally identifiable information has agreed not to disclose it to a third party, other than another juvenile justice agency.

(d) A juvenile justice agency that receives educational information under this section shall destroy all information when the child is no longer under the jurisdiction of a juvenile court.

#### § 58.006. Destruction of Certain Records

The court shall order the destruction of the records relating to the conduct for which a child is taken into custody, including records contained in the juvenile justice information system, if:

(1) a determination that no probable cause exists to believe the child engaged in the conduct is made under [Section 53.01](#) and the case is not referred to a prosecutor for review under [Section 53.012](#); or

(2) a determination that no probable cause exists to believe the child engaged in the conduct is made by a prosecutor under [Section 53.012](#).

#### § 58.007. Physical Records or Files

(a) This section applies only to the inspection and maintenance of a physical record or file concerning a child and the storage of information, by electronic means or otherwise, concerning the child from which a physical record or file could be generated and does not affect the collection, dissemination, or maintenance of information as provided by Subchapter B. [\[FN1\]](#) This section does not apply to a record or file relating to a child that is:

(1) required or authorized to be maintained under the laws regulating the operation of motor vehicles in this state;

(2) maintained by a municipal or justice court; or

(3) subject to disclosure under Chapter 62, Code of Criminal Procedure, as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997.

(b) Except as provided by [Article 15.27, Code of Criminal Procedure](#), the records and files of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a proceeding under this title are open to inspection only by:

(1) the judge, probation officers, and professional staff or consultants of the juvenile court;

(2) a juvenile justice agency as that term is defined by [Section 58.101](#);

(3) an attorney for a party to the proceeding;

(4) a public or private agency or institution providing supervision of the child by arrangement of the juvenile court, or having custody of the child under juvenile court order; or

(5) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

(d) The law enforcement files and records of a person who is transferred from the Texas Youth Commission to the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice may be transferred to a central state or federal depository for adult records on or after the date of transfer.

(e) Law enforcement records and files concerning a child may be inspected by a juvenile justice agency as that term is defined by [Section 58.101](#) and a criminal justice agency as that term is defined by [Section 411.082, Government Code](#).

(f) If a child has been reported missing by a parent, guardian, or conservator of that child, information about the child may be forwarded to and disseminated by the Texas Crime Information Center and the National Crime Information Center.

(g) For the purpose of offering a record as evidence in the punishment phase of a criminal proceeding, a prosecuting attorney may obtain the record of a defendant's adjudication that is admissible under [Section 3\(a\), Article 37.07, Code of Criminal Procedure](#), by submitting a request for the record to the juvenile court that made the adjudication. If a court receives a request from a prosecuting attorney under this subsection, the court shall, if the court possesses the requested record of adjudication, certify and provide the prosecuting attorney with a copy of the record.

(h) The juvenile court may disseminate to the public the following information relating to a child who is the subject of a directive to apprehend or a warrant of arrest and who cannot be located for the purpose of apprehension:

(1) the child's name, including other names by which the child is known;

(2) the child's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos;

(3) a photograph of the child; and

(4) a description of the conduct the child is alleged to have committed, including the level and degree of the alleged offense.

(i) In addition to the authority to release information under Subsection (b)(5), a juvenile probation department may release information contained in its records without leave of the juvenile court pursuant to guidelines adopted by the juvenile board.

[FN1] [V.T.C.A., Family Code § 58.101](#) et seq.

#### **§ 58.0071. Destruction of Certain Physical Records and Files**

(a) In this section:

(1) "Juvenile case" means:

(A) a referral for conduct indicating a need for supervision or delinquent conduct; or

(B) if a petition was filed, all charges made in the petition.

(2) "Physical records and files" include entries in a computer file or information on microfilm, microfiche, or any other electronic storage media.

(b) The custodian of physical records and files in a juvenile case may destroy the records and files if the custodian

duplicates the information in the records and files in a computer file or information on microfilm, microfiche, or any other electronic storage media.

(c) The following persons may authorize, subject to Subsections (d) and (e) and any other restriction the person may impose, the destruction of the physical records and files relating to a closed juvenile case:

- (1) a juvenile board in relation to the records and files in the possession of the juvenile probation department;
- (2) the head of a law enforcement agency in relation to the records and files in the possession of the agency; and
- (3) a prosecuting attorney in relation to the records and files in the possession of the prosecuting attorney's office.

(d) The physical records and files of a juvenile case may only be destroyed if the child who is the respondent in the case:

- (1) is at least 18 years of age and:
  - (A) the most serious allegation adjudicated was conduct indicating a need for supervision;
  - (B) the most serious allegation was conduct indicating a need for supervision and there was not an adjudication; or
  - (C) the referral or information did not relate to conduct indicating a need for supervision or delinquent conduct and the juvenile court or the court's staff did not take action on the referral or information for that reason;
- (2) is at least 21 years of age and:
  - (A) the most serious allegation adjudicated was delinquent conduct that violated a penal law of the grade of misdemeanor; or
  - (B) the most serious allegation was delinquent conduct that violated a penal law of the grade of misdemeanor or felony and there was not an adjudication; or
- (3) is at least 31 years of age and the most serious allegation adjudicated was delinquent conduct that violated a penal law of the grade of felony.

(e) If a record or file contains information relating to more than one juvenile case, information relating to each case may only be destroyed if:

- (1) the destruction of the information is authorized under this section; and
- (2) the information can be separated from information that is not authorized to be destroyed under this section.

(f) This section does not affect the destruction of physical records and files authorized by the Texas State Library Records Retention Schedule.

**[Sections 58.008 to 58.100 reserved for expansion]**

## SUBCHAPTER B. JUVENILE JUSTICE INFORMATION SYSTEM

### § 58.101. Definitions

In this subchapter:

- (1) "Criminal justice agency" has the meaning assigned by [Section 411.082, Government Code](#).
- (2) "Department" means the Department of Public Safety of the State of Texas.
- (3) "Disposition" means an action that results in the termination, transfer of jurisdiction, or indeterminate suspension of the prosecution of a juvenile offender.
- (4) "Incident number" means a unique number assigned to a child during a specific custodial or detention period or for a specific referral to the office or official designated by the juvenile board, if the juvenile offender was not taken into custody before the referral.
- (5) "Juvenile justice agency" means an agency that has custody or control over juvenile offenders.
- (6) "Juvenile offender" means a child who has been assigned an incident number.
- (7) "State identification number" means a unique number assigned by the department to a child in the juvenile justice information system.
- (8) "Uniform incident fingerprint card" means a multiple-part form containing a unique incident number with space for information relating to the conduct for which a child has been taken into custody, detained, or referred, the child's fingerprints, and other relevant information.

### § 58.102. Juvenile Justice Information System

(a) The department is responsible for recording data and maintaining a database for a computerized juvenile justice information system that serves:

- (1) as the record creation point for the juvenile justice information system maintained by the state; and
- (2) as the control terminal for entry of records, in accordance with federal law, rule, and policy, into the federal records system maintained by the Federal Bureau of Investigation.

(b) The department shall develop and maintain the system with the cooperation and advice of the:

- (1) Texas Youth Commission;
- (2) Texas Juvenile Probation Commission;
- (3) Criminal Justice Policy Council; and
- (4) juvenile courts and clerks of juvenile courts.

(c) The department may not collect or retain information relating to a juvenile if this chapter prohibits or restricts the collection or retention of the information.

(d) The database must contain the information required by this subchapter.

(e) The department shall designate the offense codes and has the sole responsibility for designating the state identification number for each juvenile whose name appears in the juvenile justice system.

### **§ 58.103. Purpose of System**

The purpose of the juvenile justice information system is to:

- (1) provide agencies and personnel within the juvenile justice system accurate information relating to children who come into contact with the juvenile justice system of this state;
- (2) provide, where allowed by law, adult criminal justice agencies accurate and easily accessible information relating to children who come into contact with the juvenile justice system;
- (3) provide an efficient conversion, where appropriate, of juvenile records to adult criminal records;
- (4) improve the quality of data used to conduct impact analyses of proposed legislative changes in the juvenile justice system; and
- (5) improve the ability of interested parties to analyze the functioning of the juvenile justice system.

### **§ 58.104. Types of Information Collected**

(a) Subject to Subsection (f), the juvenile justice information system shall consist of information relating to delinquent conduct committed by a juvenile offender that, if the conduct had been committed by an adult, would constitute a criminal offense other than an offense punishable by a fine only, including information relating to:

- (1) the juvenile offender;
- (2) the intake or referral of the juvenile offender into the juvenile justice system;
- (3) the detention of the juvenile offender;
- (4) the prosecution of the juvenile offender;
- (5) the disposition of the juvenile offender's case, including the name and description of any program to which the juvenile offender is referred; and
- (6) the probation or commitment of the juvenile offender.

(b) To the extent possible and subject to Subsection (a), the department shall include in the juvenile justice information system the following information for each juvenile offender taken into custody, detained, or referred under this title for delinquent conduct:

- (1) the juvenile offender's name, including other names by which the juvenile offender is known;
- (2) the juvenile offender's date and place of birth;
- (3) the juvenile offender's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos;
- (4) the juvenile offender's state identification number, and other identifying information, as determined by the department;
- (5) the juvenile offender's fingerprints;
- (6) the juvenile offender's last known residential address, including the census tract number designation for the address;
- (7) the name and identifying number of the agency that took into custody or detained the juvenile offender;

- (8) the date of detention or custody;
- (9) the conduct for which the juvenile offender was taken into custody, detained, or referred, including level and degree of the alleged offense;
- (10) the name and identifying number of the juvenile intake agency or juvenile probation office;
- (11) each disposition by the juvenile intake agency or juvenile probation office;
- (12) the date of disposition by the juvenile intake agency or juvenile probation office;
- (13) the name and identifying number of the prosecutor's office;
- (14) each disposition by the prosecutor;
- (15) the date of disposition by the prosecutor;
- (16) the name and identifying number of the court;
- (17) each disposition by the court, including information concerning custody of a juvenile offender by a juvenile justice agency or probation;
- (18) the date of disposition by the court;
- (19) any commitment or release under supervision by the Texas Youth Commission;
- (20) the date of any commitment or release under supervision by the Texas Youth Commission; and
- (21) a description of each appellate proceeding.

(c) The department may designate codes relating to the information described by Subsection (b).

(d) The department shall designate a state identification number for each juvenile offender.

(e) This subchapter does not apply to a disposition that represents an administrative status notice of an agency described by [Section 58.102\(b\)](#).

(f) Records maintained by the department in the depository are subject to being sealed under [Section 58.003](#). The department shall send to the appropriate juvenile court its certification of records that the department determines, according to the department's records, are eligible for sealing under [Section 58.003\(a\)](#).

### **§ 58.105. Duties of Juvenile Board**

Each juvenile board shall provide for:

- (1) the compilation and maintenance of records and information needed for reporting information to the department under this subchapter;
- (2) the transmittal to the department, in the manner provided by the department, of all records and information required by the department under this subchapter; and
- (3) access by the department to inspect records and information to determine the completeness and accuracy of information reported.

## § 58.106. Confidentiality

(a) Except as otherwise provided by this section, information contained in the juvenile justice information system is confidential information for the use of the department and may not be disseminated by the department except:

- (1) with the permission of the juvenile offender, to military personnel of this state or the United States;
- (2) to a person or entity to which the department may grant access to adult criminal history records as provided by [Section 411.083, Government Code](#);
- (3) to a juvenile justice agency; and
- (4) to the Criminal Justice Policy Council, the Texas Youth Commission, and the Texas Juvenile Probation Commission for analytical purposes.

(b) Subsection (a) does not apply to a document maintained by a juvenile justice agency that is the source of information collected by the department.

(c) The department may, if necessary to protect the welfare of the community, disseminate to the public the following information relating to a juvenile who has escaped from the custody of the Texas Youth Commission or from another secure detention or correctional facility:

- (1) the juvenile's name, including other names by which the juvenile is known;
- (2) the juvenile's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos;
- (3) a photograph of the juvenile; and
- (4) a description of the conduct for which the juvenile was committed to the Texas Youth Commission or detained in the secure detention or correctional facility, including the level and degree of the alleged offense.

(d) The department may, if necessary to protect the welfare of the community, disseminate to the public the information listed under Subsection (c) relating to a juvenile offender when notified by a law enforcement agency of this state that the law enforcement agency has been issued a directive to apprehend the offender or an arrest warrant for the offender or that the law enforcement agency is otherwise authorized to arrest the offender and that the offender is suspected of having:

- (1) committed a felony offense under the following provisions of the Penal Code:
  - (A) Title 5; [\[FN1\]](#)
  - (B) Section 29.02; or
  - (C) Section 29.03; and
- (2) fled from arrest or apprehension for commission of the offense.

[\[FN1\]](#) [V.T.C.A., Penal Code § 19.01](#) et seq.

## § 58.107. Compatibility of Data

Data supplied to the juvenile justice information system must be compatible with the system and must contain both incident numbers and state identification numbers.

### **§ 58.108. Duties of Agencies and Courts**

(a) A juvenile justice agency and a clerk of a juvenile court shall:

- (1) compile and maintain records needed for reporting data required by the department;
- (2) transmit to the department in the manner provided by the department data required by the department;
- (3) give the department or its accredited agents access to the agency or court for the purpose of inspection to determine the completeness and accuracy of data reported; and
- (4) cooperate with the department to enable the department to perform its duties under this chapter.

(b) A juvenile justice agency and clerk of a court shall retain documents described by this section.

### **§ 58.109. Uniform Incident Fingerprint Card**

(a) The department may provide for the use of a uniform incident fingerprint card in the maintenance of the juvenile justice information system.

(b) The department shall design, print, and distribute to each law enforcement agency and juvenile intake agency uniform incident fingerprint cards.

(c) The incident cards must:

- (1) be serially numbered with an incident number in a manner that allows each incident of referral of a juvenile offender who is the subject of the incident fingerprint card to be readily ascertained; and
- (2) be multiple-part forms that can be transmitted with the juvenile offender through the juvenile justice process and that allow each agency to report required data to the department.

(d) Subject to available telecommunications capacity, the department shall develop the capability to receive by electronic means from a law enforcement agency the information on the uniform incident fingerprint card. The information must be in a form that is compatible to the form required of data supplied to the juvenile justice information system.

### **§ 58.110. Reporting**

(a) The department by rule shall develop reporting procedures that ensure that the juvenile offender processing data is reported from the time a juvenile offender is initially taken into custody, detained, or referred until the time a juvenile offender is released from the jurisdiction of the juvenile justice system.

(b) The law enforcement agency or the juvenile intake agency that initiates the entry of the juvenile offender into the juvenile justice information system for a specific incident shall prepare a uniform incident fingerprint card and initiate the reporting process for each incident reportable under this subchapter.

(c) The clerk of the court exercising jurisdiction over a juvenile offender's case shall report the disposition of the case to the department. A clerk of the court who violates this subsection commits an offense. An offense under this subsection is a Class C misdemeanor.

(d) In each county, the reporting agencies may make alternative arrangements for reporting the required information, including combined reporting or electronic reporting, if the alternative reporting is approved by the juvenile board and the department.

(e) Except as otherwise required by applicable state laws or regulations, information required by this chapter to be reported to the department shall be reported promptly. The information shall be reported not later than the 30th day

after the date the information is received by the agency responsible for reporting the information, except that a juvenile offender's custody, detention, or referral without previous custody shall be reported to the department not later than the seventh day after the date of the custody, detention, or referral.

(f) Subject to available telecommunications capacity, the department shall develop the capability to receive by electronic means the information required under this section to be reported to the department. The information must be in a form that is compatible to the form required of data to be reported under this section.

#### **§ 58.111. Local Data Advisory Boards**

The commissioners court of each county may create a local data advisory board to perform the same duties relating to the juvenile justice information system as the duties performed by a local data advisory board in relation to the criminal history record system under [Article 60.09, Code of Criminal Procedure](#).

#### **§ 58.112. Report to Legislature**

Not later than August 15 of each year, the Texas Juvenile Probation Commission shall submit to the lieutenant governor, the speaker of the house of representatives, and the governor a report that contains the following statistical information relating to children referred to a juvenile court during the preceding year:

- (1) the ages, races, and counties of residence of the children transferred to a district court or criminal district court for criminal proceedings; and
- (2) the ages, races, and counties of residence of the children committed to the Texas Youth Commission, placed on probation, or discharged without any disposition.

#### **§ 58.113. Warrants**

The department shall maintain in a computerized database that is accessible by the same entities that may access the juvenile justice information system information relating to a warrant of arrest, as that term is defined by [Article 15.01, Code of Criminal Procedure](#), or a directive to apprehend under [Section 52.015](#) for any child, without regard to whether the child has been taken into custody.

### **SUBCHAPTER C. AUTOMATIC RESTRICTION OF ACCESS TO RECORDS**

#### **§ 58.201. Definition**

In this subchapter, "department" means the Department of Public Safety of the State of Texas.

#### **§ 58.202. Exempted Records**

The following records are exempt from this subchapter:

- (1) sex offender registration records maintained by the department or a local law enforcement agency under Chapter 62, Code of Criminal Procedure; and
- (2) records relating to a criminal combination or criminal street gang maintained by the department or a local law enforcement agency under Chapter 61, Code of Criminal Procedure.

#### **§ 58.203. Certification**

The department shall certify to the juvenile court or the juvenile probation department to which a referral was made that resulted in information being submitted to the juvenile justice information system that the records relating to a person's juvenile case are subject to automatic restriction of access if:

- (1) the person is at least 21 years of age;

(2) the juvenile case did not include violent or habitual felony conduct resulting in proceedings in the juvenile court under [Section 53.045](#);

(3) the juvenile case was not certified for trial in criminal court under [Section 54.02](#); and

(4) the department has not received a report in its criminal history system that the person was granted deferred adjudication for or convicted of a felony or a misdemeanor punishable by confinement in jail for an offense committed after the person became 17 years of age.

#### **§ 58.204. Restricted Access on Certification**

(a) On certification of records in a case under [Section 58.203](#), the department, except as provided by Subsection (b):

(1) may not disclose the existence of the records or any information from the records in response to an inquiry from:

(A) a law enforcement agency;

(B) a criminal or juvenile justice agency;

(C) a governmental or other agency given access to information under Chapter 411, Government Code; or

(D) any other person, agency, organization, or entity; and

(2) shall respond to a request for information about the records by stating that the records do not exist.

(b) On certification of records in a case under [Section 58.203](#), the department may permit access to the information in the juvenile justice information system relating to the case of an individual only:

(1) by a criminal justice agency for a criminal justice purpose, as those terms are defined by [Section 411.082, Government Code](#); or

(2) for research purposes, by the Texas Juvenile Probation Commission, the Texas Youth Commission, or the Criminal Justice Policy Council.

#### **§ 58.205. Request to the Federal Bureau of Investigation on Certification**

On certification of records in a case under [Section 58.203](#), the department shall request the Federal Bureau of Investigation to:

(1) place the information in its files on restricted status, with access only by a criminal justice agency for a criminal justice purpose, as those terms are defined by [Section 411.082, Government Code](#); or

(2) if the action described in Subdivision(1) is not feasible, delete all information in its database concerning the case.

#### **§ 58.206. Effect of Certification in Relation to the Protected Person**

(a) On certification of records in a case under [Section 58.203](#):

(1) the person who is the subject of the records is not required to state in any proceeding, except as otherwise authorized by law in a criminal proceeding in which the person is testifying as a defendant, or in any application for employment, licensing, or other public or private benefit that the person has been a respondent in a case under this title and may not be punished, by perjury prosecution or otherwise, for denying:

(A) the existence of the records; or

(B) the person's participation in a juvenile proceeding related to the records; and

(2) information from the records may not be admitted against the person who is the subject of the records in a civil or criminal proceeding except a proceeding in which a juvenile adjudication was admitted under:

(A) [Section 12.42, Penal Code](#);

(B) [Article 37.07, Code of Criminal Procedure](#); or

(C) as otherwise authorized by criminal procedural law.

(b) A person who is the subject of records certified under this subchapter may not waive the restricted status of the records or the consequences of the restricted status.

#### **§ 58.207. Juvenile Court Orders on Certification**

(a) On certification of records in a case under [Section 58.203](#), the juvenile court shall order:

(1) that the following records relating to the case may be accessed only as provided by [Section 58.204\(b\)](#):

(A) if the respondent was committed to the Texas Youth Commission, records maintained by the commission;

(B) records maintained by the juvenile probation department and by any agency that provided care or custody of the child under order or arrangement of the juvenile court;

(C) records maintained by the clerk of the court;

(D) records maintained by the prosecutor's office; and

(E) records maintained by a law enforcement agency; and

(2) the juvenile probation department to make a reasonable effort to notify the person who is the subject of records for which access has been restricted of the action restricting access and the legal significance of the action for the person.

(b) On receipt of an order under Subsection (a)(1), the agency maintaining the records:

(1) may allow access only as provided by [Section 58.204\(b\)](#); and

(2) shall respond to a request for information about the records by stating that the records do not exist.

#### **§ 58.208. Information to Child on Discharge**

On the final discharge of a child from the juvenile system or on the last official action in the case, if there is no adjudication, the appropriate juvenile justice official shall provide to the child:

(1) a written explanation of how automatic restricted access under this subchapter works; and

(2) a copy of this subchapter.

#### **§ 58.209. Information to Child by Probation Officer or Texas Youth Commission**

(a) When a child is placed on probation for an offense that may be eligible for automatic restricted access at age 21 or when a child is received by the Texas Youth Commission on an indeterminate commitment, a probation officer or an official at the Texas Youth Commission reception center, as soon as practicable, shall explain the substance of the following information to the child:

(1) if the child was adjudicated as having committed delinquent conduct for a felony or jailable misdemeanor, that the child probably has a juvenile record with the department and the Federal Bureau of Investigation;

(2) that the child's juvenile 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 and files a petition in court to have the record sealed;

(3) that the child's juvenile record, other than treatment records made confidential by law, 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;

(4) that the child's juvenile record, other than treatment records made confidential by law, can be accessed by employers, educational institutions, licensing agencies, and other organizations when the child applies for employment or educational programs;

(5) if the child's juvenile record is placed on restricted access when the child becomes 21 years of age, that access will be denied to employers, educational institutions, and others except for criminal justice agencies;

(6) that to have the child's juvenile record placed on restricted access at age 21, the child must not:

(A) commit a felony or jailable misdemeanor; and

(B) receive deferred adjudication for or be convicted in adult court of a felony or jailable misdemeanor; and

(7) that restricted access does not require any action by the child or the child's family, including the filing of a petition or hiring of a lawyer, but occurs automatically at age 21 if the child does not commit a criminal offense in the future.

(b) The probation officer or Texas Youth Commission official shall:

(1) give the child a written copy of the explanation provided; and

(2) communicate the same information to at least one of the child's parents or, if none can be found, to the child's guardian or custodian.

(c) The Texas Juvenile Probation Commission and the Texas Youth Commission shall adopt rules to implement this section and to facilitate the effective explanation of the information required to be communicated by this section.

#### **§ 58.210. Sealing or Destruction of Records Not Affected**

(a) This subchapter does not prevent or restrict the sealing or destruction of juvenile records as authorized by law.

(b) Restricted access provided under this subchapter is in addition to sealing or destruction of juvenile records.

(c) A person who is the subject of records certified under this subchapter is entitled to access to the records for the purpose of preparing and presenting a motion to seal or destroy the records.

## SUBCHAPTER D. LOCAL JUVENILE JUSTICE INFORMATION SYSTEM

### § 58.301. Definitions

In this subchapter:

- (1) "County juvenile board" means a juvenile board created under Chapter 152, Human Resources Code.
- (2) "Governmental placement facility" means a juvenile residential placement facility operated by a unit of government.
- (3) "Governmental service provider" means a juvenile justice service provider operated by a unit of government.
- (4) "Local juvenile justice information system" means a county or multicounty computerized database of information concerning children, with data entry and access by the partner agencies that are members of the system.
- (5) "Partner agency" means a governmental service provider or governmental placement facility that is required by this subchapter to be a member of a local juvenile justice information system or that has applied to be a member of a local juvenile justice information system and has been approved by the county juvenile board or regional juvenile board committee as a member of the system.
- (6) "Regional juvenile board committee" means a committee that is composed of two members from each county juvenile board in a region that comprises a multicounty local juvenile information system.

### § 58.302. Purposes of System

The purposes of a local juvenile justice information system are to:

- (1) provide accurate information at the county or regional level relating to children who come into contact with the juvenile justice system;
- (2) assist in the development and delivery of services to children in the juvenile justice system;
- (3) assist in the development and delivery of services to children:
  - (A) who school officials have reasonable cause to believe have committed an offense for which a report is required under [Section 37.015, Education Code](#); or
  - (B) who have been expelled, the expulsion of which school officials are required to report under [Section 52.041](#);
- (4) provide for an efficient transmission of juvenile records from justice and municipal courts to county juvenile probation departments and the juvenile court and from county juvenile probation departments and juvenile court to the state juvenile justice information system created by Subchapter B;
- (5) provide efficient computerized case management resources to juvenile courts, county juvenile probation departments, and partner agencies authorized by this subchapter;
- (6) provide a directory of services available to children to the partner agencies to facilitate the delivery of services to children;
- (7) provide an efficient means for municipal and justice courts to report filing of charges, adjudications, and dispositions of juveniles to the juvenile court as required by [Section 51.08](#); and
- (8) provide a method for agencies to fulfill their duties under [Section 58.108](#), including the electronic transmission of information required to be sent to the Department of Public Safety by [Section 58.110\(f\)](#).

### **§ 58.303. Local Juvenile Justice Information System**

(a) Juvenile justice agencies in a county or region of this state may jointly create and maintain a local juvenile justice information system to aid in processing the cases of children under this code, to facilitate the delivery of services to children in the juvenile justice system, and to aid in the early identification of at-risk and delinquent children.

(b) A local juvenile justice information system must contain the following components:

- (1) case management resources for juvenile courts, prosecuting attorneys, and county juvenile probation departments;
- (2) reporting systems to fulfill statutory requirements for reporting in the juvenile justice system;
- (3) service provider directories and indexes of agencies providing services to children; and
- (4) victim-witness notices required under Chapter 57.

(c) A local juvenile justice information system may contain the following components:

- (1) electronic filing of complaints or petitions;
- (2) electronic offense and intake processing;
- (3) case docket management and calendaring;
- (4) communications by email or other electronic communications between partner agencies;
- (5) reporting of charges filed, adjudications and dispositions of juveniles by municipal and justice courts and the juvenile court, and transfers of cases to the juvenile court as authorized or required by [Section 51.08](#);
- (6) reporting to schools under [Article 15.27, Code of Criminal Procedure](#), by law enforcement agencies, prosecuting attorneys, and juvenile courts;
- (7) records of adjudications and dispositions, including probation conditions ordered by the juvenile court; and
- (8) warrant management and confirmation capabilities.

(d) Membership in a local juvenile justice information system is determined by this subchapter. Membership in a regional juvenile justice information system is determined by the regional juvenile board committee from among partner agencies that have applied for membership.

### **§ 58.304. Types of Information Contained in a Local Juvenile Information System**

(a) Subject to Subsection (d), a local juvenile justice information system must consist of:

- (1) information relating to all referrals to the juvenile court of any type, including referrals for conduct indicating a need for supervision and delinquent conduct; and
- (2) information relating to:
  - (A) the juvenile;

- (B) the intake or referral of the juvenile into the juvenile justice system for any offense or conduct;
- (C) the detention of the juvenile;
- (D) the prosecution of the juvenile;
- (E) the disposition of the juvenile's case, including the name and description of any program to which the juvenile is referred; and
- (F) the probation, placement, or commitment of the juvenile.

(b) To the extent possible and subject to Subsections (a) and (d), the local juvenile justice information system may include the following information for each juvenile taken into custody, detained, or referred under this title:

- (1) the juvenile's name, including other names by which the juvenile is known;
- (2) the juvenile's date and place of birth;
- (3) the juvenile's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos;
- (4) the juvenile's state identification number and other identifying information;
- (5) the juvenile's fingerprints and photograph;
- (6) the juvenile's last known residential address, including the census tract number designation for the address;
- (7) the name, address, and phone number of the juvenile's parent, guardian, or custodian;
- (8) the name and identifying number of the agency that took into custody or detained the juvenile;
- (9) each date of custody or detention;
- (10) a detailed description of the conduct for which the juvenile was taken into custody, detained, or referred, including the level and degree of the alleged offense;
- (11) the name and identifying number of the juvenile intake agency or juvenile probation office;
- (12) each disposition by the juvenile intake agency or juvenile probation office;
- (13) the date of disposition by the juvenile intake agency or juvenile probation office;
- (14) the name and identifying number of the prosecutor's office;
- (15) each disposition by the prosecutor;
- (16) the date of disposition by the prosecutor;
- (17) the name and identifying number of the court;
- (18) each disposition by the court, including information concerning custody of a juvenile by a juvenile justice agency or county juvenile probation department;
- (19) the date of disposition by the court;

(20) any commitment or release under supervision by the Texas Youth Commission, including the date of the commitment or release; and

(21) information concerning each appellate proceeding.

(c) If the Department of Public Safety assigns a state identification number for the juvenile, the identification number shall be entered in the local juvenile information system.

(d) Information obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court may not be collected under Subsection (a) or (b).

### **§ 58.305. Partner Agencies**

(a) A local juvenile justice information system for a single county shall include the following partner agencies within that county:

(1) the juvenile court;

(2) justice of the peace and municipal courts;

(3) the county juvenile probation department;

(4) the prosecuting attorneys who prosecute juvenile cases in juvenile court, municipal court, or justice court;

(5) law enforcement agencies;

(6) each public school district in the county;

(7) governmental service providers approved by the county juvenile board; and

(8) governmental placement facilities approved by the county juvenile board.

(b) A local juvenile justice information system for a multicounty region shall include the partner agencies listed in Subsections (a)(1)-(6) for each county in the region and the following partner agencies from within the multicounty region that have applied for membership in the system and have been approved by the regional juvenile board committee:

(1) governmental service providers; and

(2) governmental placement facilities.

### **§ 58.306. Access to Information; Levels**

(a) This section describes the level of access to information to which each partner agency in a local juvenile justice information system is entitled.

(b) Information is at Access Level 1 if the information relates to a child:

(1) who:

(A) a school official has reasonable grounds to believe has committed an offense for which a report is required under [Section 37.015, Education Code](#); or

(B) has been expelled, the expulsion of which is required to be reported under [Section 52.041](#); and

(2) who has not been charged with a fineable only offense, a status offense, or delinquent conduct.

(c) Information is at Access Level 2 if the information relates to a child who:

(1) is alleged in a justice or municipal court to have committed a fineable only offense, municipal ordinance violation, or status offense; and

(2) has not been charged with delinquent conduct or conduct indicating a need for supervision.

(d) Information is at Access Level 3 if the information relates to a child who is alleged to have engaged in delinquent conduct or conduct indicating a need for supervision.

(e) Level 1 Access is by public school districts in the county or region served by the local juvenile justice information system.

(f) Level 2 Access is by:

(1) justice of the peace courts that process juvenile cases; and

(2) municipal courts that process juvenile cases.

(g) Level 3 Access is by:

(1) the juvenile court;

(2) the prosecuting attorney;

(3) the county juvenile probation department;

(4) law enforcement agencies;

(5) governmental service providers that are partner agencies; and

(6) governmental placement facilities that are partner agencies.

(h) Access for Level 1 agencies is only to information at Level 1. Access for Level 2 agencies is only to information at Levels 1 and 2. Access for Level 3 agencies is to information at Levels 1, 2, and 3.

### **§ 58.307. Confidentiality of Information**

(a) Information that is part of a local juvenile justice system is not public information and may not be released to the public, except as authorized by law.

(b) Information that is part of a local juvenile justice information system is for the professional use of the partner agencies that are members of the system and may be used only by authorized employees of those agencies to discharge duties of those agencies.

(c) Information from a local juvenile justice information system may not be disclosed to persons, agencies, or organizations that are not members of the system except to the extent disclosure is authorized or mandated by this title.

(d) Information in a local juvenile justice information system is subject to destruction, sealing, or restricted access as provided by this title.

(e) Information in a local juvenile justice information system shall be protected from unauthorized access by a system of access security and any access to information in a local juvenile information system performed by browser software shall be at the level of at least 128-bit encryption. A juvenile board or a regional juvenile board committee shall require all partner agencies to maintain security and restrict access in accordance with the requirements of this title.