



Benet Magnuson, Policy Attorney
Work: (512) 441-8123, ext. 105
Executive Director's Cell: (512) 587-7010
bmagnuson@TexasCJC.org
www.TexasCJC.org

TESTIMONY 2013

H.B. 528

Dear Members of the Committee,

Thank you for allowing me this opportunity to present testimony in favor of H.B. 528, an effective policy that will close a gap in Texas law and ensure that juvenile criminal records for minor offenses are not disclosed to the public.

A GAP IN STATUTE CURRENTLY LEAVES SOME JUVENILE RECORDS OPEN TO THE PUBLIC

Most juvenile offenses in Texas are handled by the juvenile justice system, with the stated goal, as set out in the Texas Family Code, "to remove, where appropriate, the taint of criminality from children committing certain unlawful acts."¹ Accordingly, Texas law requires that the records maintained by the juvenile justice system remain confidential and not disclosed to the public.² However, working against this purpose of the juvenile justice system, children charged with fine-only misdemeanors – such as failure to attend school,³ disruption of class,⁴ or disorderly conduct⁵ – are adjudicated in adult criminal courts rather than juvenile courts. Under current law, these juvenile records maintained by adult criminal courts are open to the public until the child is convicted and has satisfied the judgment⁶ – leaving the records of youth charged but not convicted (for example, youth who have received deferred prosecution) open to the public.

KEY FINDINGS

- **Many juvenile fine-only misdemeanor records are open to the public, exposing the personal information of thousands of juveniles.** In Harris County, for example, information such as a juvenile's address, phone number, height, and weight was available through a search engine on the Justice of the Peace website.⁷
- **Low-level youthful offenses seldom lead to serious crimes.** A tracking study by Texas' Legislative Budget Board revealed that only 2.3 percent of youth who entered deferred prosecution in 2009 – including youth receiving deferred prosecution for offenses more serious than fine-only misdemeanors – were later incarcerated in the following three years.⁸
- **Open juvenile records are a serious problem in Texas.** In addition to the fine-only misdemeanor records addressed by this bill, most records in the juvenile justice system are also fully open to employers, landlords, and schools because they are not on "restricted access." The Department of Public Safety currently maintains records on 604,818 people who were arrested when they were younger than 17 years old. Only 40 percent of those records are on restricted access.

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT H.B. 528 BY REPRESENTATIVE TURNER

H.B. 528 makes juvenile fine-only misdemeanor records confidential, even when the youth is not ultimately convicted. Current law leaves these juvenile records open to the public until the child is convicted and has satisfied the judgment⁹ – so the records of youth charged but not convicted (for example, youth who have received deferred prosecution) are open to the public. This bill closes that inadvertent gap in Texas law.

References on reverse

References

¹ Texas Family Code, Chapter 51.

² Texas Family Code, Chapter 58.

³ Texas Education Code, section 25.094

⁴ Texas Education Code, section 37.124

⁵ Texas Penal Code, section 42.01

⁶ Texas Family Code, section 58.00711

⁷ Houston Chronicle "Loophole seems to make some Texas juvenile records public" (March 1, 2012).

⁸ Legislative Budget Board "Statewide Criminal Justice Recidivism and Revocation Rates" (January 2013).

⁹ Texas Family Code, section 58.00711