

- SUBJECT:** Deadline to send juvenile records to court after order to seal
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 8 ayes — Goodman, Pickett, Isett, P. King, Morrison, Naishtat, E. Reyna, Truitt  
0 nays  
1 absent — A. Reyna
- WITNESSES:** None
- BACKGROUND:** When a juvenile justice record is ordered sealed, it is collected for safekeeping with only limited disclosure. The Family Code allows juvenile justice records to be sealed in several ways. The subject of the records can ask the court to seal the records and the court must do so if certain conditions are met. In addition, the court can seal records on its own motion or on receipt of a certificate from the Department of Public Safety (DPS) that the records are eligible to be sealed. In general, sealed records are not destroyed physically but are sent to the juvenile court clerk. Certain records that cannot be sent to the clerk, such as computer entries, may be destroyed.
- DIGEST:** HB 1323 would require law enforcement, prosecuting attorney, court clerk, and juvenile court records that are ordered sealed to be sent to the court issuing the order within 30 days of receiving the order. Public or private agency records that are ordered sealed also would have to be sent to the court issuing the order within 30 days. References in indexes to the records that have been ordered sealed would have to be deleted within 30 days of receiving the order, and verification of the deletion of index references would have to be sent to the court within 30 days of the deletion.
- Agencies and officials who could not seal the records because of incorrect or insufficient information in the order would have to notify the court issuing the order within 30 days of receiving the order. Courts would have to notify persons who applied to have the records sealed or who were the subject of the records or their attorneys within 30 days after being notified that the records could not be sealed because of incorrect or insufficient information.

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HB 1323 would take effect September 1, 1999, and would apply only to orders entered on after that date.

SUPPORTERS  
SAY:

HB 1323 would require the timely sealing of juvenile justice records. This would ensure that court orders are carried out and would assure the subjects of the records that their records are sealed. Thirty days is a reasonable amount of time that would be adequate for all agencies to send their records.

After a court orders a record sealed, the subject of the record often assumes this has been done. If an inquiry is made after a record is sealed, agencies are supposed to respond that no record exists. Sometimes, however, there is a lengthy delay between the sealing order and when records actually are sent to the juvenile court and sealed. This delay can unfairly and wrongfully penalize someone who, for example, is stopped by law enforcement. A delay also could allow someone such as a parent who is supposed to stay away from a child to use the records to track down the child.

HB 1323 also would make provisions for persons to know if there is a delay in sealing their records.

OPPONENTS  
SAY:

The tight time schedule in HB 1323 could be burdensome for some agencies, especially statewide agencies or law enforcement, prosecutors, and juvenile probation offices in larger cities. For example, DPS estimates that it would need six people and about \$466,000 for the fiscal biennium to send its records within even the 60-day limit that would be set under the companion bill, SB 422 by Harris. DPS estimates that it now takes about 100 days to send records to be sealed following a court order.

NOTES:

The companion bill, SB 422 by Harris, would require records to be sent to courts issuing a seal order within 60 days of receiving the order. The Senate passed SB 422 on the Local and Uncontested Calendar on March 23, and it was reported favorably, without amendment, by the House Juvenile Justice and Family Issues Committee on April 19, making it eligible to be considered in lieu of HB 1323.