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Youth Who Have Atoned for Their Offenses and Gotten Back on the Right Path Deserve A Fair Shot at Success

TEXAS SHOULD LIMIT THE LONG-TERM COLLATERAL CONSEQUENCES OF YOUTHFUL OFFENSES

The vast majority of youth who come into contact with the juvenile justice system learn from their mistakes and go on to become productive law-abiding citizens.¹ Indeed, county juvenile probation departments in Texas process tens of thousands of misdemeanor referrals each year for adolescent behavior that does not lead to future crime.² As a result, a main purpose of the juvenile justice system, as set out in the Texas Family Code section 51.01(2)(B), is “to remove, where appropriate, the taint of criminality from children committing certain unlawful acts.”

However, contact with the juvenile justice system continues to create long-term collateral consequences for Texas youth. In most jurisdictions, a juvenile is fingerprinted at the initial contact with the juvenile system; those fingerprints are forwarded to the Texas Department of Public Safety and to the FBI. Background checks for military positions or licensed jobs can reveal a juvenile record. The restriction of a child’s record³ at age 17 can be imperfect, given the complicated and slow process, which involves local, state, and federal government agencies. Even after a juvenile record is restricted, some information may continue to be accessible.

KEY FACTS

- **Low-level youthful offenses seldom lead to serious crimes.**
 - » A tracking study by Texas’ Legislative Budget Board revealed that only 2.7% of youth who entered deferred prosecution⁴ in 2007 were later incarcerated in the following three years. Youth on probation for misdemeanors made up only 0.3% of juvenile probation revocations.⁵
- **The FBI does not have a process for placing juvenile records on “restricted access” and only deletes records when its resources permit.**
 - » As noted above, the automatic restriction process involves local, state, and federal government agencies, and the process can be slow and complicated. Until the FBI deletes a record, it remains in the FBI’s National Crime Information Center database.⁶

SOLUTIONS

- Eliminate fingerprinting of youth charged with misdemeanor offenses.
- Automatically seal or expunge juvenile records at age 17, with limited exceptions consistent with public safety. These processes provide greater protections for young men and women who have atoned for their offenses and gotten back on the right path, easing the employment, housing, and education barriers created by a criminal record.
- Enact efficient discovery procedures in juvenile cases, including allowing defense attorneys to photocopy prosecutor files that are already open to defense attorney inspection. More efficient discovery procedures will free up defense resources to limit long-term collateral consequences for juvenile clients.

References on reverse.

References

¹ See, e.g., T. Moffitt “Life-course-persistent versus adolescence-limited antisocial behavior” (2006).

² Legislative Budget Board “Statewide Criminal Justice Recidivism and Revocation Rates” (January 2011).

³ After a juvenile record is “restricted,” only criminal justice agencies may access the records kept by local juvenile probation departments.

⁴ Deferred prosecution allows local juvenile probation departments to provide services and informal supervision, without a formal adjudication, to youth referred for low-level offenses.

⁵ Legislative Budget Board “Statewide Criminal Justice Recidivism and Revocation Rates” (January 2011).

⁶ Robert Dawson “Texas Juvenile Law, 7th Edition” (2008).