§ 33.14 Sealing of records pertaining to treatment for mental illness.

(a) (1) Any person who has been admitted to receive inpatient or outpatient services for mental illness may commence a special proceeding in the supreme court for an order directing the sealing of those records held by the office of mental health, a facility, or any other individual or public or private entity which has been made a party to the proceeding, which identify the petitioner as a recipient of services for mental illness. The court may order that the petitioner's records be sealed, subject to such limitations or exceptions as the court may impose, upon a finding that:

a. the petitioner was illegally detained by a facility by reason of fraud, error or falsified documents, and the records pertain to such illegal detention; or

b. the petitioner has demonstrated by competent medical evidence that he is not currently suffering from a mental illness, has not for a period of three years received inpatient services for the treatment of a mental illness, and the interests of the petitioner and society would best be served by sealing the petitioner's records. It shall be presumed that it would be in the best interests of the petitioner and society to seal any record of a petitioner's receipt of services for the treatment of mental illness prior to his sixteenth birthday.

(2) Except for such limitations as the court may impose, a court order directing the office of mental health, a facility, or other individual or entity to seal records shall require the office of mental health, facility or other individual or entity to respond to any official or unofficial inquiry concerning the petitioner's history of mental illness as though the admission or receipt of services documented in the sealed records had never occurred.

(3) A petitioner who has obtained an order directing that his or her records be sealed may respond to any official or unofficial inquiry by any person or agency concerning the petitioner's history of mental illness as though the admission or receipt of services documented in the sealed records had never occurred.

(b) Records sealed pursuant to this section may be unsealed and made available only:

(1) upon request of the person who is the subject of the sealed records;

(2) by order of a court upon a demonstration by the party seeking to have the records unsealed that such unsealing is essential to the interests of justice;

(3) upon the commencement of a suit by the person who is the subject of the sealed records or his representative in which such person's confinement or treatment during confinement as documented in the sealed records is at issue; or

(4) seventy-five years after the record has been sealed.