

AMENDED IN ASSEMBLY AUGUST 29, 2001

AMENDED IN ASSEMBLY AUGUST 22, 2001

AMENDED IN SENATE JUNE 4, 2001

AMENDED IN SENATE MAY 2, 2001

AMENDED IN SENATE APRIL 3, 2001

**SENATE BILL**

**No. 940**

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**Introduced by Committee on Judiciary (Senators Escutia  
(Chair), Kuehl, O'Connell, Peace, and Sher)**

February 23, 2001

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An act to amend Section 40513 of the Vehicle Code, and to amend Sections 202, 241.1, 257, 727.3, and 828 of, and to add Sections 727.32 and 827.9 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 940, as amended, Committee on Judiciary. Disclosure of information regarding juveniles.

(1) Existing law provides for the protection and safety of minors under the jurisdiction of the juvenile court. Existing law further requires juvenile courts and other public agencies responsible for administering the juvenile court law to consider the protection of the public, the importance of providing redress for victims, and the best interests of minors subject to these provisions.

This bill would require juvenile court judges to act in accordance with a specified standard of judicial administration recommended by the Judicial Council that encourages juvenile court judges, among other things, to play a role in the leadership of a community in developing

resources for prevention, intervention, and treatment services for at-risk children and families.

(2) Existing law provides that a minor may come within the jurisdiction of the juvenile court on the ground that the minor (a) has been or will be neglected or abused, or (b) has violated a law, an ordinance, or a curfew, or is habitually disobedient or truant. Whenever a minor appears to come within the jurisdiction of the juvenile court on the ground that both (a) and (b) are applicable, the county probation department and the county welfare department are required, pursuant to a jointly developed written protocol, to initially determine which status will serve the best interests of the child and the protection of society. These recommendations are required to be presented to the juvenile court. The court is then required to determine which status is appropriate for the minor.

This bill would establish a similar procedure whenever a minor who is under the jurisdiction of the juvenile court in one county is alleged to come within the jurisdiction of the juvenile court in another county. The bill would also require that any other juvenile court having jurisdiction over the minor shall receive a specified notice from the court in which the petition is filed within 5 calendar days of the presentation of the recommendations of the departments pursuant to these provisions. By imposing additional duties on county probation and child protective services departments and local court employees, the bill would impose a state-mandated local program.

The bill would also provide that child protective services departments, rather than county welfare departments, shall carry out the duties described above.

(3) Existing law generally provides that the status of every child who has been declared a ward of the juvenile court and placed in foster care shall be reviewed at least every 6 months. These provisions also provide that there shall be a permanency planning hearing within 12 months of the date the child first entered foster care and no less often than every 12 months during the period of placement. Under certain conditions, the court may order a hearing to terminate parental rights.

This bill would require the probation department, in any case where a child has been declared a ward of the juvenile court and has been in foster care for 15 of the most recent 22 months, to follow existing procedures to terminate parental rights, unless the probation department has documented a compelling interest for determining that termination of parental rights is not in the child's best interests or that



reasonable reunification efforts have not been provided, as specified. In addition, the bill would require the probation department to make efforts to identify a family for adoption at the time it sets a hearing for termination of parental rights. By imposing additional duties on local probation department employees, the bill would impose a state-mandated local program.

(4) Existing law generally restricts the disclosure of information regarding juvenile offenders. However, information contained in a case file may be inspected by a person designated by court order of a judge of the juvenile court upon filing a petition.

Existing law authorizes a law enforcement agency to disclose information regarding the taking of a minor into custody to another law enforcement agency or to any person or agency which has a legitimate need for the information, as specified. Existing law requires a law enforcement agency to disclose information regarding a minor who has escaped from a secure detention facility, as specified, to a person who has specifically requested this information.

This bill would establish additional disclosure requirements for Los Angeles County. The bill would require a law enforcement agency to release, *upon request*, a complete copy of a juvenile police record, as defined, and would expand the category of persons to whom a law enforcement agency is required to release this information, without notice or consent of the person who is the subject of that record.

These disclosure provisions for Los Angeles County would also require the release, *upon request*, of a redacted copy of the record to specified persons or entities. If that person or entity seeks a complete copy of the record, that person or entity must submit a request using a specified form to the appropriate law enforcement agency. The bill would require the law enforcement agency to take specified actions in response to that request. Among other actions, the law enforcement agency may be required to send a notice of the request to specified persons, to make reasonable efforts to obtain the address of those persons, and, under certain circumstances, to submit the request, any objections to the request, and a copy of the requested record to the juvenile court in order to obtain authorization to release the records. The bill would set forth procedures for obtaining the release of those records. The bill would require out-of-state entities to file a petition to obtain that information. The bill would also require the Judicial Council to develop forms to implement these provisions.



The bill would provide that information received pursuant to these provisions is confidential. An intentional violation of these confidentiality provisions would be a misdemeanor punishable by a fine not to exceed \$500.

By imposing additional duties on law enforcement agencies and by creating new crimes, the bill would impose a state-mandated local program.

(5) Existing law provides that a hearing may be conducted with the consent of the minor, where a minor is charged with a traffic or nontraffic offense.

This bill would exclude infraction violations from that provision and would provide that consent of the minor is not required prior to conducting a hearing upon written notice to appear in the case of an infraction violation. The bill would also authorize a minor to enter a plea at the arraignment upon a written notice to appear in the case of an infraction violation.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 40513 of the Vehicle Code is amended
- 2 to read:
- 3 40513. (a) Whenever written notice to appear has been
- 4 prepared, delivered, and filed with the court, an exact and legible
- 5 duplicate copy of the notice when filed with the magistrate, in lieu



1 of a verified complaint, shall constitute a complaint to which the  
2 defendant may plead “guilty” or “nolo contendere.”

3 If, however, the defendant violates his or her promise to appear  
4 in court or does not deposit lawful bail, or pleads other than  
5 “guilty” or “nolo contendere” to the offense charged, a complaint  
6 shall be filed that shall conform to Chapter 2 (commencing with  
7 Section 948) of Title 5 of Part 2 of the Penal Code, which shall be  
8 deemed to be an original complaint, and thereafter proceedings  
9 shall be had as provided by law, except that a defendant may, by  
10 an agreement in writing, subscribed by him or her and filed with  
11 the court, waive the filing of a verified complaint and elect that the  
12 prosecution may proceed upon a written notice to appear.

13 (b) Notwithstanding subdivision (a), whenever the written  
14 notice to appear has been prepared on a form approved by the  
15 Judicial Council, an exact and legible duplicate copy of the notice  
16 when filed with the magistrate shall constitute a complaint to  
17 which the defendant may enter a plea and, if the notice to appear  
18 is verified, upon which a warrant may be issued. If the notice to  
19 appear is not verified, the defendant may, at the time of  
20 arraignment, request that a verified complaint be filed. In the case  
21 of an infraction violation in which the defendant is a minor, the  
22 defendant may enter a plea at the arraignment upon a written notice  
23 to appear. Notwithstanding any other provision of law, in the case  
24 of an infraction violation, no consent of the minor is required prior  
25 to conducting the hearing upon a written notice to appear.

26 SEC. 2. Section 202 of the Welfare and Institutions Code is  
27 amended to read:

28 202. (a) The purpose of this chapter is to provide for the  
29 protection and safety of the public and each minor under the  
30 jurisdiction of the juvenile court and to preserve and strengthen the  
31 minor’s family ties whenever possible, removing the minor from  
32 the custody of his or her parents only when necessary for his or her  
33 welfare or for the safety and protection of the public. When  
34 removal of a minor is determined by the juvenile court to be  
35 necessary, reunification of the minor with his or her family shall  
36 be a primary objective. When the minor is removed from his or her  
37 own family, it is the purpose of this chapter to secure for the minor  
38 custody, care, and discipline as nearly as possible equivalent to that  
39 which should have been given by his or her parents. This chapter  
40 shall be liberally construed to carry out these purposes.



1 (b) Minors under the jurisdiction of the juvenile court who are  
2 in need of protective services shall receive care, treatment and  
3 guidance consistent with their best interest and the best interest of  
4 the public. Minors under the jurisdiction of the juvenile court as  
5 a consequence of delinquent conduct shall, in conformity with the  
6 interests of public safety and protection, receive care, treatment,  
7 and guidance that is consistent with their best interest, that holds  
8 them accountable for their behavior, and that is appropriate for  
9 their circumstances. This guidance may include punishment that  
10 is consistent with the rehabilitative objectives of this chapter. If a  
11 minor has been removed from the custody of his or her parents,  
12 family preservation and family reunification are appropriate goals  
13 for the juvenile court to consider when determining the disposition  
14 of a minor under the jurisdiction of the juvenile court as a  
15 consequence of delinquent conduct when those goals are  
16 consistent with his or her best interests and the best interests of the  
17 public. When the minor is no longer a ward of the juvenile court,  
18 the guidance he or she received should enable him or her to be a  
19 law-abiding and productive member of his or her family and the  
20 community.

21 (c) It is also the purpose of this chapter to reaffirm that the duty  
22 of a parent to support and maintain a minor child continues, subject  
23 to the financial ability of the parent to pay, during any period in  
24 which the minor may be declared a ward of the court and removed  
25 from the custody of the parent.

26 (d) Juvenile courts and other public agencies charged with  
27 enforcing, interpreting, and administering the juvenile court law  
28 shall consider the safety and protection of the public, the  
29 importance of redressing injuries to victims, and the best interests  
30 of the minor in all deliberations pursuant to this chapter.  
31 Participants in the juvenile justice system shall hold themselves  
32 accountable for its results. They shall act in conformity with a  
33 comprehensive set of objectives established to improve system  
34 performance in a vigorous and ongoing manner. In working to  
35 improve system performance, the presiding judge of the juvenile  
36 court and other juvenile court judges designated by the presiding  
37 judge of the juvenile court shall take into consideration the  
38 recommendations contained in subdivision (e) of Standard 24 of  
39 the Standards of Judicial Administration, contained in Division I  
40 of the Appendix to the California Rules of Court.



1 (e) As used in this chapter, “punishment” means the  
2 imposition of sanctions. It shall not include a court order to place  
3 a child in foster care as defined by Section 727.3. Permissible  
4 sanctions may include the following:

- 5 (1) Payment of a fine by the minor.
- 6 (2) Rendering of compulsory service without compensation  
7 performed for the benefit of the community by the minor.
- 8 (3) Limitations on the minor’s liberty imposed as a condition  
9 of probation or parole.
- 10 (4) Commitment of the minor to a local detention or treatment  
11 facility, such as a juvenile hall, camp, or ranch.
- 12 (5) Commitment of the minor to the Department of the Youth  
13 Authority.

14 “Punishment,” for the purposes of this chapter, does not  
15 include retribution.

16 (f) In addition to the actions authorized by subdivision (e), the  
17 juvenile court may, as appropriate, direct the offender to complete  
18 a victim impact class, participate in victim offender conferencing  
19 subject to the victim’s consent, pay restitution to the victim or  
20 victims, and make a contribution to the victim restitution fund after  
21 all victim restitution orders and fines have been satisfied, in order  
22 to hold the offender accountable or restore the victim or  
23 community.

24 SEC. 3. Section 241.1 of the Welfare and Institutions Code is  
25 amended to read:

26 241.1. (a) Whenever a minor appears to come within the  
27 description of both Section 300 and Section 601 or 602, the county  
28 probation department and the child protective services department  
29 shall, pursuant to a jointly developed written protocol described in  
30 subdivision (b), initially determine which status will serve the best  
31 interests of the minor and the protection of society. The  
32 recommendations of both departments shall be presented to the  
33 juvenile court with the petition that is filed on behalf of the minor,  
34 and the court shall determine which status is appropriate for the  
35 minor. Any other juvenile court having jurisdiction over the minor  
36 shall receive notice from the court, within five calendar days, of  
37 the presentation of the recommendations of the departments. The  
38 notice shall include the name of the judge to whom, or the  
39 courtroom to which, the recommendations were presented.



1 (b) The probation department and the child protective services  
2 department in each county shall jointly develop a written protocol  
3 to ensure appropriate local coordination in the assessment of a  
4 minor described in subdivision (a), and the development of  
5 recommendations by these departments for consideration by the  
6 juvenile court. These protocols shall require, which requirements  
7 shall not be limited to, consideration of the nature of the referral,  
8 the age of the minor, the prior record of the minor's parents for  
9 child abuse, the prior record of the minor for out-of-control or  
10 delinquent behavior, the parents' cooperation with the minor's  
11 school, the minor's functioning at school, the nature of the minor's  
12 home environment, and the records of other agencies which have  
13 been involved with the minor and his or her family. The protocols  
14 also shall contain provisions for resolution of disagreements  
15 between the probation and child protective services departments  
16 regarding the need for dependency or ward status and provisions  
17 for determining the circumstances under which a new petition  
18 should be filed to change the minor's status.

19 (c) Whenever a minor who is under the jurisdiction of the  
20 juvenile court of a county pursuant to Section 300, 601, or 602 is  
21 alleged to come within the description of Section 300, 601, or 602  
22 by another county, the county probation department or child  
23 protective services department in the county that has jurisdiction  
24 under Section 300, 601, or 602 and the county probation  
25 department or child protective services department of the county  
26 alleging the minor to be within one of those sections shall initially  
27 determine which status will best serve the best interests of the  
28 minor and the protection of society. The recommendations of both  
29 departments shall be presented to the juvenile court in which the  
30 petition is filed on behalf of the minor, and the court shall  
31 determine which status is appropriate for the minor. In making  
32 their recommendation to the juvenile court, the departments shall  
33 conduct an assessment consistent with the requirements of  
34 subdivision (b). Any other juvenile court having jurisdiction over  
35 the minor shall receive notice from the court in which the petition  
36 is filed within five calendar days of the presentation of the  
37 recommendations of the departments. The notice shall include the  
38 name of the judge to whom, or the courtroom to which, the  
39 recommendations were presented.



1 (d) Nothing in this section shall be construed to authorize the  
2 filing of a petition or petitions, or the entry of an order by the  
3 juvenile court, to make a minor simultaneously both a dependent  
4 child and a ward of the court.

5 SEC. 4. Section 257 of the Welfare and Institutions Code is  
6 amended to read:

7 257. (a) (1) Except in the case of infraction violations, with  
8 the consent of the minor, a hearing before a juvenile hearing  
9 officer, or a hearing before a referee or a judge of the juvenile  
10 court, where the minor is charged with an offense as specified in  
11 this section, may be conducted upon an exact legible copy of a  
12 written notice given pursuant to Article 2 (commencing with  
13 Section 40500) of Chapter 2 of Division 17 or Section 41103 of the  
14 Vehicle Code, or an exact legible copy of a written notice given  
15 pursuant to Chapter 5C (commencing with Section 853.5) of Title  
16 3 of Part 2 of the Penal Code when the offense charged is a  
17 violation listed in Section 256, or an exact legible copy of a citation  
18 as set forth in subdivision (e) of Section 660.5, in lieu of a petition  
19 as provided in Article 16 (commencing with Section 650).

20 (2) Notwithstanding any other provision of law, in the case of  
21 infraction violations, consent of the minor is not required prior to  
22 conducting a hearing upon written notice to appear.

23 (b) Prior to the hearing, the judge, referee, or juvenile hearing  
24 officer may request the probation officer to commence a  
25 proceeding, as provided in Article 16 (commencing with Section  
26 650), in lieu of a hearing in Informal Juvenile and Traffic Court.

27 SEC. 5. Section 727.3 of the Welfare and Institutions Code is  
28 amended to read:

29 727.3. The purpose of this section is to provide a means to  
30 monitor the care of every child in foster care who has been declared  
31 a ward of the juvenile court pursuant to Section 601 or 602 to  
32 ensure that everything reasonably possible is done to facilitate the  
33 safe early return of the child to his or her own home or to establish  
34 a permanent plan for the child.

35 (a) Whenever the court orders the care, custody, and control of  
36 the minor to be under the supervision of the probation officer for  
37 placement pursuant to subdivision (a) of Section 727, the juvenile  
38 court shall order the probation department to ensure the provision  
39 of services to facilitate the safe return of the child to a safe home



1 or the permanent placement of the child, and to address the needs  
2 of the child while in foster care.

3 (b) A child shall be deemed to have entered foster care, for  
4 purposes of this section, on the date that is 60 days after the date  
5 on which the minor was removed from his or her home.

6 (c) The status of every child declared a ward and placed in  
7 foster care shall be reviewed at the time of the initial placement  
8 order and then as determined by the court but no less frequently  
9 than once every six months, as calculated from the date the minor  
10 entered foster care. If the court so elects, the court may declare the  
11 hearing at which the court orders the care, custody, and control of  
12 the minor to be under the supervision of the probation officer for  
13 foster care placement pursuant to subdivision (a) of Section 727  
14 as the first status review hearing. At each status review hearing, the  
15 court shall consider the safety of the child and make findings and  
16 orders which determine the following:

17 (1) The continuing necessity for and appropriateness of the  
18 placement.

19 (2) The extent of the probation department's compliance with  
20 the case plan in making reasonable efforts to safely return the child  
21 to the child's home or to complete whatever steps are necessary to  
22 finalize the permanent placement of the child.

23 (3) The extent of progress that has been made toward  
24 alleviating or mitigating the causes necessitating placement in  
25 foster care.

26 (4) The likely date by which the child may be returned to and  
27 safely maintained in the home or placed for legal guardianship or  
28 adoption.

29 (d) The status review hearings required by subdivision (c) may  
30 be heard by an administrative review panel, provided:

31 (1) The administrative review shall be open to participation by  
32 the child and parents or legal guardians and all those persons  
33 entitled to notice under Section 727.4.

34 (2) The child and his or her parents or legal guardians receive  
35 proper notice as required in Section 727.4.

36 (3) The administrative review panel is composed of persons  
37 appointed by the presiding judge of the juvenile court, the  
38 membership of which shall include at least one person who is not  
39 responsible for the case management of, or delivery of services to,  
40 the child or the parents who are the subject of the review.



1 (4) The findings of the administrative review panel shall be  
2 submitted to the juvenile court for the court's approval and shall  
3 become part of the official court record.

4 (e) At the status review hearing the court shall order return of  
5 the child to the physical custody of his or her parent or legal  
6 guardian unless the court finds, by a preponderance of the  
7 evidence, that the return of the child to his or her parent or legal  
8 guardian would create a substantial risk of detriment to the safety,  
9 protection, or physical or emotional well-being of the child. The  
10 probation department shall have the burden of establishing that  
11 detriment. The failure of the child to participate in court-ordered  
12 treatment programs shall be prima facie evidence that the return  
13 of the child would be detrimental. In making its determination, the  
14 court shall review and consider the social study report and  
15 recommendations pursuant to Section 706.5 and the report and  
16 recommendations of any child advocate appointed for the child in  
17 the case, and shall consider the efforts or progress, or both,  
18 demonstrated by the child and family and the extent to which the  
19 child availed himself or herself of the services provided.

20 (f) There shall be a permanency planning hearing within 12  
21 months of the date the child entered foster care and periodically  
22 thereafter, but no less frequently than every 12 months during the  
23 period of placement. It shall be the duty of the probation officer to  
24 prepare a written social study report pursuant to Section 706.5  
25 containing a statement of the responsibilities of the parents or legal  
26 guardians, the probation department, the caseworker of the  
27 probation department, the foster parents, and the child. The written  
28 social study shall also describe the goals for the child's placement  
29 and care with the department, including the services provided to  
30 achieve the goal that the child shall exhibit lawful and productive  
31 behavior, and the appropriate plan for permanence for the child.  
32 The report shall be submitted to the court at the permanency  
33 planning hearing.

34 (1) At all permanency planning hearings, the court shall  
35 determine the permanent plan for the child that includes a  
36 determination of whether the child will be returned to the physical  
37 custody of the parent or legal guardian. Upon findings that there  
38 is substantial probability that additional services will aid the safe  
39 return of the child to the physical custody of his or her parents or  
40 legal guardian within six months, the court may order further



1 reunification services to be provided to the child and parent or  
2 legal guardian for a period not to exceed six months. For purposes  
3 of this section, in order to find a substantial probability, the court  
4 shall be required to find the child and his or her parents or  
5 guardians to have demonstrated the capacity and ability to  
6 complete the objectives of his or her case plan. If the child is not  
7 returned to a parent or legal guardian at the permanency hearing,  
8 the court shall determine whether or not the child should be  
9 referred for adoption proceedings, referred for legal guardianship  
10 pursuant to subdivision (c) of Section 728, or referred to an  
11 alternative planned permanent living arrangement, including  
12 whether, because of the child's special needs or circumstances, the  
13 child should be continued in foster care on a permanent basis. The  
14 court shall also determine the extent of progress in achieving the  
15 treatment goals of the plan. In the case of a child who has reached  
16 16 years of age, the hearing shall, in addition, determine the  
17 services needed to assist the child to make the transition from  
18 foster care to independent living.

19 (2) An "alternative planned permanent living arrangement"  
20 means a permanent foster care placement with a specific identified  
21 foster family on a permanent basis, a facility described in Section  
22 11402, or an independent living arrangement, such as  
23 emancipation by marriage, court order, or reaching the age of  
24 majority.

25 (3) When a minor is placed in long-term foster care with a  
26 relative, the court may authorize the relative to provide the same  
27 legal consent for the minor's medical, surgical, and dental care,  
28 and education as the custodial parent of the minor.

29 (4) If the child has a continuing involvement with his or her  
30 parents or legal guardians, the parents or legal guardians shall be  
31 involved in the planning for a permanent placement. The court  
32 order placing the child in a permanent placement shall include a  
33 specification of the nature and frequency of visiting arrangements  
34 with the parents or legal guardians.

35 (5) Any change in the placement of a child in permanent foster  
36 care or the responsibilities of the foster parents for that child shall  
37 be made only by order of the court that ordered the placement  
38 pursuant to a petition filed pursuant to Section 778.

39 (g) Prior to any status or permanency hearing involving a child  
40 in the physical custody of a community care facility or foster



1 family agency, the facility or agency shall file with the court a  
2 report containing its recommendations. Prior to any status or  
3 permanency hearing involving the physical custody of a foster  
4 parent, relative caregiver, preadoptive parent, or legal guardian,  
5 that person may present to the court a report containing his or her  
6 recommendations. The court shall consider all reports and  
7 recommendations, filed pursuant to this subdivision.

8 (h) If the minor is not returned to the custody of a parent or legal  
9 guardian at the permanency hearing, the court shall do one of the  
10 following:

11 (1) Continue the case for up to six months for a permanency  
12 review hearing, provided that the hearing shall occur within 18  
13 months of the date the minor was originally taken from the  
14 physical custody of his or her parent or legal guardian. The court  
15 shall continue the case only if it finds that there is a substantial  
16 probability that the minor will be returned to the physical custody  
17 of his or her parent or legal guardian and safely maintained in the  
18 home within the extended period of time or that reasonable  
19 services have not been provided to the parent or guardian.

20 The court shall inform the parent or legal guardian that if the  
21 minor cannot be returned home by the next permanency review  
22 hearing, a proceeding pursuant to Section 727.31 may be  
23 instituted. The court shall not order that a hearing pursuant to  
24 Section 727.31 be held unless there is clear and convincing  
25 evidence that reasonable services have been provided or offered to  
26 the parent or legal guardian.

27 (2) Order that the minor remain in long-term foster care, but  
28 only if the court finds by clear and convincing evidence, based  
29 upon the evidence already presented to it, including a  
30 recommendation by the State Department of Social Services when  
31 it is acting as an adoption agency in counties that are not served by  
32 a county adoption agency or by a licensed county adoption agency,  
33 that there is a compelling reason for determining that a hearing  
34 held pursuant to Section 727.31 is not in the best interest of the  
35 minor because the minor is not a proper subject for adoption and  
36 has no one willing to accept legal guardianship. For purposes of  
37 this section, a recommendation by the State Department of Social  
38 Services when it is acting as an adoption agency in counties that  
39 are not served by a county adoption agency or by a licensed county  
40 adoption agency that adoption is not in the best interest of the



1 minor shall constitute a compelling reason for the court's  
2 determination. That recommendation shall be based on the present  
3 circumstances of the minor and shall not preclude a different  
4 recommendation at a later date if the minor's circumstances  
5 change.

6 (3) Order that the hearing be held within 120 days, pursuant to  
7 Section 727.31, if there is clear and convincing evidence that  
8 reasonable services have been provided or offered to the parents.

9 (i) Notwithstanding subdivision (h), the court shall not order a  
10 hearing pursuant to Section 727.31 if the probation department has  
11 documented a compelling reason for determining that the  
12 termination of parental rights would not be in the minor's best  
13 interests. A compelling reason is either of the following:

14 (1) A determination made by the probation officer that any of  
15 the following applies:

16 (A) The parent or legal guardians have maintained regular  
17 visitation and contact with the minor and the minor would benefit  
18 from continuing the relationship.

19 (B) The permanent plan is for the minor to return to his or her  
20 own home.

21 (C) A child 12 years of age or older objects to termination of  
22 parental rights.

23 (D) The minor is placed in a residential treatment facility,  
24 adoption is unlikely or undesirable, and continuation of parental  
25 rights will not prevent finding the minor a permanent family  
26 placement if the parents cannot resume custody when residential  
27 care is no longer needed.

28 (2) A determination by the licensed county adoption agency or  
29 the State Department of Social Services when it is acting as an  
30 adoption agency in counties that are not served by a county  
31 adoption agency that the minor is unlikely to be adopted and the  
32 child is living with a relative who is unable or unwilling to adopt  
33 the child because exceptional circumstances that do not include an  
34 unwillingness to accept legal or financial responsibility for the  
35 minor but who is willing and capable of providing the minor with  
36 a stable and permanent home environment, and the removal of the  
37 minor from the physical custody of his or her relative or foster  
38 parent would be detrimental to the minor's emotional well-being.

39 (j) Whenever the court orders that a hearing pursuant to Section  
40 727.31 shall be held, it shall direct the agency supervising the



1 minor and the licensed county adoption agency, or the State  
2 Department of Social Services when it is acting as an adoption  
3 agency in counties that are not served by a county adoption agency,  
4 to prepare an assessment that shall include all of the following:

5 (1) Current search efforts for an absent parent or parents.

6 (2) A review of the amount and nature of any contact between  
7 the minor and his or her parents and other members of his or her  
8 extended family since the time of placement. Although the  
9 extended family of each minor shall be reviewed on a case-by-case  
10 basis, “extended family” for the purpose of the paragraph shall  
11 include, but not be limited to, the minor’s siblings, grandparents,  
12 aunts, and uncles.

13 (3) An evaluation of the minor’s medical, developmental,  
14 scholastic, mental, and emotional status.

15 (4) A preliminary assessment of the eligibility and  
16 commitment of any identified prospective adoptive parent or  
17 guardian, particularly the caretaker, to include a social history  
18 including screening for criminal records and prior referrals for  
19 child abuse or neglect, the capability to meet the minor’s needs,  
20 and the understanding of the legal and financial rights and  
21 responsibilities of adoption and guardianship. If a proposed  
22 guardian is a relative of the minor, and the relative was assessed  
23 for foster care placement of the minor prior to January 1, 1998, the  
24 assessment shall also consider, but need not be limited to, all of the  
25 factors specified in subdivision (a) of Section 361.3.

26 (5) The relationship of the minor to any identified prospective  
27 adoptive parent or guardian, the duration and character of the  
28 relationship, the motivation of seeking adoption or guardianship,  
29 and a statement from the minor concerning placement and the  
30 adoption or guardianship, unless the minor’s age or physical,  
31 emotional, or other condition precludes his or her meaningful  
32 response, and if so, a description of the condition.

33 (6) An analysis of the likelihood that the minor will be adopted  
34 if parental rights are terminated.

35 (7) Whenever a court orders a hearing pursuant to Section  
36 727.31, it shall order that the State Department of Social Services  
37 when it is acting as an adoption agency in counties that are not  
38 served by a county adoption agency or the licensed county  
39 adoption agency has exclusive responsibility for determining the  
40 adoptive placement and making all adoption-related decisions.



1 (k) Nothing in this section shall be construed to limit the ability  
2 of a parent to voluntarily relinquish his or her child to the State  
3 Department of Social Services when it is acting as an adoption  
4 agency in counties that are not served by a county adoption agency  
5 or to a licensed county adoption agency at any time while the minor  
6 is a ward of the juvenile court if the department agency is willing  
7 to accept the relinquishment.

8 SEC. 6. Section 727.32 is added to the Welfare and  
9 Institutions Code, to read:

10 727.32. (a) In any case where a child has been declared a  
11 ward of the juvenile court and has been in foster care for 15 of the  
12 most recent 22 months, the probation department shall follow the  
13 procedures described in Section 727.31 to terminate the parental  
14 rights of the child’s parents, unless either:

15 (1) The probation department has documented in the probation  
16 department file a compelling reason for determining that  
17 termination of parental rights would not be in the child’s best  
18 interests.

19 (2) The probation department has not provided the family with  
20 reasonable efforts necessary to achieve reunification.

21 (b) If the probation department has documented a compelling  
22 reason for not terminating parental rights at the time of the  
23 permanency planning hearing pursuant to subdivision (i) of  
24 Section 727.3, the probation department is not required to provide  
25 additional documentation to comply with this section.

26 (c) For purposes of this section, compelling reasons for not  
27 terminating parental rights are those described in subdivision (i)  
28 of Section 727.3.

29 (d) For purposes of this section, 15 out of the 22 months shall  
30 be calculated from the “date of entry into foster care,” as defined  
31 in paragraph (4) of subdivision (d) of Section 727.4. When a child  
32 experiences multiple exits from and entries into foster care during  
33 the 22-month period, the 15 months shall be calculated by adding  
34 the total number of months the child spent in foster care in the past  
35 22 months. However, trial home visits and runaway episodes may  
36 not be included in calculating the 15 months in foster care.

37 (e) Upon setting a hearing pursuant to Section 727.31, the  
38 probation department shall concurrently make efforts to identify  
39 an approved family for adoption.



1 SEC. 7. Section 827.9 is added to the Welfare and Institutions  
2 Code, to read:

3 827.9. (a) It is the intent of the Legislature to reaffirm its  
4 belief that records or information gathered by law enforcement  
5 agencies relating to the taking of a minor into custody, temporary  
6 custody, or detention (juvenile police records) should be  
7 confidential. Confidentiality is necessary to protect those persons  
8 from being denied various opportunities, to further the  
9 rehabilitative efforts of the juvenile justice system, and to prevent  
10 the lifelong stigma that results from having a juvenile police  
11 record. Although these records generally should remain  
12 confidential, the Legislature recognizes that certain circumstances  
13 require the release of juvenile police records to specified persons  
14 and entities. The purpose of this section is to clarify the persons  
15 and entities entitled to receive a complete copy of a juvenile police  
16 record, to specify the persons or entities entitled to receive copies  
17 of juvenile police records with certain identifying information  
18 about other minors removed from the record, and to provide  
19 procedures for others to request a copy of a juvenile police record.  
20 This section does not govern the release of police records  
21 involving a minor who is the witness to or victim of a crime who  
22 is protected by other laws including, but not limited to, Section  
23 841.5 of the Penal Code, Section 11167 et seq. of the Penal Code,  
24 and Section 6254 Government Code.

25 (b) Except as provided in Sections 389 and 781 of this code or  
26 Section 1203.45 of the Penal Code, a law enforcement agency  
27 shall release, *upon request*, a complete copy of a juvenile police  
28 record, as defined in subdivision (m), without notice or consent  
29 from the person who is the subject of the juvenile police record to  
30 the following persons or entities:

31 (1) Other California law enforcement agencies including the  
32 office of the Attorney General of California, any district attorney,  
33 the Department of Corrections, the Department of the Youth  
34 Authority, and any peace officer as specified in subdivision (a) of  
35 Section 830.1 of the Penal Code.

36 (2) School district police.

37 (3) Child protective agencies as defined in Section 11165.9 of  
38 the Penal Code.



1 ~~(4) State Board of Control or designated local victim centers in~~  
2 ~~accordance with the provisions of subdivision (d) of Section~~  
3 ~~13968 of the Government Code.~~

4 ~~(5)–~~

5 (4) The attorney representing the juvenile who is the subject of  
6 the juvenile police record in a criminal or juvenile proceeding.

7 (c) Except as provided in Sections 389 and 781 of this code or  
8 Section 1203.45 of the Penal Code, law enforcement agencies  
9 shall release, *upon request*, a copy of a juvenile police record to  
10 the following persons and entities only if identifying information  
11 pertaining to any other juvenile, within the meaning of subdivision  
12 (n), has been removed from the record:

13 (1) The person who is the subject of the juvenile police record.

14 (2) The parents or guardian of a minor who is the subject of the  
15 juvenile police record.

16 (3) An attorney for a parent or guardian of a minor who is the  
17 subject of the juvenile police record.

18 (4) The United States Immigration and Naturalization Service  
19 with written consent from the person who is the subject of the  
20 juvenile police record specifically authorizing the release of the  
21 confidential juvenile police record to that entity.

22 (5) Military personnel with written consent from the person  
23 who is the subject of the juvenile police record specifically  
24 authorizing the release of the confidential juvenile police record  
25 to the military personnel who submitted the request.

26 (d) (1) (A) If a person or entity listed in subdivision (c) seeks  
27 to obtain a complete copy of a juvenile police record that contains  
28 identifying information concerning the taking into custody or  
29 detention of any other juvenile, within the meaning of subdivision  
30 (n), who is not a dependent child or a ward of the juvenile court,  
31 that person or entity shall submit a completed Petition to Obtain  
32 Report of Law Enforcement Agency, as developed pursuant to  
33 subdivision (i), to the appropriate law enforcement agency. The  
34 law enforcement agency shall send a notice to the following  
35 persons that a Petition to Obtain Report of Law Enforcement  
36 Agency has been submitted to the agency:

37 (i) The juvenile about whom information is sought.

38 (ii) The parents or guardian of any minor described in  
39 subparagraph (i). The law enforcement agency shall make  
40 reasonable efforts to obtain the address of the parents or guardian.



1 (B) For purposes of responding to a request submitted pursuant  
2 to this subdivision, a law enforcement agency may check the  
3 Juvenile Automated Index or may contact the juvenile court to  
4 determine whether a person is a dependent child or a ward of the  
5 juvenile court and whether parental rights have been terminated or  
6 the juvenile has been emancipated.

7 (C) The notice sent pursuant to this subdivision shall include  
8 the following information:

9 (i) The identity of the person or entity requesting a copy of the  
10 juvenile police record.

11 (ii) A copy of the completed Petition to Obtain Report of Law  
12 Enforcement Agency.

13 (iii) The time period for submitting an objection to the law  
14 enforcement agency, which shall be 20 days if notice is provided  
15 by mail or confirmed fax, or 15 days if notice is provided by  
16 personal service.

17 (iv) The means to submit an objection.

18 A law enforcement agency shall issue notice pursuant to this  
19 section within 20 days of the request. If no objections are filed, the  
20 law enforcement agency shall release the juvenile police record  
21 within 15 days of the expiration of the objection period.

22 (D) If any objections to the disclosure of the other juvenile's  
23 information are submitted to the law enforcement agency, the law  
24 enforcement agency shall send the completed Petition to Obtain  
25 Report of Law Enforcement Agency, the objections, and a copy of  
26 the requested juvenile police record to the presiding judge of the  
27 juvenile court or, in counties with no presiding judge of the  
28 juvenile court, the judge of the juvenile court or his or her  
29 designee, to obtain authorization from the court to release a  
30 complete copy of the juvenile police record.

31 (2) If a person or entity listed in subdivision (c) seeks to obtain  
32 a complete copy of a juvenile police record that contains  
33 identifying information concerning the taking into custody or  
34 detention of any other juvenile, within the meaning of subdivision  
35 (n), who is a dependent child or a ward of the juvenile court, that  
36 person or entity shall submit a Petition to Obtain Report of Law  
37 Enforcement Agency, as developed pursuant to subdivision (i), to  
38 the appropriate law enforcement agency. The law enforcement  
39 agency shall send that Petition to Obtain Report of Law  
40 Enforcement Agency and a completed petition for authorization



1 to release the information to that person or entity along with a  
2 complete copy of the requested juvenile police record to the  
3 presiding judge of the juvenile court, or, in counties with no  
4 presiding judge of the juvenile court, the judge of the juvenile  
5 court or his or her designees. The juvenile court shall provide  
6 notice of the petition for authorization to the following persons:

7 (A) If the person who would be identified if the information is  
8 released is a minor who is a dependent child of the juvenile court,  
9 notice of the petition shall be provided to the following persons:

10 (i) The minor.

11 (ii) The attorney of record for the minor.

12 (iii) The parents or guardian of the minor, unless parental rights  
13 have been terminated.

14 (iv) The child protective agency responsible for the minor.

15 (v) The attorney representing the child protective agency  
16 responsible for the minor.

17 (B) If the person who would be identified if the information is  
18 released is a ward of the juvenile court, notice of the petition shall  
19 be provided to the following:

20 (i) The ward.

21 (ii) The attorney of record for the ward.

22 (iii) The parents or guardian of the ward if the ward is under 18  
23 years of age, unless parental rights have been terminated.

24 (iv) The district attorney.

25 (v) The probation department.

26 (e) Except as otherwise provided in this section or in Sections  
27 389 and 781 of this code or Section 1203.45 of the Penal Code, law  
28 enforcement agencies shall release copies of juvenile police  
29 records to any other person designated by court order upon the  
30 filing of a Petition to Obtain Report of Law Enforcement Agency  
31 with the judicial court. The petition shall be filed with the  
32 presiding judge of the juvenile court, or, in counties with no  
33 presiding judge of the juvenile court, the judge of the juvenile  
34 court or his or her designee, in the county where the juvenile police  
35 record is maintained.

36 (f) (1) After considering the petition and any objections  
37 submitted to the juvenile court pursuant to paragraph (1) or (2) of  
38 subdivision (d), the court shall determine whether the law  
39 enforcement agency may release a complete copy of the juvenile  
40 police record to the person or entity that submitted the request.



1 (2) In determining whether to authorize the release of a juvenile  
2 police record, the court shall balance the interests of the juvenile  
3 who is the subject of the record, the petitioner, and the public. The  
4 juvenile court may issue orders prohibiting or limiting the release  
5 of information contained in the juvenile police record. The court  
6 may also deny the existence of a juvenile police record where the  
7 record is properly sealed or the juvenile who is the subject of the  
8 record has properly denied its existence.

9 (3) Prior to authorizing the release of any juvenile police  
10 record, the juvenile court shall ensure that notice and an  
11 opportunity to file an objection to the release of the record has been  
12 provided to the juvenile who is the subject of the record or who  
13 would be identified if the information is released, that person's  
14 parents or guardian if he or she is under 18 years of age, and any  
15 additional person or entity described in subdivision (d), as  
16 applicable. The period for filing an objection shall be 20 days from  
17 the date notice is given if notice is provided by mail or confirmed  
18 fax and 15 days from the date notice is given if notice is provided  
19 by personal service. If review of the petition is urgent, the  
20 petitioner may file a motion with the presiding judge of the  
21 juvenile court showing good cause why the objection period  
22 should be shortened. The court shall issue a ruling on the  
23 completed petition within 15 days of the expiration of the  
24 objection period.

25 (g) Any out-of-state entity comparable to the California  
26 entities listed in paragraphs (1) to (5), inclusive, of subdivision (b)  
27 shall file a petition with the presiding judge of the juvenile court  
28 in the county where the juvenile police record is maintained in  
29 order to receive a copy of a juvenile police record. A petition from  
30 that entity may be granted on an ex parte basis.

31 (h) Nothing in this section shall require the release of  
32 confidential victim or witness information protected by other laws  
33 including, but not limited to, Section 841.5 of the Penal Code,  
34 Section 11167 et seq. of the Penal Code, and Section 6254 of the  
35 Government Code.

36 (i) The Judicial Council, in consultation with the California  
37 Law Enforcement Association of Record Supervisors (CLEARS),  
38 shall develop forms for distribution by law enforcement agencies  
39 to the public to implement this section. Those forms shall include,  
40 but are not limited to, the Petition to Obtain Report of Law



1 Enforcement Agency. The material for the public shall include  
2 information about the persons who are entitled to a copy of the  
3 juvenile police record and the specific procedures for requesting  
4 a copy of the record if a petition is necessary. The Judicial Council  
5 shall provide law enforcement agencies with suggested forms for  
6 compliance with the notice provisions set forth in subdivision (d).

7 (j) Any information received pursuant to subdivisions (a) to  
8 (e), inclusive, and (g) of this section shall be received in  
9 confidence for the limited purpose for which it was provided and  
10 shall not be further disseminated. An intentional violation of the  
11 confidentiality provisions of this section is a misdemeanor,  
12 punishable by a fine not to exceed five hundred dollars (\$500).

13 (k) A court shall consider any information relating to the taking  
14 of a minor into custody, if the information is not contained in a  
15 record which has been sealed, for purposes of determining whether  
16 an adjudication of the commission of a crime as a minor warrants  
17 a finding that there are circumstances in aggravation pursuant to  
18 Section 1170 of the Penal Code or to deny probation.

19 (l) When a law enforcement agency has been notified pursuant  
20 to Section 1155 that a minor has escaped from a secure detention  
21 facility, the law enforcement agency shall release the name of, and  
22 any descriptive information about, the minor to a person who  
23 specifically requests this information. The law enforcement  
24 agency may release the information on the minor without a request  
25 to do so if it finds that release of the information would be  
26 necessary to assist in recapturing the minor or that it would be  
27 necessary to protect the public from substantial physical harm.

28 (m) For purposes of this section, a “juvenile police record”  
29 refers to records or information relating to the taking of a minor  
30 into custody, temporary custody, or detention.

31 (n) For purposes of this section, with respect to a juvenile  
32 police record, “any other juvenile” refers to additional minors  
33 who were taken into custody or temporary custody, or detained and  
34 who also could be considered a subject of the juvenile police  
35 record.

36 (o) This section shall only apply to Los Angeles County.

37 SEC. 8. Section 828 of the Welfare and Institutions Code is  
38 amended to read:

39 828. (a) Except as provided in Sections 389 , 781, and 827.9  
40 of this code or Section 1203.45 of the Penal Code, any information



1 gathered by a law enforcement agency relating to the taking of a  
2 minor into custody may be disclosed to another law enforcement  
3 agency, including a school district police or security department,  
4 or to any person or agency which has a legitimate need for the  
5 information for purposes of official disposition of a case. When the  
6 disposition of a taking into custody is available, it shall be included  
7 with any information disclosed.

8 A court shall consider any information relating to the taking of  
9 a minor into custody, if the information is not contained in a record  
10 which has been sealed, for purposes of determining whether  
11 adjudications of commission of crimes as a juvenile warrant a  
12 finding that there are circumstances in aggravation pursuant to  
13 Section 1170 of the Penal Code or to deny probation.

14 (b) When a law enforcement agency has been notified pursuant  
15 to Section 1155 that a minor has escaped from a secure detention  
16 facility, the law enforcement agency shall release the name of, and  
17 any descriptive information about, the minor to a person who  
18 specifically requests this information. The law enforcement  
19 agency may release the information on the minor without a request  
20 to do so if it finds that release of the information would be  
21 necessary to assist in recapturing the minor or that it would be  
22 necessary to protect the public from substantial physical harm.

23 SEC. 9. Due to the unique circumstances of Los Angeles  
24 County with respect to juvenile records, the Legislature hereby  
25 finds and declares that a general statute cannot be made applicable  
26 within the meaning of Section 16 of Article IV of the California  
27 Constitution. Therefore, the special legislation contained in  
28 Section 7 of this act is necessarily applicable only to Los Angeles  
29 County.

30 SEC. 10. No reimbursement is required by this act pursuant  
31 to Section 6 of Article XIII B of the California Constitution for  
32 certain costs that may be incurred by a local agency or school  
33 district because in that regard this act creates a new crime or  
34 infraction, eliminates a crime or infraction, or changes the penalty  
35 for a crime or infraction, within the meaning of Section 17556 of  
36 the Government Code, or changes the definition of a crime within  
37 the meaning of Section 6 of Article XIII B of the California  
38 Constitution.

39 However, notwithstanding Section 17610 of the Government  
40 Code, if the Commission on State Mandates determines that this



1 act contains other costs mandated by the state, reimbursement to  
2 local agencies and school districts for those costs shall be made  
3 pursuant to Part 7 (commencing with Section 17500) of Division  
4 4 of Title 2 of the Government Code. If the statewide cost of the  
5 claim for reimbursement does not exceed one million dollars  
6 (\$1,000,000), reimbursement shall be made from the State  
7 Mandates Claims Fund.

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