

ASSEMBLY BILL

No. 337

Introduced by Assembly Member Torres

February 18, 2009

An act to amend Section 781 of the Welfare and Institutions Code, relating to juvenile court records.

LEGISLATIVE COUNSEL'S DIGEST

AB 337, as introduced, Torres. Juvenile court records: sealing and destruction.

Existing law authorizes a person who is the subject of a juvenile court record, or the county probation officer, to petition the court for the sealing of the records relating to the person's case, including records in the custody of the juvenile court and the probation officer and any other agencies, including law enforcement agencies and public officials as the petitioner alleges to have custody of the records. The petition may be filed 5 years or more after the jurisdiction of the juvenile court has terminated or, if no petition was filed, 5 years or more after the person was cited to appear before a probation officer or was taken before a probation officer or law enforcement officer, or, in any case, at any time after the person reaches 18 years of age. This provision does not apply if the person was found by the juvenile court to have committed any one of specified serious or violent offenses and the person was 14 years of age or older when he or she committed the offense. Existing law also does not permit the sealing of a record for an offense if the person has been convicted of that offense in criminal court, as specified.

This bill would require the court to provide to every person who has reached 18 years of age and who is eligible to have his or her records

sealed with a written notification with a clear explanation of that person's rights to have his or her records sealed and destroyed.

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

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

1 SECTION 1. Section 781 of the Welfare and Institutions Code
2 is amended to read:
3 781. (a) In any case in which a petition has been filed with a
4 juvenile court to commence proceedings to adjudge a person a
5 ward of the court, in any case in which a person is cited to appear
6 before a probation officer or is taken before a probation officer
7 pursuant to Section 626, or in any case in which a minor is taken
8 before any officer of a law enforcement agency, the person or the
9 county probation officer may, five years or more after the
10 jurisdiction of the juvenile court has terminated as to the person,
11 or, in a case in which no petition is filed, five years or more after
12 the person was cited to appear before a probation officer or was
13 taken before a probation officer pursuant to Section 626 or was
14 taken before any officer of a law enforcement agency, or, in any
15 case, at any time after the person has reached the age of 18 years,
16 petition the court for sealing of the records, including records of
17 arrest, relating to the person's case, in the custody of the juvenile
18 court and probation officer and any other agencies, including law
19 enforcement agencies, and public officials as the petitioner alleges,
20 in his or her petition, to have custody of the records. *The court*
21 *shall provide to every person who has reached 18 years of age,*
22 *and who is eligible to have his or her records sealed pursuant to*
23 *this section, a written notification with a clear explanation of that*
24 *person's rights to have his or her records sealed and destroyed.*
25 The court shall notify the district attorney of the county and the
26 county probation officer, if he or she is not the petitioner, and the
27 district attorney or probation officer or any of their deputies or any
28 other person having relevant evidence may testify at the hearing
29 on the petition. If, after hearing, the court finds that since the
30 termination of jurisdiction or action pursuant to Section 626, as
31 the case may be, he or she has not been convicted of a felony or
32 of any misdemeanor involving moral turpitude and that
33 rehabilitation has been attained to the satisfaction of the court, it

1 shall order all records, papers, and exhibits in the person's case in
2 the custody of the juvenile court sealed, including the juvenile
3 court record, minute book entries, and entries on dockets, and any
4 other records relating to the case in the custody of the other
5 agencies and officials as are named in the order. In any case in
6 which a ward of the juvenile court is subject to the registration
7 requirements set forth in Section 290 of the Penal Code, a court,
8 in ordering the sealing of the juvenile records of the person, also
9 shall provide in the order that the person is relieved from the
10 registration requirement and for the destruction of all registration
11 information in the custody of the Department of Justice and other
12 agencies and officials. Notwithstanding any other provision of
13 law, the court shall not order the person's records sealed in any
14 case in which the person has been found by the juvenile court to
15 have committed an offense listed in subdivision (b) of Section 707
16 when he or she had attained 14 years of age or older. Once the
17 court has ordered the person's records sealed, the proceedings in
18 the case shall be deemed never to have occurred, and the person
19 may properly reply accordingly to any inquiry about the events,
20 the records of which are ordered sealed. The court shall send a
21 copy of the order to each agency and official named therein,
22 directing the agency to seal its records and stating the date
23 thereafter to destroy the sealed records. Each such agency and
24 official shall seal the records in its custody as directed by the order,
25 shall advise the court of its compliance, and thereupon shall seal
26 the copy of the court's order for sealing of records that it, he, or
27 she received. The person who is the subject of records sealed
28 pursuant to this section may petition the superior court to permit
29 inspection of the records by persons named in the petition, and the
30 superior court may so order. Otherwise, except as provided in
31 subdivision (b), the records shall not be open to inspection.

32 (b) In any action or proceeding based upon defamation, a court,
33 upon a showing of good cause, may order any records sealed under
34 this section to be opened and admitted into evidence. The records
35 shall be confidential and shall be available for inspection only by
36 the court, jury, parties, counsel for the parties, and any other person
37 who is authorized by the court to inspect them. Upon the judgment
38 in the action or proceeding becoming final, the court shall order
39 the records sealed.

(c) (1) Subdivision (a) does not apply to Department of Motor Vehicle records of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of any such conviction would be a public record under Section 1808 of the Vehicle Code. However, if a court orders a case record containing any such conviction to be sealed under this section, and if the Department of Motor Vehicles maintains a public record of such a conviction, the court shall notify the Department of Motor Vehicles of the sealing and the department shall advise the court of its receipt of the notice.

Notwithstanding any other provision of law, subsequent to the notification, the Department of Motor Vehicles shall allow access to its record of convictions only to the subject of the record and to insurers which have been granted requestor code numbers by the department. Any insurer to which such a record of conviction is disclosed, when such a conviction record has otherwise been sealed under this section, shall be given notice of the sealing when the record is disclosed to the insurer. The insurer may use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the record, and the information shall not be used for any other purpose nor shall it be disclosed by an insurer to any person or party not having access to the record.

(2) This subdivision shall not be construed as preventing the sealing of any record which is maintained by any agency or party other than the Department of Motor Vehicles.

(3) This subdivision shall not be construed as affecting the procedures or authority of the Department of Motor Vehicles for purging department records.

(d) Unless for good cause the court determines that the juvenile court record shall be retained, the court shall order the destruction of a person's juvenile court records that are sealed pursuant to this section as follows: five years after the record was ordered sealed, if the person who is the subject of the record was alleged or adjudged to be a person described by Section 601; or when the person who is the subject of the record reaches the age of 38 if the person was alleged or adjudged to be a person described by Section 602, except that if the subject of the record was found to be a person described in Section 602 because of the commission of an

1 offense listed in subdivision (b), of Section 707, when he or she
2 was 14 years of age or older, the record shall not be destroyed.
3 Any other agency in possession of sealed records may destroy its
4 records five years after the record was ordered sealed.

5 (e) This section shall not permit the sealing of a person's
6 juvenile court records for an offense where the person is convicted
7 of that offense in a criminal court pursuant to the provisions of
8 Section 707.1. This subdivision is declaratory of existing law.

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