

AMENDED IN ASSEMBLY MARCH 20, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1756**

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**Introduced by Assembly Member Skinner  
(Coauthors: Assembly Members Brown, Jones-Sawyer, and Weber)**

February 14, 2014

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An act to amend Section 1203.45 of the Penal Code, and to amend ~~Section~~ *Sections 781 and 903.3* of the Welfare and Institutions Code, relating to court records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1756, as amended, Skinner. Court records: sealing and destruction.

(1) Existing law authorizes a person to petition the court for an order sealing the record of conviction and other official records in a case in which that person was under 18 years of age at the time of commission of a misdemeanor and is eligible for, or has previously received, specified relief. Existing law authorizes that person to be required to reimburse the court, the county, or any city for the actual cost of services rendered, as specified.

This bill would only make persons 26 years of age or older liable to reimburse the court, the county, or any city for the cost of services.

(2) Existing law authorizes, except as specified, in a case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in a case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to a specified provision of law, or in a case in which a minor is taken before an officer of a law enforcement agency, the person or the county probation officer to petition the court for the sealing of

arrest records and records relating to the person's case 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. Existing law authorizes the petition to 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. *Existing law also requires, except as provided, the court to order the juvenile court records sealed pursuant to these provisions destroyed, as specified, and authorizes other agencies in possession of sealed records to destroy the records 5 years after the record was ordered sealed.*

*This bill would instead require a court to, at the time the jurisdiction of the juvenile court has terminated as to the person, order all records, papers, and exhibits in the person's case in the custody of the juvenile court and other agencies, entities, and officials sealed and destroyed. This bill would retain the prohibition in existing law prohibiting a court from ordering the person's records sealed in any case in which the person has been found by the juvenile court to have committed any specified offenses when he or she had attained 14 years of age and prohibiting records from being destroyed if the subject of the record is found to be a within the jurisdiction of the juvenile court because of the commission of the same specified offenses when he or she was 14 years of age or older. The bill would, in any case in which a petition is not filed with the court, require the probation department or law enforcement agency to seal all records, as specified, at the time at which the decision was made to not refer the person to the probation department or the district attorney's office, and to destroy those records when the person who is the subject of the record reaches 18 years of age. The bill would also make conforming changes.*

Existing law makes a father, mother, spouse, or other person liable for the support of a minor person, the person himself or herself if he or she is an adult, or the estates of those persons, unless indigent, liable for the cost to the county and court for any investigation related to the sealing and for the sealing of any juvenile court or arrest records pursuant to the above-mentioned provisions. Existing law also authorizes those persons to be required to reimburse the court, county, or a city for the actual cost of services rendered, as specified.

This bill would only require persons 26 years of age or older who petitions for an order sealing his or her record, pursuant to specified provisions, to be liable for the investigative costs and to reimburse the costs of services rendered.

(3) By permitting certain persons to receive services from local agencies free of charge, the bill would increase the level of service provided by those local agencies, thereby imposing a state-mandated local program.

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.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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 1203.45 of the Penal Code is amended  
2 to read:  
3 1203.45. (a) In a case in which a person was under 18 years  
4 of age at the time of commission of a misdemeanor and is eligible  
5 for, or has previously received, the relief provided by Section  
6 1203.4 or 1203.4a, that person, in a proceeding under Section  
7 1203.4 or 1203.4a, or a separate proceeding, may petition the court  
8 for an order sealing the record of conviction and other official  
9 records in the case, including records of arrests resulting in the  
10 criminal proceeding and records relating to other offenses charged  
11 in the accusatory pleading, whether *the* defendant was acquitted  
12 or charges were dismissed. If the court finds that the person was  
13 under 18 years of age at the time of the commission of the  
14 misdemeanor, and is eligible for relief under Section 1203.4 or  
15 1203.4a or has previously received that relief, it may issue its order  
16 granting the relief prayed for. Thereafter the conviction, arrest, or  
17 other proceeding shall be deemed not to have occurred, and the  
18 petitioner may answer accordingly any question relating to their  
19 occurrence.

1 (b) This section applies to convictions that occurred before, as  
2 well as those that occur after, the effective date of this section.

3 (c) This section shall not apply to offenses for which registration  
4 is required under Section 290, to violations of Division 10  
5 (commencing with Section 11000) of the Health and Safety Code,  
6 or to misdemeanor violations of the Vehicle Code relating to  
7 operation of a vehicle or of a local ordinance relating to operation,  
8 standing, stopping, or parking of a motor vehicle.

9 (d) This section does not apply to a person convicted of more  
10 than one offense, whether the second or additional convictions  
11 occurred in the same action in which the conviction as to which  
12 relief is sought occurred or in another action, except in the  
13 following cases:

14 (1) One of the offenses includes the other or others.

15 (2) The other conviction or convictions were for the following:

16 (A) Misdemeanor violations of Chapters 1 (commencing with  
17 Section 21000) to 9 (commencing with Section 22500), inclusive,  
18 Chapter 12 (commencing with Section 23100), or Chapter 13  
19 (commencing with Section 23250) of Division 11 of the Vehicle  
20 Code, other than Section 23103, 23104, 23105, 23152, 23153, or  
21 23220.

22 (B) Violation of a local ordinance relating to the operation,  
23 stopping, standing, or parking of a motor vehicle.

24 (3) The other conviction or convictions consisted of any  
25 combination of paragraphs (1) and (2).

26 (e) This section shall apply in a case in which a person was  
27 under 21 years of age at the time of the commission of an offense  
28 as to which this section is made applicable if that offense was  
29 committed prior to March 7, 1973.

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

38 (g) A person who is 26 years of age or older and petitions for  
39 an order sealing a record under this section may be required to  
40 reimburse the court for the actual cost of services rendered, whether

1 or not the petition is granted and the records are sealed or  
2 expunged, at a rate to be determined by the court, not to exceed  
3 one hundred fifty dollars (\$150), and to reimburse the county for  
4 the actual cost of services rendered, whether or not the petition is  
5 granted and the records are sealed or expunged, at a rate to be  
6 determined by the county board of supervisors, not to exceed one  
7 hundred fifty dollars (\$150), and to reimburse any city for the  
8 actual cost of services rendered, whether or not the petition is  
9 granted and the records are sealed or expunged, at a rate to be  
10 determined by the city council, not to exceed one hundred fifty  
11 dollars (\$150). Ability to make this reimbursement shall be  
12 determined by the court using the standards set forth in paragraph  
13 (2) of subdivision (g) of Section 987.8 and shall not be a  
14 prerequisite to a person's eligibility under this section. The court  
15 may order reimbursement in a case in which the petitioner appears  
16 to have the ability to pay, without undue hardship, all or any portion  
17 of the cost for services established pursuant to this subdivision.

18 *SEC. 2. Section 781 of the Welfare and Institutions Code is*  
19 *amended to read:*

20 ~~781. (a) In any case in which a petition has been filed with a~~  
21 ~~juvenile court to commence proceedings to adjudge a person a~~  
22 ~~ward of the court, in any case in which a person is cited to appear~~  
23 ~~before a probation officer or is taken before a probation officer~~  
24 ~~pursuant to Section 626, or in any case in which a minor is taken~~  
25 ~~before any officer of a law enforcement agency, the person or the~~  
26 ~~county probation officer may, five years or more after the~~  
27 ~~jurisdiction of the juvenile court has terminated as to the person,~~  
28 ~~or, in a case in which no petition is filed, five years or more after~~  
29 ~~the person was cited to appear before a probation officer or was~~  
30 ~~taken before a probation officer pursuant to Section 626 or was~~  
31 ~~taken before any officer of a law enforcement agency, or, in any~~  
32 ~~case, at any time after the person has reached the age of 18 years,~~  
33 ~~the records, including records of arrest, relating to the person's~~  
34 ~~case, in the custody of the juvenile court and probation officer and~~  
35 ~~any other agencies, including law enforcement agencies, and public~~  
36 ~~officials as the petitioner alleges, in his or her petition, to have~~  
37 ~~custody of the records. The court shall notify the district attorney~~  
38 ~~of the county and the county probation officer, if he or she is not~~  
39 ~~the petitioner, and the district attorney or probation officer or any~~  
40 ~~of their deputies or any other person having relevant evidence may~~

1 testify at the hearing on the petition. If, after hearing, the court  
2 finds that since the termination of jurisdiction or action pursuant  
3 to Section 626, as the case may be, he or she has not been convicted  
4 of a felony or of any misdemeanor involving moral turpitude and  
5 that rehabilitation has been attained to the satisfaction of the court,  
6 it shall order all records, papers, and exhibits in the person's case  
7 in the custody of the juvenile court sealed, including the juvenile  
8 court record, minute book entries, and entries on docket, and any  
9 other records relating to the case in the custody of the other  
10 agencies and officials as are named in the order. In any case in  
11 which a ward of the juvenile court is subject to the registration  
12 requirements set forth in Section 290 of the Penal Code, a court,  
13 in ordering the sealing of the juvenile records of the person, also  
14 shall provide in the order that the person is relieved from the  
15 registration requirement and for the destruction of all registration  
16 information in the custody of the Department of Justice and other  
17 agencies and officials. Notwithstanding any other provision of  
18 law, the court shall not order the person's records sealed in any  
19 case in which the person has been found by the juvenile court to  
20 have committed an offense listed in subdivision (b) of Section 707  
21 when he or she had attained 14 years of age or older. Once the  
22 court has ordered the person's records sealed, the proceedings in  
23 the case shall be deemed never to have occurred, and the person  
24 may properly reply accordingly to any inquiry about the events,  
25 the records of which are ordered sealed. The court shall send a  
26 copy of the order to each agency and official named therein,  
27 directing the agency to seal its records and stating the date  
28 thereafter to destroy the sealed records. Each such agency and  
29 official shall seal the records in its custody as directed by the order,  
30 shall advise the court of its compliance, and thereupon shall seal  
31 the copy of the court's order for sealing of records that it, he, or  
32 she received. The person who is the subject of records sealed  
33 pursuant to this section may petition the superior court to permit  
34 inspection of the records by persons named in the petition, and the  
35 superior court may so order. Otherwise, except as provided in  
36 subdivisions (b) and (e), the records shall not be open to inspection.

37 *781. (a) (1) (A) In any case in which a petition has been filed*  
38 *with a juvenile court to commence proceedings to adjudge a person*  
39 *a ward of the court, the court shall, at the time the jurisdiction of*  
40 *the juvenile court has terminated as to the person, order all*

1 records, papers, and exhibits in the person's case in the custody  
2 of the juvenile court sealed and destroyed, 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, entities, and officials as are named in the order. Once  
6 the court has ordered the person's records sealed and destroyed,  
7 the proceedings in the case shall be deemed never to have  
8 occurred, and the person may properly reply accordingly to any  
9 inquiry about the events, the records of which are ordered sealed.

10 (B) The court shall send a copy of the order to each agency,  
11 entity, and official named therein, directing the agency or entity  
12 to seal and destroy its records. Each agency, entity, and official  
13 shall seal and destroy the records in its custody as directed by the  
14 order, shall advise the court of its compliance, and thereupon shall  
15 seal the copy of the court's order for sealing of records that it, he,  
16 or she received.

17 (C) In any case in which a ward of the juvenile court is subject  
18 to the registration requirements set forth in Section 290 of the  
19 Penal Code, a court, in ordering the sealing of the juvenile records  
20 of the person, shall also provide in the order that the person is  
21 relieved from the registration requirement and for the destruction  
22 of all registration information in the custody of the Department  
23 of Justice and other agencies, entities, and officials.

24 (D) Notwithstanding any other law, the court shall not order  
25 the person's records sealed in any case in which the person has  
26 been found by the juvenile court to have committed an offense  
27 listed in subdivision (b) of Section 707 when he or she had attained  
28 14 years of age or older.

29 (2) In any case in which a person is cited to appear before a  
30 probation officer or is taken before a probation officer pursuant  
31 to Section 626, or in any case in which a minor is taken before  
32 any officer of a law enforcement agency, and no petition is filed,  
33 the probation department or law enforcement agency shall, at the  
34 time at which the decision was made to not refer the person to the  
35 probation department or to the district attorney's office, seal all  
36 records, including records of arrest, relating to the person's case,  
37 in the custody of the probation department and law enforcement  
38 agency. Once the records have been sealed, the events shall be  
39 deemed never to have occurred, and the person may properly reply  
40 accordingly to any inquiry about the events, the records of which

1 are sealed. The probation department or law enforcement agency  
2 shall destroy the records sealed pursuant to this paragraph when  
3 the person who is the subject of the record reaches 18 years of  
4 age.

5 (3) The person who is the subject of records sealed pursuant to  
6 this section may petition the superior court to permit inspection  
7 of the records by persons named in the petition, and the superior  
8 court may so order. Otherwise, except as provided in subdivision  
9 (b), the records shall not be open to inspection.

10 (b) In any action or proceeding based upon defamation, a court,  
11 upon a showing of good cause, may order any records sealed under  
12 this section to be opened and admitted into evidence. The records  
13 shall be confidential and shall be available for inspection only by  
14 the court, jury, parties, counsel for the parties, and any other person  
15 who is authorized by the court to inspect them. Upon the judgment  
16 in the action or proceeding becoming final, the court shall order  
17 the records sealed.

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

29 ~~Notwithstanding~~

30 (2) ~~Notwithstanding any other provision of law,~~ subsequent to  
31 the notification, the Department of Motor Vehicles shall allow  
32 access to its record of convictions only to the subject of the record  
33 and to insurers which have been granted requestor code numbers  
34 by the department. Any insurer to which such a record of  
35 conviction is disclosed, when such a conviction record has  
36 otherwise been sealed under this section, shall be given notice of  
37 the sealing when the record is disclosed to the insurer. The insurer  
38 may use the information contained in the record for purposes of  
39 determining eligibility for insurance and insurance rates for the  
40 subject of the record, and the information shall not be used for any



1 other purpose nor shall it be disclosed by an insurer to any person  
2 or party not having access to the record.

3 ~~(2)~~

4 (3) This subdivision shall not be construed as preventing *prevent*  
5 the sealing of any record ~~which~~ *that* is maintained by any agency  
6 or party other than the Department of Motor Vehicles.

7 ~~(3)~~

8 (4) This subdivision shall not be construed as affecting *affect*  
9 the procedures or authority of the Department of Motor Vehicles  
10 for purging department records.

11 (d) ~~Unless for good cause the court determines that the juvenile~~  
12 ~~court record shall be retained, the court shall order the destruction~~  
13 ~~of a person's juvenile court records that are sealed pursuant to this~~  
14 ~~section as follows: five years after the record was ordered sealed;~~  
15 ~~if the person who is the subject of the record was alleged or~~  
16 ~~adjudged to be a person described by Section 601; or when the~~  
17 ~~person who is the subject of the record reaches the age of 38 if the~~  
18 ~~person was alleged or adjudged to be a person described by Section~~  
19 ~~602, except that if~~ *If* the subject of the record was found to be a  
20 person described in Section 602 because of the commission of an  
21 offense listed in subdivision (b) of Section 707 when he or she  
22 was 14 years of age or older, the record shall not be destroyed.  
23 Any other agency in possession of sealed records may destroy its  
24 records five years after the record was ordered sealed.

25 ~~(e) The court may access a file that has been sealed pursuant to~~  
26 ~~this section for the limited purpose of verifying the prior~~  
27 ~~jurisdictional status of a ward who is petitioning the court to resume~~  
28 ~~its jurisdiction pursuant to subdivision (e) of Section 388. This~~  
29 ~~access shall not be deemed an unsealing of the record and shall~~  
30 ~~not require notice to any other entity.~~

31 ~~(f)~~

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

36 ~~(g)~~

37 (f) (1) On and after January 1, 2015, each court and probation  
38 department shall ensure that information regarding the eligibility  
39 for and the procedures to request the sealing and destruction of

1 records pursuant to this section shall be provided to each person  
2 who is either of the following:

3 (A) A person for whom a petition has been filed on or after  
4 January 1, 2015, to adjudge the person a ward of the juvenile court.

5 (B) A person who is brought before a probation officer pursuant  
6 to Section 626.

7 (2) The Judicial Council shall, on or before January 1, 2015,  
8 develop informational materials for purposes of paragraph (1) and  
9 shall develop a form to petition the court for the sealing and  
10 destruction of records pursuant to this section. The informational  
11 materials and the form shall be provided to each person described  
12 in paragraph (1) when jurisdiction is terminated or when the case  
13 is dismissed.

14 ~~SEC. 2.~~

15 *SEC. 3.* Section 903.3 of the Welfare and Institutions Code is  
16 amended to read:

17 903.3. (a) A person who is 26 years of age or older shall, unless  
18 indigent, be liable for the cost to the county and court for any  
19 investigation related to the sealing and for the sealing of any  
20 juvenile court or arrest records pursuant to Section 781 pertaining  
21 to that person.

22 (b) In the event a petition is filed for an order sealing a record,  
23 a person who is 26 years of age or older may be required to  
24 reimburse the county and court for the actual cost of services  
25 rendered, whether or not the petition is granted and the records are  
26 sealed or expunged, at a rate to be determined by the county board  
27 of supervisors for the county and by the court for the court, not to  
28 exceed one hundred fifty dollars (\$150). Ability to make this  
29 reimbursement shall be determined by the court using the standards  
30 set forth in paragraph (2) of subdivision (g) of Section 987.8 of  
31 the Penal Code and shall not be a prerequisite to a person's  
32 eligibility under this section. The court may order reimbursement  
33 in any case in which the petitioner appears to have the ability to  
34 pay, without undue hardship, all or any portion of the cost for  
35 services.

36 (c) Notwithstanding subdivision (a), the father, mother, spouse,  
37 or other person liable for the support of the minor, the person  
38 himself or herself if he or she is an adult, the estate of that person,  
39 or the estate of the minor, shall not be liable for the costs described  
40 in this section if a petition to declare the minor a dependent child

1 of the court pursuant to Section 300 is dismissed at or before the  
2 jurisdictional hearing.

3 (d) Any determination of amount made by a court under this  
4 section shall be valid only if either (1) made under procedures  
5 adopted by the Judicial Council or (2) approved by the Judicial  
6 Council.

7 ~~SEC. 3.~~

8 *SEC. 4.* If the Commission on State Mandates determines that  
9 this act contains costs mandated by the state, reimbursement to  
10 local agencies and school districts for those costs shall be made  
11 pursuant to Part 7 (commencing with Section 17500) of Division  
12 4 of Title 2 of the Government Code.