

AMENDED IN ASSEMBLY JUNE 4, 2014

AMENDED IN SENATE MARCH 28, 2014

**SENATE BILL**

**No. 1038**

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**Introduced by Senator Leno**

(Coauthors: Assembly Members Ting and Yamada)

February 18, 2014

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An act to amend Section 782 of, and to add Section 786 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1038, as amended, Leno. Juveniles: dismissal of petition.

Existing law subjects any person under 18 years of age who commits a crime to the jurisdiction of the juvenile court, which may adjudge that person to be a ward of the court, except as specified. Under existing law, juvenile court proceedings to declare a minor a ward of the court are commenced by the filing of a petition by the probation officer, the district attorney after consultation with the probation officer, or the prosecuting attorney, as specified. Existing law authorizes a judge of the juvenile court to dismiss a petition, or set aside the findings and dismiss a petition, at any time before the minor reaches 21 years of ~~age~~ *age*, if the court finds that the interests of justice and the welfare of the minor require that dismissal, or if the court finds that the minor is not in need of treatment or ~~rehabilitation~~ *rehabilitation, regardless of whether the minor is, at the time of the order, a ward or dependent child of the court.*

This bill would delete the restriction that the petition be dismissed before the minor reaches 21 years of age *and would, instead, authorize a judge of the juvenile court to dismiss a petition, or set aside the findings and dismiss the petition, if the court finds that the interests of*

*justice and the welfare of the person who is the subject of the petition require that dismissal, or if it finds that he or she is not in need of treatment or rehabilitation, regardless of whether the person who is the subject of the petition is, at the time of the order, a ward or dependent child of the court. The bill would also provide that the court is not required to maintain jurisdiction over a person who is the subject of a petition between the time the court's jurisdiction over that person terminates and the point at which his or her petition is dismissed.*

Existing law authorizes a juvenile court to, among other things, order a minor who is the subject of a petition to declare the minor a ward of the juvenile court, to participate in a program of supervision for up to 6 months with the consent of the minor and the minor's parents or guardian, without adjudging the minor a ward of the court. Upon successful completion of the program of supervision, existing law requires the petition to be dismissed.

Existing law authorizes a person who is the subject of a juvenile court record and other specified persons to petition the court for the sealing of the records relating to the person's case at any time after the person reaches 18 years of age, as specified. Existing law permits a court to access a file sealed pursuant to these provisions for the limited purpose of verifying the prior jurisdictional status of a ward who is petitioning the court to resume its jurisdiction. Existing law provides that this access shall not be deemed an unsealing of the record and shall not require notice to any other entity.

This bill would additionally require the juvenile court to order the petition of a minor who is subject to the jurisdiction of the court dismissed if the minor satisfactorily completes a term of probation, as specified. The bill would require the court to seal all records in the custody of the juvenile court pertaining to that dismissed petition or a petition dismissed upon satisfactory completion of a program of supervision, as described above, but would authorize a prosecuting attorney and the probation department of any county to have access to those records after they are sealed for the limited purpose of determining whether the minor is eligible for deferred entry of judgment. The bill would authorize a court to access a file sealed pursuant to these provisions for the limited purpose of verifying the prior jurisdictional status of a ward who is petitioning the court to resume its jurisdiction. The bill would provide that this access shall not be deemed an unsealing of the record and shall not require notice to any other entity.

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

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

1 SECTION 1. Section 782 of the Welfare and Institutions Code  
2 is amended to read:  
3 782. A judge of the juvenile court in which a petition was filed  
4 may dismiss the petition, or may set aside the findings and dismiss  
5 the petition, if the court finds that the interests of justice and the  
6 welfare of the ~~minor~~ *person who is the subject of the petition*  
7 require that dismissal, or if it finds that ~~the minor~~ *he or she* is not  
8 in need of treatment or rehabilitation. The court has jurisdiction  
9 to order dismissal or setting aside of the findings and dismissal  
10 regardless of whether the ~~minor~~ *person who is the subject of the*  
11 *petition* is, at the time of the order, a ward or dependent child of  
12 the court. *Nothing in this section shall be interpreted to require*  
13 *the court to maintain jurisdiction over a person who is the subject*  
14 *of a petition between the time the court's jurisdiction over that*  
15 *person terminates and the point at which his or her petition is*  
16 *dismissed.*  
17 SEC. 2. Section 786 is added to the Welfare and Institutions  
18 Code, to read:  
19 786. If the minor satisfactorily completes ~~(1)~~ *(a)* an informal  
20 program of supervision pursuant to Section 654.2, ~~(2)~~ *(b)* probation  
21 under Section 725, or ~~(3)~~ *(c)* a term of probation for any offense  
22 not listed in subdivision (b) of Section 707, the court shall order  
23 the petition dismissed, and the arrest upon which the judgment  
24 was deferred shall be deemed not to have occurred. The court shall  
25 order sealed all records pertaining to that dismissed petition in the  
26 custody of the juvenile court, except that the prosecuting attorney  
27 and the probation department of any county shall have access to  
28 these records after they are sealed for the limited purpose of  
29 determining whether the minor is eligible for deferred entry of  
30 judgment pursuant to Section 790. The court may access a file that  
31 has been sealed pursuant to this section for the limited purpose of  
32 verifying the prior jurisdictional status of a ward who is petitioning  
33 the court to resume its jurisdiction pursuant to subdivision (e) of

- 1 Section 388. This access shall not be deemed an unsealing of the
- 2 record and shall not require notice to any other entity.

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