

AMENDED IN SENATE JUNE 11, 2015

AMENDED IN ASSEMBLY APRIL 9, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 666**

---

---

**Introduced by Assembly Member Mark Stone**

February 24, 2015

---

---

An act to amend Section 786 ~~of of~~, and to add Section 787 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 666, as amended, Mark Stone. Juveniles: sealing of records.

Existing law subjects a 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 requires 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 or an informal program of supervision, as specified, and requires the court to seal all records in the custody of the juvenile court pertaining to that dismissed petition, except as specified.

This bill would provide that these provisions ~~apply to certain terms of probation only if the underlying offense was committed when the minor was 14 years of age or older.~~ *do not apply if the petition was sustained based on the commission of certain offenses committed when the individual was 14 years of age or older.* The bill would require

records pertaining to those cases in the custody of law enforcement agencies, the probation department, or any other public agency having records pertaining to those cases, to be sealed according to a certain ~~procedure, except as specified.~~ *procedure. The bill would make records sealed pursuant to this provision available for access or inspection only under specified circumstances.* The bill would make related changes. The bill would also require the Judicial Council to adopt rules of court, and make available appropriate forms, providing for the standardized implementation of these provisions by the juvenile courts. By imposing new duties on local agencies relating to sealing juvenile records, this bill would impose a state-mandated local program.

*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, the probation officer, or any other agencies, including law enforcement agencies and public officials as the petitioner alleges to have custody of the records. Existing law provides that records sealed pursuant to this provision are not open to inspection, except as specified.*

*This bill would additionally make those records open to inspection to comply with data collection or data reporting requirements imposed by other provisions of law and would authorize a court to give a researcher or research organization access to information contained in those records, as specified.*

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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 786 of the Welfare and Institutions Code  
2 is amended to read:

3 786. (a) If a minor satisfactorily completes (1) an informal  
4 program of supervision pursuant to Section 654.2, (2) probation  
5 under Section 725, or (3) a term of probation for any ~~offense not~~  
6 ~~listed in subdivision (b) of Section 707 committed when he or she~~  
7 ~~was 14 years of age or older, offense~~, the court shall order the  
8 petition dismissed. The court shall order sealed all records  
9 pertaining to that dismissed petition in the custody of the juvenile  
10 court, and in the custody of law enforcement agencies, the  
11 probation department, or any other public agency having records  
12 pertaining to the case. The court shall send a copy of the order to  
13 each agency and official named in the order, direct the agency or  
14 official to seal its records, and specify a date by which the sealed  
15 records shall be destroyed. Each agency and official named in the  
16 order shall seal the records in its custody as directed by the order,  
17 shall advise the court of its compliance, and, after advising the  
18 court, shall seal the copy of the court's order that was received.  
19 The court shall also provide notice to the minor and minor's  
20 counsel that it has ordered the petition dismissed and the records  
21 sealed in the case. The notice shall include an advisement of the  
22 minor's right to nondisclosure of the arrest and proceedings, as  
23 specified in subdivision (b).

24 (b) Upon the court's order of dismissal of the petition, the arrest  
25 upon which the judgment was deferred and other proceedings in  
26 the case shall be deemed not to have occurred and the person who  
27 was the subject of the petition may reply accordingly to any inquiry  
28 by employers, educational institutions, or other persons or entities  
29 regarding the arrest and proceedings in the case.

30 (c) (1) For purposes of this section, satisfactory completion of  
31 an informal program of supervision or another term of probation  
32 described in subdivision (a) shall be deemed to have occurred if  
33 the person has no new findings of wardship or conviction for a  
34 felony offense or a misdemeanor involving moral turpitude during  
35 the period of supervision or probation and if he or she has not  
36 failed to substantially comply with the reasonable orders of  
37 supervision or probation that are within his or her capacity to  
38 perform. The period of supervision or probation shall not be

1 extended solely for the purpose of deferring or delaying eligibility  
2 for dismissal of the petition and sealing of the records under this  
3 section.

4 (2) An unfulfilled order or condition of ~~restitution~~ *restitution*,  
5 *including a restitution fine or fee*, that can be converted to a civil  
6 judgment under Section 730.6 shall not be deemed to constitute  
7 unsatisfactory completion of supervision or probation under this  
8 section.

9 *(d) A court shall not seal a record or dismiss a petition pursuant*  
10 *to this section if the petition was sustained based on the commission*  
11 *of an offense listed in subdivision (b) of Section 707 that was*  
12 *committed when the individual was 14 years of age or older unless*  
13 *the finding on that offense was dismissed or was reduced to a*  
14 *lesser offense that is not listed in subdivision (b) of Section 707.*

15 *(e) The court may, in making its order to seal the record and*  
16 *dismiss the instant petition pursuant to this section, include an*  
17 *order to seal a record relating to, or to dismiss, any prior petition*  
18 *or petitions that have been filed or sustained against the individual*  
19 *and that appear to the satisfaction of the court to meet the sealing*  
20 *and dismissal criteria otherwise described in this section.*

21 ~~(f)~~

22 *(f) (1) A record that has been ordered sealed by the court under*  
23 *this section may be accessed, inspected, or utilized only under any*  
24 *of the following circumstances:*

25 *(A) By the prosecuting attorney and the probation department*  
26 *for the limited purpose of determining whether the minor is eligible*  
27 *for deferred entry of judgment pursuant to Section 790 or for a*  
28 *program of supervision as defined in Section 654.3.*

29 *(B) By the court for the limited purpose of verifying the prior*  
30 *jurisdictional status of a ward who is petitioning the court to resume*  
31 *its jurisdiction pursuant to subdivision (e) of Section 388.*

32 *(C) If a new petition has been filed against the minor for a felony*  
33 *offense, by the probation department for the limited purpose of*  
34 *identifying the minor's previous court-ordered programs or*  
35 *placements, and in that event solely to determine the individual's*  
36 *eligibility or suitability for remedial programs or services. The*  
37 *information obtained pursuant to this subparagraph shall not be*  
38 *disseminated to other agencies or individuals, except as necessary*  
39 *to implement a referral to a remedial program or service, and shall*

1 not be used to support the imposition of penalties, detention, or  
2 other sanctions upon the minor.

3 (D) By the person whose record has been sealed, upon his or  
4 her request and petition to the court to permit inspection of the  
5 records.

6 (2) Access to, or inspection of, a sealed record authorized by  
7 paragraph (1) shall not be deemed an unsealing of the record and  
8 shall not require notice to any other agency.

9 ~~(b)~~

10 ~~(e)~~

11 (g) The Judicial Council shall adopt rules of court, and shall  
12 make available appropriate forms, providing for the standardized  
13 implementation of this section by the juvenile courts.

14 *SEC. 2. Section 787 is added to the Welfare and Institutions*  
15 *Code, immediately following Section 786, to read:*

16 *787. (a) Notwithstanding any other law, a record sealed*  
17 *pursuant to Section 781 or 786 may be accessed by a law*  
18 *enforcement agency, probation department, court, or other state*  
19 *or local agency that has custody of the sealed record for the limited*  
20 *purpose of complying with data collection or data reporting*  
21 *requirements that are imposed by other provisions of law.*  
22 *However, no personally identifying information from a sealed*  
23 *record accessed under this subdivision may be released,*  
24 *disseminated, or published by or through an agency, department,*  
25 *court, or individual that has accessed or obtained information*  
26 *from the sealed record.*

27 *(b) Notwithstanding any other law, a court may authorize a*  
28 *researcher or research organization to access information*  
29 *contained in records that have been sealed pursuant to Section*  
30 *781 or 786 for the purpose of conducting research on juvenile*  
31 *justice populations, practices, policies, or trends, if both of the*  
32 *following are true:*

33 *(1) The court is satisfied that the research project or study*  
34 *includes a methodology for the appropriate protection of the*  
35 *confidentiality of an individual whose sealed record is accessed*  
36 *pursuant to this subdivision.*

37 *(2) Personally identifying information relating to the individual*  
38 *whose sealed record is accessed pursuant to this subdivision is*  
39 *not further released, disseminated, or published by or through the*  
40 *researcher or research organization.*

1 (c) For the purposes of this section “personally identifying  
2 information” 6 has the same meaning as in Section 1798.79.8 of  
3 the Civil Code.

4 ~~SEC. 2.~~

5 SEC. 3. The Legislature finds and declares that Section 1 of  
6 this act, which amends Section 786 of the Welfare and Institutions  
7 Code, imposes a limitation on the public’s right of access to the  
8 meetings of public bodies or the writings of public officials and  
9 agencies within the meaning of Section 3 of Article I of the  
10 California Constitution. Pursuant to that constitutional provision,  
11 the Legislature makes the following findings to demonstrate the  
12 interest protected by this limitation and the need for protecting  
13 that interest:

14 In order to protect the privacy of children who have had their  
15 juvenile delinquency court records sealed, it is necessary that  
16 related records in the custody of law enforcement agencies, the  
17 probation department, or any other public agency also be sealed.

18 ~~SEC. 3.~~

19 SEC. 4. If the Commission on State Mandates determines that  
20 this act contains costs mandated by the state, reimbursement to  
21 local agencies and school districts for those costs shall be made  
22 pursuant to Part 7 (commencing with Section 17500) of Division  
23 4 of Title 2 of the Government Code.