

AMENDED IN SENATE AUGUST 31, 2015

AMENDED IN SENATE JULY 15, 2015

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, 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 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 the Department of Justice to be sealed according to a certain procedure. The bill would authorize an individual who has a record that is eligible to be sealed to ask the court to order the sealing of a record pertaining to the case that is in the custody of a public agency other than a law enforcement agency, the probation department, or the Department of Justice. 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, the
6 court shall order the petition dismissed. The court shall order sealed
7 all records pertaining to that dismissed petition in the custody of
8 the juvenile court, and in the custody of law enforcement agencies,
9 the probation department, or the Department of Justice. The court
10 shall send a copy of the order to each agency and official named
11 in the order, direct the agency or official to seal its records, and
12 specify a date by which the sealed records shall be destroyed. Each
13 agency and official named in the order shall seal the records in its
14 custody as directed by the order, shall advise the court of its
15 compliance, and, after advising the court, shall seal the copy of
16 the court's order that was received. The court shall also provide
17 notice to the minor and minor's counsel that it has ordered the
18 petition dismissed and the records sealed in the case. The notice
19 shall include an advisement of the minor's right to nondisclosure
20 of the arrest and proceedings, as specified in subdivision (b).

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

27 (c) (1) For purposes of this section, satisfactory completion of
28 an informal program of supervision or another term of probation
29 described in subdivision (a) shall be deemed to have occurred if
30 the person has no new findings of wardship or conviction for a
31 felony offense or a misdemeanor involving moral turpitude during
32 the period of supervision or probation and if he or she has not
33 failed to substantially comply with the reasonable orders of

1 supervision or probation that are within his or her capacity to
2 perform. The period of supervision or probation shall not be
3 extended solely for the purpose of deferring or delaying eligibility
4 for dismissal of the petition and sealing of the records under this
5 section.

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

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

18 (e) (1) The court may, in making its order to seal the record
19 and dismiss the instant petition pursuant to this section, include
20 an order to seal a record relating to, or to dismiss, any prior petition
21 or petitions that have been filed or sustained against the individual
22 and that appear to the satisfaction of the court to meet the sealing
23 and dismissal criteria otherwise described in this section.

24 (2) An individual who has a record that is eligible to be sealed
25 under this section may ask the court to order the sealing of a record
26 pertaining to the case that is in the custody of a public agency other
27 than a law enforcement agency, the probation department, or the
28 Department of Justice, and the court may grant the request and
29 order that the public agency record be sealed if the court determines
30 that sealing the additional record will promote the successful
31 reentry and rehabilitation of the individual.

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

35 (A) By the prosecuting ~~attorney and~~ *attorney*, the probation
36 ~~department~~ *department, or the court* for the limited purpose of
37 determining whether the minor is eligible *and suitable* for deferred
38 entry of judgment pursuant to Section 790 or *is ineligible* for a
39 program of supervision as defined in Section 654.3.

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

4 (C) If a new petition has been filed against the minor for a felony
5 offense, by the probation department for the limited purpose of
6 identifying the minor's previous court-ordered programs or
7 placements, and in that event solely to determine the individual's
8 eligibility or suitability for remedial programs or services. The
9 information obtained pursuant to this subparagraph shall not be
10 disseminated to other agencies or individuals, except as necessary
11 to implement a referral to a remedial program or service, and shall
12 not be used to support the imposition of penalties, detention, or
13 other sanctions upon the minor.

14 (D) *Upon a subsequent adjudication of a minor whose record*
15 *has been sealed under this section and a finding that the minor is*
16 *a person described by Section 602 based on the commission of a*
17 *felony offense, by the probation department, the prosecuting*
18 *attorney, counsel for the minor, or the court for the limited purpose*
19 *of determining an appropriate juvenile court disposition. Access,*
20 *inspection, or use of a sealed record as provided under this*
21 *subparagraph shall not be construed as a reversal or modification*
22 *of the court's order dismissing the petition and to sealing record*
23 *in the prior case.*

24 (E) *Upon the prosecuting attorney's motion, made in accordance*
25 *with Section 707, to initiate court proceedings to determine the*
26 *minor's fitness to be dealt with under the juvenile court law, by*
27 *the probation department, the prosecuting attorney, counsel for*
28 *the minor, or the court for the limited purpose of evaluating and*
29 *determining the minor's fitness to be dealt with under the juvenile*
30 *court law. Access, inspection, or use of a sealed record as provided*
31 *under this subparagraph shall not be construed as a reversal or*
32 *modification of the court's order dismissing the petition and sealing*
33 *the record in the prior case.*

34 ~~(F)~~

35 (F) By the person whose record has been sealed, upon his or
36 her request and petition to the court to permit inspection of the
37 records.

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

1 (g) (1) *This section does not prohibit a court from enforcing a*
2 *civil judgment for an unfulfilled order of restitution ordered*
3 *pursuant to Section 730.6. A minor is not relieved from the*
4 *obligation to pay victim restitution, restitution fines, and*
5 *court-ordered fines and fees because the minor's records are*
6 *sealed.*

7 (2) *A victim or a local collection program may continue to*
8 *enforce victim restitution orders, restitution fines, and*
9 *court-ordered fines and fees after a record is sealed. The juvenile*
10 *court shall have access to any records sealed pursuant to this*
11 *section for the limited purpose of enforcing a civil judgment or*
12 *restitution order.*

13 ~~(g)~~

14 (h) The Judicial Council shall adopt rules of court, and shall
15 make available appropriate forms, providing for the standardized
16 implementation of this section by the juvenile courts.

17 SEC. 2. Section 787 is added to the Welfare and Institutions
18 Code, immediately following Section 786, to read:

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

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

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

1 (2) Personally identifying information relating to the individual
2 whose sealed record is accessed pursuant to this subdivision is not
3 further released, disseminated, or published by or through the
4 researcher or research organization.

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

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

17 In order to protect the privacy of children who have had their
18 juvenile delinquency court records sealed, it is necessary that
19 related records in the custody of law enforcement agencies, the
20 probation department, the Department of Justice, or any other
21 public agency also be, or be subject to being, sealed.

22 SEC. 4. If the Commission on State Mandates determines that
23 this act contains costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.

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CORRECTIONS:
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