

AMENDED IN SENATE SEPTEMBER 4, 2015

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.

This bill would incorporate changes to Section 786 of the Welfare and Institutions Code proposed by both this bill and AB 989, which would become operative only if both bills are enacted and become effective on or before January 1, 2016, and this bill is chaptered last.

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 and other proceedings in the case shall be deemed not to have
23 occurred and the person who was the subject of the petition may
24 reply accordingly to any inquiry by employers, educational
25 institutions, or other persons or entities regarding the arrest and
26 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

1 described in subdivision (a) shall be deemed to have occurred if
2 the person has no new findings of wardship or conviction for a
3 felony offense or a misdemeanor involving moral turpitude during
4 the period of supervision or probation and if he or she has not
5 failed to substantially comply with the reasonable orders of
6 supervision or probation that are within his or her capacity to
7 perform. The period of supervision or probation shall not be
8 extended solely for the purpose of deferring or delaying eligibility
9 for dismissal of the petition and sealing of the records under this
10 section.

11 (2) An unfulfilled order or condition of restitution, including a
12 restitution fine that can be converted to a civil judgment under
13 Section 730.6 or an unpaid restitution fee shall not be deemed to
14 constitute unsatisfactory completion of supervision or probation
15 under this section.

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

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

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

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

1 (A) By the prosecuting attorney, the probation department, or
2 the court for the limited purpose of determining whether the minor
3 is eligible and suitable for deferred entry of judgment pursuant to
4 Section 790 or is ineligible for a program of supervision as defined
5 in Section 654.3.

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

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

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

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

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

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

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

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

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

20 *SEC. 1.5. Section 786 of the Welfare and Institutions Code is*
21 *amended to read:*

22 786. (a) If ~~the~~ a minor satisfactorily completes ~~(a) (1) an~~
23 ~~informal program of supervision pursuant to Section 654.2, (b) (2)~~
24 ~~probation under Section 725, or (c) (3) a term of probation for any~~
25 ~~offense not listed in subdivision (b) of Section 707, offense, the~~
26 ~~court shall order the petition dismissed, and the arrest upon which~~
27 ~~the judgment was deferred shall be deemed not to have occurred.~~
28 *dismissed.* The court shall order sealed all records pertaining to
29 that dismissed petition in the custody of the juvenile court, ~~except~~
30 ~~that the prosecuting attorney and the probation department of any~~
31 ~~county shall have access to these records after they are sealed for~~
32 ~~the limited purpose of determining whether the minor is eligible~~
33 ~~for deferred entry of judgment pursuant to Section 790. The court~~
34 ~~may access a file that has been sealed pursuant to this section for~~
35 ~~the limited purpose of verifying the prior jurisdictional status of a~~
36 ~~ward who is petitioning the court to resume its jurisdiction pursuant~~
37 ~~to subdivision (c) of Section 388. This access shall not be deemed~~
38 ~~an unsealing of the record and shall not require notice to any other~~
39 ~~entity; and in the custody of law enforcement agencies, the~~
40 *probation department, or the Department of Justice. The court*

1 shall send a copy of the order to each agency and official named
2 in the order, direct the agency or official to seal its records, and
3 specify a date by which the sealed records shall be destroyed. Each
4 agency and official named in the order shall seal the records in
5 its custody as directed by the order; shall advise the court of its
6 compliance, and, after advising the court, shall seal the copy of
7 the court's order that was received. The court shall also provide
8 notice to the minor and minor's counsel that it has ordered the
9 petition dismissed and the records sealed in the case. The notice
10 shall include an advisement of the minor's right to nondisclosure
11 of the arrest and proceedings, as specified in subdivision (b).

12 (b) Upon the court's order of dismissal of the petition, the arrest
13 and other proceedings in the case shall be deemed not to have
14 occurred and the person who was the subject of the petition may
15 reply accordingly to any inquiry by employers, educational
16 institutions, or other persons or entities regarding the arrest and
17 proceedings in the case.

18 (c) (1) For purposes of this section, satisfactory completion of
19 an informal program of supervision or another term of probation
20 described in subdivision (a) shall be deemed to have occurred if
21 the person has no new findings of wardship or conviction for a
22 felony offense or a misdemeanor involving moral turpitude during
23 the period of supervision or probation and if he or she has not
24 failed to substantially comply with the reasonable orders of
25 supervision or probation that are within his or her capacity to
26 perform. The period of supervision or probation shall not be
27 extended solely for the purpose of deferring or delaying eligibility
28 for dismissal of the petition and sealing of the records under this
29 section.

30 (2) An unfulfilled order or condition of restitution, including a
31 restitution fine that can be converted to a civil judgment under
32 Section 730.6 or an unpaid restitution fee shall not be deemed to
33 constitute unsatisfactory completion of supervision or probation
34 under this section.

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

1 (e) (1) *The court may, in making its order to seal the record*
2 *and dismiss the instant petition pursuant to this section, include*
3 *an order to seal a record relating to, or to dismiss, any prior*
4 *petition or petitions that have been filed or sustained against the*
5 *individual and that appear to the satisfaction of the court to meet*
6 *the sealing and dismissal criteria otherwise described in this*
7 *section.*

8 (2) *An individual who has a record that is eligible to be sealed*
9 *under this section may ask the court to order the sealing of a record*
10 *pertaining to the case that is in the custody of a public agency*
11 *other than a law enforcement agency, the probation department,*
12 *or the Department of Justice, and the court may grant the request*
13 *and order that the public agency record be sealed if the court*
14 *determines that sealing the additional record will promote the*
15 *successful reentry and rehabilitation of the individual.*

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

19 (A) *By the prosecuting attorney, the probation department, or*
20 *the court for the limited purpose of determining whether the minor*
21 *is eligible and suitable for deferred entry of judgment pursuant to*
22 *Section 790 or is ineligible for a program of supervision as defined*
23 *in Section 654.3.*

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

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

37 (D) *Upon a subsequent adjudication of a minor whose record*
38 *has been sealed under this section and a finding that the minor is*
39 *a person described by Section 602 based on the commission of a*
40 *felony offense, by the probation department, the prosecuting*

1 attorney, counsel for the minor, or the court for the limited purpose
2 of determining an appropriate juvenile court disposition. Access,
3 inspection, or use of a sealed record as provided under this
4 subparagraph shall not be construed as a reversal or modification
5 of the court's order dismissing the petition and sealing the record
6 in the prior case.

7 (E) Upon the prosecuting attorney's motion, made in accordance
8 with Section 707, to initiate court proceedings to determine the
9 minor's fitness to be dealt with under the juvenile court law, by
10 the probation department, the prosecuting attorney, counsel for
11 the minor, or the court for the limited purpose of evaluating and
12 determining the minor's fitness to be dealt with under the juvenile
13 court law. Access, inspection, or use of a sealed record as provided
14 under this subparagraph shall not be construed as a reversal or
15 modification of the court's order dismissing the petition and sealing
16 the record in the prior case.

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

20 (G) The probation department of any county may access the
21 records for the limited purpose of meeting federal Title IV-B and
22 Title IV-E compliance.

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

26 (g) (1) This section does not prohibit a court from enforcing a
27 civil judgment for an unfulfilled order of restitution ordered
28 pursuant to Section 730.6. A minor is not relieved from the
29 obligation to pay victim restitution, restitution fines, and
30 court-ordered fines and fees because the minor's records are
31 sealed.

32 (2) A victim or a local collection program may continue to
33 enforce victim restitution orders, restitution fines, and
34 court-ordered fines and fees after a record is sealed. The juvenile
35 court shall have access to any records sealed pursuant to this
36 section for the limited purpose of enforcing a civil judgment or
37 restitution order.

38 (h) This section does not prohibit the Department of Social
39 Services from meeting its obligations to monitor and conduct
40 periodic evaluations of, and provide reports on, the programs

1 *carried under federal Title IV-B and Title IV-E as required by*
 2 *Sections 622, 629 et seq., and 671(a)(7) and (22) of Title 42 of the*
 3 *United States Code, as implemented by federal regulation and*
 4 *state statute.*

5 *(i) The Judicial Council shall adopt rules of court, and shall*
 6 *make available appropriate forms, providing for the standardized*
 7 *implementation of this section by the juvenile courts.*

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

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

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

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

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

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

38 SEC. 3. The Legislature finds and declares that Section 1 of
 39 this act, which amends Section 786 of the Welfare and Institutions
 40 Code, imposes a limitation on the public’s right of access to the

1 meetings of public bodies or the writings of public officials and
2 agencies within the meaning of Section 3 of Article I of the
3 California Constitution. Pursuant to that constitutional provision,
4 the Legislature makes the following findings to demonstrate the
5 interest protected by this limitation and the need for protecting
6 that interest:

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

12 *SEC. 4. Section 1.5 of this bill incorporates amendments to*
13 *Section 786 of the Welfare and Institutions Code proposed by both*
14 *this bill and Assembly Bill 989. It shall only become operative if*
15 *(1) both bills are enacted and become effective on or before*
16 *January 1, 2016, (2) each bill amends Section 786 of the Welfare*
17 *and Institutions Code, and (3) this bill is enacted after Assembly*
18 *Bill 989, in which case Section 1 of this bill shall not become*
19 *operative.*

20 ~~SEC. 4.~~

21 *SEC. 5.* If the Commission on State Mandates determines that
22 this act contains costs mandated by the state, reimbursement to
23 local agencies and school districts for those costs shall be made
24 pursuant to Part 7 (commencing with Section 17500) of Division
25 4 of Title 2 of the Government Code.