

**ASSEMBLY BILL**

**No. 1945**

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**Introduced by Assembly Member Mark Stone**

February 12, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1945, as introduced, 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 sealing of records pertaining to that dismissed petition, as specified.

This bill would make technical, nonsubstantive changes to those provisions.

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 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~~ *the* dismissed petition in the custody  
8 of the juvenile court, and in the custody of law enforcement  
9 agencies, the probation department, or the Department of Justice.  
10 The court shall send a copy of the order to each agency and official  
11 named in the order, direct the agency or official to seal its records,  
12 and specify a date by which the sealed records shall be destroyed.  
13 Each agency and official named in the order shall seal the records  
14 in its 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 *the* 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~~ *an* 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  
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  
34 supervision or probation that are within his or her capacity to  
35 perform. The period of supervision or probation shall not be  
36 extended solely for the purpose of deferring or delaying eligibility  
37 for dismissal of the petition and sealing of the records under this  
38 section.

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

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

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

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

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

30 (A) By the prosecuting attorney, the probation department, or  
31 the court for the limited purpose of determining whether the minor  
32 is eligible and suitable for deferred entry of judgment pursuant to  
33 Section 790 or is ineligible for a program of supervision as defined  
34 in Section 654.3.

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

38 (C) If a new petition has been filed against the minor for a felony  
39 offense, by the probation department for the limited purpose of  
40 identifying the minor's previous court-ordered programs or

1 placements, and in that event solely to determine the individual's  
2 eligibility or suitability for remedial programs or services. The  
3 information obtained pursuant to this subparagraph shall not be  
4 disseminated to other agencies or individuals, except as necessary  
5 to implement a referral to a remedial program or service, and shall  
6 not be used to support the imposition of penalties, detention, or  
7 other sanctions upon the minor.

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

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

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

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

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

37 (g) (1) This section does not prohibit a court from enforcing a  
38 civil judgment for an unfulfilled order of restitution ordered  
39 pursuant to Section 730.6. A minor is not relieved from the

1 obligation to pay victim restitution, restitution fines, and  
2 court-ordered fines and fees because the minor's records are sealed.

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

8 (h) This section does not prohibit the *State* Department of Social  
9 Services from meeting its obligations to monitor and conduct  
10 periodic evaluations of, and provide reports on, the programs  
11 carried under federal Title IV-B and Title IV-E as required by  
12 Sections 622, 629 et seq., and 671(a)(7) and (22) of Title 42 of the  
13 United States Code, as implemented by federal regulation and state  
14 statute.

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