

**ASSEMBLY BILL**

**No. 2103**

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**Introduced by Assembly Member Burke**

February 17, 2016

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An act to amend Section 827 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2103, as introduced, Burke. Juveniles: case file inspection.

Existing law requires the case file of a dependent child or ward of the juvenile court to be kept confidential, except as specified. Existing law authorizes only certain persons to inspect the case file, including, among others, the attorneys for the parties, judges, referees, other hearing officers, probation officers, and law enforcement officers, who are actively participating in proceedings involving the child.

This bill would make technical, nonsubstantive changes to these 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 827 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 827. (a) (1) Except as provided in Section 828, a case file
- 4 may be inspected only by the following:
- 5 (A) Court personnel.

- 1 (B) The district attorney, a city attorney, or city prosecutor
- 2 authorized to prosecute criminal or juvenile cases under ~~state~~
- 3 *California* law.
- 4 (C) The minor who is the subject of the proceeding.
- 5 (D) The minor’s parents or guardian.
- 6 (E) The attorneys for the parties, judges, referees, other hearing
- 7 officers, probation officers, and law enforcement officers who are
- 8 actively participating in criminal or juvenile proceedings involving
- 9 the minor.
- 10 (F) The county counsel, city attorney, or any other attorney
- 11 representing the petitioning agency in a dependency action.
- 12 (G) The superintendent or designee of the school district where
- 13 the minor is enrolled or attending school.
- 14 (H) Members of the child protective agencies ~~as defined~~ *referred*
- 15 *to* in Section 11165.9 of the Penal Code.
- 16 (I) The State Department of Social Services, to carry out its
- 17 duties pursuant to Division 9 (commencing with Section 10000),
- 18 and Part 5 (commencing with Section 7900) of Division ~~12~~, 12 of
- 19 the Family Code to oversee and monitor county child welfare
- 20 agencies, children in foster care or receiving foster care assistance,
- 21 and out-of-state placements, Section 10850.4, and paragraph (2).
- 22 (J) Authorized legal staff or special investigators who are peace
- 23 officers who are employed by, or who are authorized
- 24 representatives of, the State Department of Social Services, as
- 25 necessary to the performance of their duties to inspect, license,
- 26 and investigate community care facilities, and to ensure that the
- 27 standards of care and services provided in those facilities are
- 28 adequate and appropriate and to ascertain compliance with the
- 29 rules and regulations to which the facilities are subject. The
- 30 confidential information shall remain confidential except for
- 31 purposes of inspection, licensing, or investigation pursuant to
- 32 Chapter 3 (commencing with Section 1500) and Chapter 3.4
- 33 (commencing with Section 1596.70) of Division 2 of the Health
- 34 and Safety Code, or a criminal, civil, or administrative proceeding
- 35 in relation thereto. The confidential information may be used by
- 36 the State Department of Social Services in a criminal, civil, or
- 37 administrative proceeding. The confidential information shall be
- 38 available only to the judge or hearing officer and to the parties to
- 39 the case. Names that are confidential shall be listed in attachments
- 40 separate to the general pleadings. The confidential information

1 shall be sealed after the conclusion of the criminal, civil, or  
2 administrative hearings, and may not subsequently be released  
3 except in accordance with this subdivision. If the confidential  
4 information does not result in a criminal, civil, or administrative  
5 proceeding, it shall be sealed after the State Department of Social  
6 Services decides that no further action will be taken in the matter  
7 of suspected licensing violations. Except as otherwise provided in  
8 this subdivision, confidential information in the possession of the  
9 State Department of Social Services ~~may~~ *shall* not contain the  
10 name of the minor.

11 (K) Members of children’s multidisciplinary teams, persons, or  
12 agencies providing treatment or supervision of the minor.

13 (L) A judge, commissioner, or other hearing officer assigned  
14 to a family law case with issues concerning custody or visitation,  
15 or both, involving the minor, and the following persons, if actively  
16 participating in the family law case: a family court mediator  
17 assigned to a case involving the minor pursuant to Article 1  
18 (commencing with Section 3160) of Chapter 11 of Part 2 of  
19 Division 8 of the Family Code, a court-appointed evaluator or a  
20 person conducting a court-connected child custody evaluation,  
21 investigation, or assessment pursuant to Section 3111 or 3118 of  
22 the Family Code, and counsel appointed for the minor in the family  
23 law case pursuant to Section 3150 of the Family Code. Prior to  
24 allowing counsel appointed for the minor in the family law case  
25 to inspect the file, the court clerk may require counsel to provide  
26 a certified copy of the court order appointing him or her as the  
27 minor’s counsel.

28 (M) A court-appointed investigator who is actively participating  
29 in a guardianship case involving a minor pursuant to Part 2  
30 (commencing with Section 1500) of Division 4 of the Probate  
31 Code and acting within the scope of his or her duties in that case.

32 (N) A local child support agency for the purpose of establishing  
33 paternity and establishing and enforcing child support orders.

34 (O) Juvenile justice commissions as established under Section  
35 225. The confidentiality provisions of Section 10850 shall apply  
36 to a juvenile justice commission and its members.

37 (P) Any other person who may be designated by court order of  
38 the judge of the juvenile court upon filing a petition.

39 (2) (A) Notwithstanding any other law and subject to  
40 subparagraph (A) of paragraph (3), juvenile case files, except those

1 relating to matters within the jurisdiction of the court pursuant to  
2 Section 601 or 602, that pertain to a deceased child who was within  
3 the jurisdiction of the juvenile court pursuant to Section 300, shall  
4 be released to the public pursuant to an order by the juvenile court  
5 after a petition has been filed and interested parties have been  
6 afforded an opportunity to file an objection. Any information  
7 relating to another child or which could identify another child,  
8 except for information about the deceased, shall be redacted from  
9 the juvenile case file prior to release, unless a specific order is  
10 made by the juvenile court to the contrary. Except as provided in  
11 this paragraph, the presiding judge of the juvenile court may issue  
12 an order prohibiting or limiting access to the juvenile case file, or  
13 any portion thereof, of a deceased child only upon a showing by  
14 a preponderance of evidence that release of the juvenile case file  
15 or any portion thereof is detrimental to the safety, protection, or  
16 physical or emotional well-being of another child who is directly  
17 or indirectly connected to the juvenile case that is the subject of  
18 the petition.

19 (B) This paragraph represents a presumption in favor of the  
20 release of documents when a child is deceased unless the statutory  
21 reasons for confidentiality are shown to exist.

22 (C) If a child whose records are sought has died, and documents  
23 are sought pursuant to this paragraph, no weighing or balancing  
24 of the interests of those other than a child is permitted.

25 (D) A petition filed under this paragraph shall be served on  
26 interested parties by the petitioner, if the petitioner is in possession  
27 of their identity and address, and on the custodian of records. Upon  
28 receiving a petition, the custodian of records shall serve a copy of  
29 the request upon all interested parties that have not been served  
30 by the petitioner or on the interested parties served by the petitioner  
31 if the custodian of records possesses information, such as a more  
32 recent address, indicating that the service by the petitioner may  
33 have been ineffective.

34 (E) The custodian of records shall serve the petition within 10  
35 calendar days of receipt. If any interested party, including the  
36 custodian of records, objects to the petition, the party shall file and  
37 serve the objection on the petitioning party no later than 15  
38 calendar days of service of the petition.

39 (F) The petitioning party shall have 10 calendar days to file any  
40 reply. The juvenile court shall set the matter for hearing no more

1 than 60 calendar days from the date the petition is served on the  
2 custodian of records. The court shall render its decision within 30  
3 days of the hearing. The matter shall be decided solely upon the  
4 basis of the petition and supporting exhibits and declarations, if  
5 any, the objection and any supporting exhibits or declarations, if  
6 any, and the reply and any supporting declarations or exhibits  
7 thereto, and argument at hearing. The court may solely upon its  
8 own motion order the appearance of witnesses. If no objection is  
9 filed to the petition, the court shall review the petition and issue  
10 its decision within 10 calendar days of the final day for filing the  
11 objection. Any order of the court shall be immediately reviewable  
12 by petition to the appellate court for the issuance of an  
13 extraordinary writ.

14 (3) Access to juvenile case files pertaining to matters within the  
15 jurisdiction of the juvenile court pursuant to Section 300 shall be  
16 limited as follows:

17 (A) If a juvenile case file, or any portion thereof, is privileged  
18 or confidential pursuant to any other state law or federal law or  
19 regulation, the requirements of that state law or federal law or  
20 regulation prohibiting or limiting release of the juvenile case file  
21 or any portions thereof shall prevail. Unless a person is listed in  
22 subparagraphs (A) to (O), inclusive, of paragraph (1) and is entitled  
23 to access under the other state law or federal law or regulation  
24 without a court order, all those seeking access, pursuant to other  
25 authorization, to portions of, or information relating to the contents  
26 of, juvenile case files protected under another state law or federal  
27 law or regulation, shall petition the juvenile court. The juvenile  
28 court may only release the portion of, or information relating to  
29 the contents of, juvenile case files protected by another state law  
30 or federal law or regulation if disclosure is not detrimental to the  
31 safety, protection, or physical or emotional well-being of a child  
32 who is directly or indirectly connected to the juvenile case that is  
33 the subject of the petition. This paragraph shall not be construed  
34 to limit the ability of the juvenile court to carry out its duties in  
35 conducting juvenile court proceedings.

36 (B) Prior to the release of the juvenile case file or any portion  
37 thereof, the court shall afford due process, including a notice of  
38 and an opportunity to file an objection to the release of the record  
39 or report to all interested parties.

1 (4) A juvenile case file, any portion thereof, and information  
2 relating to the content of the juvenile case file, may not be  
3 disseminated by the receiving agencies to any persons or agencies,  
4 other than those persons or agencies authorized to receive  
5 documents pursuant to this section. Further, a juvenile case file,  
6 any portion thereof, and information relating to the content of the  
7 juvenile case file, may not be made as an attachment to any other  
8 documents without the prior approval of the presiding judge of the  
9 juvenile court, unless it is used in connection with and in the course  
10 of a criminal investigation or a proceeding brought to declare a  
11 person a dependent child or ward of the juvenile court.

12 (5) Individuals listed in subparagraphs (A), (B), (C), (D), (E),  
13 (F), (H), and (I) of paragraph (1) may also receive copies of the  
14 case file. In these circumstances, the requirements of paragraph  
15 (4) shall continue to apply to the information received.

16 (b) (1) While the Legislature reaffirms its belief that juvenile  
17 court records, in general, should be confidential, it is the intent of  
18 the Legislature in enacting this subdivision to provide for a limited  
19 exception to juvenile court record confidentiality to promote more  
20 effective communication among juvenile courts, family courts,  
21 law enforcement agencies, and schools to ensure the rehabilitation  
22 of juvenile criminal offenders as well as to lessen the potential for  
23 drug use, violence, other forms of delinquency, and child abuse.

24 (2) (A) Notwithstanding subdivision (a), written notice that a  
25 minor enrolled in a public school, kindergarten to grade 12,  
26 inclusive, has been found by a court of competent jurisdiction to  
27 have committed any felony or any misdemeanor involving curfew,  
28 gambling, alcohol, drugs, tobacco products, carrying of weapons,  
29 a sex offense listed in Section 290 of the Penal Code, assault or  
30 battery, larceny, vandalism, or graffiti shall be provided by the  
31 court, within seven days, to the superintendent of the school district  
32 of attendance. Written notice shall include only the offense found  
33 to have been committed by the minor and the disposition of the  
34 minor's case. This notice shall be expeditiously transmitted by the  
35 district superintendent to the principal at the school of attendance.  
36 The principal shall expeditiously disseminate the information to  
37 those counselors directly supervising or reporting on the behavior  
38 or progress of the minor. In addition, the principal shall disseminate  
39 the information to any teacher or administrator directly supervising  
40 or reporting on the behavior or progress of the minor whom the

1 principal believes needs the information to work with the pupil in  
2 an appropriate fashion, to avoid being needlessly vulnerable or to  
3 protect other persons from needless vulnerability.

4 ~~Any~~

5 (B) *Any* information received by a teacher, counselor, or  
6 administrator under this subdivision shall be received in confidence  
7 for the limited purpose of rehabilitating the minor and protecting  
8 students and staff, and shall not be further disseminated by the  
9 teacher, counselor, or administrator, except insofar as  
10 communication with the juvenile, his or her parents or guardians,  
11 law enforcement personnel, and the juvenile's probation officer  
12 is necessary to effectuate the juvenile's rehabilitation or to protect  
13 students and staff.

14 ~~An~~

15 (C) *An* intentional violation of the confidentiality provisions of  
16 this paragraph is a misdemeanor punishable by a fine not to exceed  
17 five hundred dollars (\$500).

18 (3) If a minor is removed from public school as a result of the  
19 court's finding described in subdivision (b), the superintendent  
20 shall maintain the information in a confidential file and shall defer  
21 transmittal of the information received from the court until the  
22 minor is returned to public school. If the minor is returned to a  
23 school district other than the one from which the minor came, the  
24 parole or probation officer having jurisdiction over the minor shall  
25 so notify the superintendent of the last district of attendance, who  
26 shall transmit the notice received from the court to the  
27 superintendent of the new district of attendance.

28 (c) Each probation report filed with the court concerning a minor  
29 whose record is subject to dissemination pursuant to subdivision  
30 (b) shall include on the face sheet the school at which the minor  
31 is currently enrolled. The county superintendent shall provide the  
32 court with a listing of all of the schools within each school district,  
33 within the county, along with the name and mailing address of  
34 each district superintendent.

35 (d) (1) Each notice sent by the court pursuant to subdivision  
36 (b) shall be stamped with the instruction: "Unlawful Dissemination  
37 Of This Information Is A Misdemeanor." Any information received  
38 from the court shall be kept in a separate confidential file at the  
39 school of attendance and shall be transferred to the minor's  
40 subsequent schools of attendance and maintained until the minor

1 graduates from high school, is released from juvenile court  
2 jurisdiction, or reaches the age of 18 years, whichever occurs first.  
3 After that time the confidential record shall be destroyed. At any  
4 time after the date by which a record required to be destroyed by  
5 this section should have been destroyed, the minor or his or her  
6 parent or guardian shall have the right to make a written request  
7 to the principal of the school that the minor’s school records be  
8 reviewed to ensure that the record has been destroyed. Upon  
9 completion of any requested review and no later than 30 days after  
10 the request for the review was received, the principal or his or her  
11 designee shall respond in writing to the written request and either  
12 shall confirm that the record has been destroyed or, if the record  
13 has not been destroyed, shall explain why destruction has not yet  
14 occurred.

15 (2) Except as provided in paragraph (2) of subdivision (b), no  
16 liability shall attach to any person who transmits or fails to transmit  
17 any notice or information required under subdivision (b).

18 (e) For purposes of this section, a “juvenile case file” means a  
19 petition filed in any juvenile court proceeding, reports of the  
20 probation officer, and all other documents filed in that case or  
21 made available to the probation officer in making his or her report,  
22 or to the judge, referee, or other hearing officer, and thereafter  
23 retained by the probation officer, judge, referee, or other hearing  
24 officer.

25 (f) The persons described in subparagraphs (A), (E), (F), (H),  
26 (K), (L), (M), and (N) of paragraph (1) of subdivision (a) include  
27 persons serving in a similar capacity for an Indian tribe, reservation,  
28 or tribal court when the case file involves a child who is a member  
29 of, or who is eligible for membership in, that tribe.