

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 504

Introduced by Senator Lara

February 26, 2015

~~An act to amend Section 1752 of the Welfare and Institutions Code, relating to juvenile justice. An act to amend Section 1203.45 of the Penal Code, and to amend Sections 781 and 903.3 of the Welfare and Institutions Code, relating to court records.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 504, as amended, Lara. ~~Juvenile justice.~~ *Court records: sealing.* Existing law authorizes a person to petition the court for an order sealing the record of conviction and other official records in a case in which that person was under 18 years of age at the time of commission of a misdemeanor and is eligible for, or has previously received, specified relief. Existing law authorizes that person to be required to reimburse the court, the county, or any city for the actual cost of services rendered, as specified.

This bill would only make persons 26 years of age or older liable to reimburse the court, the county, or any city for the cost of services.

Existing law authorizes in a case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in a case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to a specified provision of law, or in a case in which a minor is taken before an officer of a law enforcement agency, the person or the county probation officer to petition the court for the sealing of arrest records and records relating to the person's case in the custody of the juvenile court and the probation officer and any other agencies, including law

enforcement agencies and public officials as the petitioner alleges to have custody of the records. Existing law authorizes the petition to be filed 5 years or more after the jurisdiction of the juvenile court has terminated or, if no petition was filed, 5 years or more after the person was cited to appear before a probation officer or was taken before a probation officer or law enforcement officer, or, in any case, at any time after the person reaches 18 years of age. Existing law also requires the court to order the juvenile court records sealed pursuant to these provisions destroyed, as specified, and authorizes other agencies in possession of sealed records to destroy the records 5 years after the record was ordered sealed.

This bill would instead require a court to, at the time the jurisdiction of the juvenile court has terminated as to the person, order all records, papers, and exhibits in the person's case in the custody of the juvenile court and other agencies, entities, and officials, sealed. The bill would, in any case in which a petition is not filed with the court, require the probation department or law enforcement agency to seal all records at the time at which the decision was made to not refer the person to the probation department or the district attorney's office. The bill would also make conforming changes. By increasing the number of records local agencies would be required to seal, this bill would impose a state-mandated local program.

Existing law makes a father, mother, spouse, or other person liable for the support of a minor person, the minor when he or she becomes an adult, or the estates of those persons, liable for the cost to the county and court for any investigation related to the sealing and for the sealing of any juvenile court or arrest records pursuant to the above-mentioned provisions. Existing law also authorizes those persons to be required to reimburse the court, county, or a city for the actual cost of services rendered, as specified.

This bill would only require persons 26 years of age or older who petition for an order sealing his or her record, pursuant to specified provisions, to be liable for the investigative costs and to reimburse the costs of services rendered.

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.

~~Existing law sets forth certain powers that may be exercised by the Director of Juvenile Justice in the Department of Corrections and Rehabilitation to the extent that funds are available for those purposes.~~

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

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~yes.
State-mandated local program: ~~no~~yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1203.45 of the Penal Code is amended
2 to read:

3 1203.45. (a) In a case in which a person was under the age of
4 18 years of age at the time of commission of a misdemeanor and
5 is eligible for, or has previously received, the relief provided by
6 Section 1203.4 or 1203.4a, that person, in a proceeding under
7 Section 1203.4 or 1203.4a, or a separate proceeding, may petition
8 the court for an order sealing the record of conviction and other
9 official records in the case, including records of arrests resulting
10 in the criminal proceeding and records relating to other offenses
11 charged in the accusatory pleading, whether *the* defendant was
12 acquitted or charges were dismissed. If the court finds that the
13 person was under the age 18 years of ~~18~~ age at the time of the
14 commission of the misdemeanor, and is eligible for relief under
15 Section 1203.4 or 1203.4a or has previously received that relief,
16 it may issue its order granting the relief prayed for. Thereafter the
17 conviction, arrest, or other proceeding shall be deemed not to have
18 occurred, and the petitioner may answer accordingly any question
19 relating to their occurrence.

20 (b) This section applies to convictions that occurred before, as
21 well as those that occur after, the effective date of this section.

22 (c) This section shall not apply to offenses for which registration
23 is required under Section 290, to violations of Division 10
24 (commencing with Section 11000) of the Health and Safety Code,
25 or to misdemeanor violations of the Vehicle Code relating to
26 operation of a vehicle or of a local ordinance relating to operation,
27 standing, stopping, or parking of a motor vehicle.

1 (d) This section does not apply to a person convicted of more
2 than one offense, whether the second or additional convictions
3 occurred in the same action in which the conviction as to which
4 relief is sought occurred or in another action, except in the
5 following cases:

6 (1) One of the offenses includes the other or others.

7 (2) The other conviction or convictions were for the following:

8 (A) Misdemeanor violations of Chapters 1 (commencing with
9 Section 21000) to 9 (commencing with Section 22500), inclusive,
10 Chapter 12 (commencing with Section 23100), or Chapter 13
11 (commencing with Section 23250) of Division 11 of the Vehicle
12 Code, other than Section 23103, 23104, 23105, 23152, 23153, or
13 23220.

14 (B) Violation of a local ordinance relating to the operation,
15 stopping, standing, or parking of a motor vehicle.

16 (3) The other conviction or convictions consisted of any
17 combination of paragraphs (1) and (2).

18 (e) This section shall apply in a case in which a person was
19 under ~~the age 21 years~~ of ~~21 age~~ at the time of the commission of
20 an offense as to which this section is made applicable if that offense
21 was committed prior to March 7, 1973.

22 (f) In an action or proceeding based upon defamation, a court,
23 upon a showing of good cause, may order the records sealed under
24 this section to be opened and admitted into evidence. The records
25 shall be confidential and shall be available for inspection only by
26 the court, jury, parties, counsel for the parties, and any other person
27 who is authorized by the court to inspect them. Upon the judgment
28 in the action or proceeding becoming final, the court shall order
29 the records sealed.

30 (g) A person who *is 26 years of age or older and* petitions for
31 an order sealing a record under this section may be required to
32 reimburse the court for the actual cost of services rendered, whether
33 or not the petition is granted and the records are sealed or
34 expunged, at a rate to be determined by the court, not to exceed
35 one hundred fifty dollars (\$150), and to reimburse the county for
36 the actual cost of services rendered, whether or not the petition is
37 granted and the records are sealed or expunged, at a rate to be
38 determined by the county board of supervisors, not to exceed one
39 hundred fifty dollars (\$150), and to reimburse any city for the
40 actual cost of services rendered, whether or not the petition is

1 granted and the records are sealed or expunged, at a rate to be
2 determined by the city council, not to exceed one hundred fifty
3 dollars (\$150). Ability to make this reimbursement shall be
4 determined by the court using the standards set forth in paragraph
5 (2) of subdivision (g) of Section 987.8 and shall not be a
6 prerequisite to a person's eligibility under this section. The court
7 may order reimbursement in a case in which the petitioner appears
8 to have the ability to pay, without undue hardship, all or any portion
9 of the cost for services established pursuant to this subdivision.

10 *SEC. 2. Section 781 of the Welfare and Institutions Code is*
11 *amended to read:*

12 781. (a) (1) (A) In any case in which a petition has been filed
13 with a juvenile court to commence proceedings to adjudge a person
14 a ward of the court, ~~in any case in which a person is cited to appear~~
15 ~~before a probation officer or is taken before a probation officer~~
16 ~~pursuant to Section 626, or in any case in which a minor is taken~~
17 ~~before any officer of a law enforcement agency, the person or court~~
18 ~~shall, at the county probation officer may, five years or more after~~
19 ~~time the jurisdiction of the juvenile court has terminated as to the~~
20 ~~person, or, in a case in which no petition is filed, five years or more~~
21 ~~after the person was cited to appear before a probation officer or~~
22 ~~was taken before a probation officer pursuant to Section 626 or~~
23 ~~was taken before any officer of a law enforcement agency, or, in~~
24 ~~any case, at any time after the person has reached the age of 18~~
25 ~~years, petition the court for sealing of the records, including records~~
26 ~~of arrest, relating to the person's case, in the custody of the juvenile~~
27 ~~court and probation officer and any other agencies, including law~~
28 ~~enforcement agencies, and public officials as the petitioner alleges,~~
29 ~~in his or her petition, to have custody of the records. The court~~
30 ~~shall notify the district attorney of the county and the county~~
31 ~~probation officer, if he or she is not the petitioner, and the district~~
32 ~~attorney or probation officer or any of their deputies or any other~~
33 ~~person having relevant evidence may testify at the hearing on the~~
34 ~~petition. If, after hearing, the court finds that since the termination~~
35 ~~of jurisdiction or action pursuant to Section 626, as the case may~~
36 ~~be, he or she has not been convicted of a felony or of any~~
37 ~~misdemeanor involving moral turpitude and that rehabilitation has~~
38 ~~been attained to the satisfaction of the court, it shall order all~~
39 ~~records, papers, and exhibits in the person's case in the custody~~
40 ~~of the juvenile court sealed, including the juvenile court record,~~

1 minute book entries, and entries on dockets, and any other records
2 relating to the case in the custody of the other ~~agencies~~ *agencies*,
3 ~~entities~~, and officials as are named in the order. ~~In any case in~~
4 ~~which a ward of the juvenile court is subject to the registration~~
5 ~~requirements set forth in Section 290 of the Penal Code, a court,~~
6 ~~in ordering the sealing of the juvenile records of the person, also~~
7 ~~shall provide in the order that the person is relieved from the~~
8 ~~registration requirement and for the destruction of all registration~~
9 ~~information in the custody of the Department of Justice and other~~
10 ~~agencies and officials. Notwithstanding any other provision of~~
11 ~~law, the court shall not order the person's records sealed in any~~
12 ~~case in which the person has been found by the juvenile court to~~
13 ~~have committed an offense listed in subdivision (b) of Section 707~~
14 ~~when he or she had attained 14 years of age or older. Once the~~
15 ~~court has ordered the person's records sealed, the proceedings in~~
16 ~~the case shall be deemed never to have occurred, and the person~~
17 ~~may properly reply accordingly to any inquiry about the events,~~
18 ~~the records of which are ordered sealed. The court shall send a~~
19 ~~copy of the order to each agency and official named therein,~~
20 ~~directing the agency to seal its records and stating the date~~
21 ~~thereafter to destroy the sealed records. Each such agency and~~
22 ~~official shall seal the records in its custody as directed by the order,~~
23 ~~shall advise the court of its compliance, and thereupon shall seal~~
24 ~~the copy of the court's order for sealing of records that it, he, or~~
25 ~~she received. The person who is the subject of records sealed~~
26 ~~pursuant to this section may petition the superior court to permit~~
27 ~~inspection of the records by persons named in the petition, and the~~
28 ~~superior court may so order. Otherwise, except as provided in~~
29 ~~subdivisions (b) and (e), the records shall not be open to inspection.~~

30 *(B) The court shall send a copy of the order to each agency,*
31 *entity, and official named in the order, directing the agency or*
32 *entity to seal its records. Each agency, entity, and official shall*
33 *seal the records in its custody as directed by the order, shall advise*
34 *the court of its compliance, and thereupon shall seal the copy of*
35 *the court's order for sealing of records that the agency, entity, or*
36 *official received.*

37 *(C) In any case in which a ward of the juvenile court is subject*
38 *to the registration requirements set forth in Section 290 of the*
39 *Penal Code, a court, in ordering the sealing of the juvenile records*
40 *of the person, shall also provide in the order that the person is*

1 *relieved from the registration requirement and for the destruction*
2 *of all registration information in the custody of the Department*
3 *of Justice and other agencies, entities, and officials.*

4 *(D) Notwithstanding any other law, the court shall not order*
5 *the person's records sealed in any case in which the person has*
6 *been found by the juvenile court to have committed an offense*
7 *listed in subdivision (b) of Section 707 when he or she had attained*
8 *14 years of age or older.*

9 *(2) In any case in which a person is cited to appear before a*
10 *probation officer or is taken before a probation officer pursuant*
11 *to Section 626, or in any case in which a minor is taken before*
12 *any officer of a law enforcement agency, and no petition is filed,*
13 *the probation department or law enforcement agency shall, at the*
14 *time at which the decision was made to not refer the person to the*
15 *probation department or to the district attorney's office, seal all*
16 *records, including records of arrest, relating to the person's case,*
17 *in the custody of the probation department and law enforcement*
18 *agency. Once the records have been sealed, the events shall be*
19 *deemed never to have occurred, and the person may properly reply*
20 *accordingly to any inquiry about the events, the records of which*
21 *are sealed.*

22 *(3) The person who is the subject of records sealed pursuant to*
23 *this section may petition the superior court to permit inspection*
24 *of the records by persons named in the petition, and the superior*
25 *court may order the inspection of the records. Except as provided*
26 *in subdivision (b), the records shall not be open to inspection.*

27 *(b) In any action or proceeding based upon defamation, a court,*
28 *upon a showing of good cause, may order any records sealed under*
29 *this section to be opened and admitted into evidence. The records*
30 *shall be confidential and shall be available for inspection only by*
31 *the court, jury, parties, counsel for the parties, and any other person*
32 *who is authorized by the court to inspect them. Upon the judgment*
33 *in the action or proceeding becoming final, the court shall order*
34 *the records sealed.*

35 *(c) (1) Subdivision (a) does not apply to Department of Motor*
36 *Vehicle records of any convictions for offenses under the Vehicle*
37 *Code or any local ordinance relating to the operation, stopping*
38 *and standing, or parking of a vehicle where the record of any such*
39 *conviction would be a public record under Section 1808 of the*
40 *Vehicle Code. However, if a court orders a case record containing*

1 any such conviction to be sealed under this section, and if the
 2 Department of Motor Vehicles maintains a public record of such
 3 a conviction, the court shall notify the Department of Motor
 4 Vehicles of the sealing and the department shall advise the court
 5 of its receipt of the notice.

6 ~~Notwithstanding~~

7 (2) ~~Notwithstanding~~ any other ~~provision~~ of law, subsequent to
 8 the notification, the Department of Motor Vehicles shall allow
 9 access to its record of convictions only to the subject of the record
 10 and to insurers which have been granted requestor code numbers
 11 by the department. ~~Any~~ An insurer to which ~~such~~ a record of
 12 conviction is disclosed, when ~~such~~ a ~~the~~ conviction record has
 13 otherwise been sealed under this section, shall be given notice of
 14 the sealing when the record is disclosed to the insurer. The insurer
 15 may use the information contained in the record for purposes of
 16 determining eligibility for insurance and insurance rates for the
 17 subject of the record, and the information shall not be used for any
 18 other purpose nor shall it be disclosed by an insurer to any person
 19 or party not having access to the record.

20 (2)

21 (3) This subdivision shall not be construed as ~~preventing~~ *prevent*
 22 the sealing of any record ~~which~~ *that* is maintained by any agency
 23 or party other than the Department of Motor Vehicles.

24 (3)

25 (4) This subdivision shall not be construed as ~~affecting~~ *affect*
 26 the procedures or authority of the Department of Motor Vehicles
 27 for purging department records.

28 (d) ~~Unless for good cause the court determines that the juvenile~~
 29 ~~court record shall be retained, the court shall order the destruction~~
 30 ~~of a person's juvenile court records that are sealed pursuant to this~~
 31 ~~section as follows: five years after the record was ordered sealed,~~
 32 ~~if the person who is the subject of the record was alleged or~~
 33 ~~adjudged to be a person described by Section 601; or when the~~
 34 ~~person who is the subject of the record reaches the age of 38 if the~~
 35 ~~person was alleged or adjudged to be a person described by Section~~
 36 ~~602, except that if the subject of the record was found to be a~~
 37 ~~person described in Section 602 because of the commission of an~~
 38 ~~offense listed in subdivision (b) of Section 707 when he or she~~
 39 ~~was 14 years of age or older, the record shall not be destroyed.~~

1 ~~Any other agency in possession of sealed records may destroy its~~
2 ~~records five years after the record was ordered sealed.~~

3 ~~(e) The court may access a file that has been sealed pursuant to~~
4 ~~this section for the limited purpose of verifying the prior~~
5 ~~jurisdictional status of a ward who is petitioning the court to resume~~
6 ~~its jurisdiction pursuant to subdivision (e) of Section 388. This~~
7 ~~access shall not be deemed an unsealing of the record and shall~~
8 ~~not require notice to any other entity.~~

9 ~~(f)~~

10 (d) This section shall not permit the sealing of a person's
11 juvenile court records for an offense where the person is convicted
12 of that offense in a criminal court pursuant to the provisions of
13 Section 707.1. This subdivision is declaratory of existing law.

14 ~~(g)~~

15 (e) (1) On and after January 1, 2015, each court and probation
16 department shall ensure that information regarding the eligibility
17 for and the procedures to request the sealing and destruction of
18 records pursuant to this section shall be provided to each person
19 who is either of the following:

20 (A) A person for whom a petition has been filed on or after
21 January 1, 2015, to adjudge the person a ward of the juvenile court.

22 (B) A person who is brought before a probation officer pursuant
23 to Section 626.

24 (2) The Judicial Council shall, on or before January 1, 2015,
25 develop informational materials for purposes of paragraph (1) and
26 shall develop a form to petition the court for the sealing and
27 destruction of records pursuant to this section. The informational
28 materials and the form shall be provided to each person described
29 in paragraph (1) when jurisdiction is terminated or when the case
30 is dismissed.

31 *SEC. 3. Section 903.3 of the Welfare and Institutions Code is*
32 *amended to read:*

33 903.3. (a) ~~The father, mother, spouse, or other~~ A person liable
34 ~~for the support of a minor person, the person himself or herself if~~
35 ~~he or she who is an adult, or the estates 26 years of those persons~~
36 ~~age or older shall, unless indigent, be liable for the cost to the~~
37 ~~county and court for any investigation related to the sealing and~~
38 ~~for the sealing of any juvenile court or arrest records pursuant to~~
39 ~~Section 781 pertaining to that person. The liability of those persons~~
40 ~~and estates shall be a joint and several liability.~~

1 (b) In the event a petition is filed for an order sealing a record,
 2 ~~the father, mother, spouse, or other person liable for the support~~
 3 ~~of a minor, that person if he or she who is an adult, or the estate~~
 4 ~~26 years of that person, age or older~~ may be required to reimburse
 5 the county and court for the actual cost of services rendered,
 6 whether or not the petition is granted and the records are sealed
 7 or expunged, at a rate to be determined by the county board of
 8 supervisors for the county and by the court for the court, not to
 9 exceed one hundred fifty dollars (\$150). Ability to make this
 10 reimbursement shall be determined by the court using the standards
 11 set forth in paragraph (2) of subdivision (g) of Section 987.8 *of*
 12 *the Penal Code* and shall not be a prerequisite to a person's
 13 eligibility under this section. The court may order reimbursement
 14 in any case in which the petitioner appears to have the ability to
 15 pay, without undue hardship, all or any portion of the cost for
 16 services.

17 (c) Notwithstanding subdivision (a), ~~the father, mother, spouse,~~
 18 ~~or other a person liable for the support of the minor, the person~~
 19 ~~himself or herself if he or she is an adult, the estate of that person,~~
 20 ~~or the estate of the minor,~~ shall not be liable for the costs described
 21 in this section if a petition to declare the minor a dependent child
 22 of the court pursuant to Section 300 is dismissed at or before the
 23 jurisdictional hearing.

24 (d) Any determination of amount made by a court under this
 25 section shall be valid only if either (1) made under procedures
 26 adopted by the Judicial Council or (2) approved by the Judicial
 27 Council.

28 *SEC. 4. If the Commission on State Mandates determines that*
 29 *this act contains costs mandated by the state, reimbursement to*
 30 *local agencies and school districts for those costs shall be made*
 31 *pursuant to Part 7 (commencing with Section 17500) of Division*
 32 *4 of Title 2 of the Government Code.*

33 ~~SECTION 1. Section 1752 of the Welfare and Institutions~~
 34 ~~Code, as amended by Chapter 1365 of the Statutes of 1972, is~~
 35 ~~amended to read:~~

36 ~~1752. (a) To the extent that necessary funds are available for~~
 37 ~~the purposes, the director may do all of the following:~~

38 ~~(1) Establish and operate a treatment and training service and~~
 39 ~~other services as are proper for the discharge of his or her duties.~~

1 ~~(2) Create administrative districts suitable to the performance~~
2 ~~of his or her duties.~~

3 ~~(3) Employ and discharge all those persons as may be needed~~
4 ~~for the proper execution of the duties of the authority. That~~
5 ~~employment and discharge shall be in accord with the civil service~~
6 ~~laws of this state.~~

7 ~~(b) Notwithstanding Section 18932 of the Government Code,~~
8 ~~the maximum age shall be 35 years for any open examination for~~
9 ~~the position of parole agent I, group supervisor, youth counselor,~~
10 ~~and other custodial and parole positions which normally afford~~
11 ~~entry into the Department of Corrections and Rehabilitation,~~
12 ~~Division of Juvenile Facilities, unless the applicant is already a~~
13 ~~“state safety” member for the purposes of retirement and disability~~
14 ~~benefits.~~

15 ~~SEC. 2. Section 1752 of the Welfare and Institutions Code, as~~
16 ~~amended by Section 7 of Chapter 453 of the Statutes of 1981, is~~
17 ~~amended to read:~~

18 ~~1752. (a) To the extent that necessary funds are available for~~
19 ~~the purposes the director may do all of the following:~~

20 ~~(1) Establish and operate a treatment and training service and~~
21 ~~other services as are proper for the discharge of his or her duties.~~

22 ~~(2) Create administrative districts suitable to the performance~~
23 ~~of his or her duties.~~

24 ~~(3) Employ and discharge all those persons as may be needed~~
25 ~~for the proper execution of the duties of the authority. That~~
26 ~~employment and discharge shall be in accord with the civil service~~
27 ~~laws of this state.~~

28 ~~(b) An open examination for the position of parole agent I, group~~
29 ~~supervisor, youth counselor, and other custodial and parole~~
30 ~~positions which normally afford entry into the Department of~~
31 ~~Corrections and Rehabilitation, Division of Juvenile Facilities shall~~
32 ~~require the demonstration of the physical ability to effectively~~
33 ~~carry out the duties and responsibilities of the position in a manner~~
34 ~~which would not inordinately endanger the health or safety of a~~
35 ~~custodial person or a parolee or the health and safety of others.~~