

AMENDED IN ASSEMBLY JULY 14, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 504

Introduced by Senator Lara

February 26, 2015

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. 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.

This bill would prohibit an unfulfilled order of restitution that has been converted to a civil judgment from barring the sealing of a record pursuant to the above provisions. The bill would also prohibit outstanding restitution fines and court-ordered fees from being considered when assessing whether a petitioner's rehabilitation has been attained to the satisfaction of the court and from barring the sealing of a record pursuant to the above provisions. *The bill would provide that a minor is not relieved of the obligation to pay victim restitution, restitution fines, and court-ordered fines and fees because the minor's records are sealed. The bill would provide that sealing a record does not prohibit a court from enforcing a civil judgment for an unfulfilled order of restitution, and that a victim or a local collection program may continue to enforce victim restitution orders, restitution fines, and court-ordered fines and fees after a record is sealed.* 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.

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 1203.45 of the Penal Code is amended
2 to read:

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

28 (d) This section does not apply to a person convicted of more
29 than one offense, whether the second or additional convictions
30 occurred in the same action in which the conviction as to which
31 relief is sought occurred or in another action, except in the
32 following cases:

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

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

1 (A) Misdemeanor violations of Chapters 1 (commencing with
2 Section 21000) to 9 (commencing with Section 22500), inclusive,
3 Chapter 12 (commencing with Section 23100), or Chapter 13
4 (commencing with Section 23250) of Division 11 of the Vehicle
5 Code, other than Section 23103, 23104, 23105, 23152, 23153, or
6 23220.

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

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

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

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

23 (g) A person who is 26 years of age ~~of~~ *or* older and petitions
24 for an order sealing a record under this section may be required to
25 reimburse the court for the actual cost of services rendered, whether
26 or not the petition is granted and the records are sealed or
27 expunged, at a rate to be determined by the court, not to exceed
28 one hundred fifty dollars (\$150), and to reimburse the county for
29 the actual cost of services rendered, whether or not the petition is
30 granted and the records are sealed or expunged, at a rate to be
31 determined by the county board of supervisors, not to exceed one
32 hundred fifty dollars (\$150), and to reimburse any city for the
33 actual cost of services rendered, whether or not the petition is
34 granted and the records are sealed or expunged, at a rate to be
35 determined by the city council, not to exceed one hundred fifty
36 dollars (\$150). Ability to make this reimbursement shall be
37 determined by the court using the standards set forth in paragraph
38 (2) of subdivision (g) of Section 987.8 and shall not be a
39 prerequisite to a person's eligibility under this section. The court
40 may order reimbursement in a case in which the petitioner appears

1 to have the ability to pay, without undue hardship, all or any portion
2 of the cost for services established pursuant to this subdivision.

3 SEC. 2. Section 781 of the Welfare and Institutions Code is
4 amended to read:

5 781. (a) (1) (A) In any case in which a petition has been filed
6 with a juvenile court to commence proceedings to adjudge a person
7 a ward of the court, in any case in which a person is cited to appear
8 before a probation officer or is taken before a probation officer
9 pursuant to Section 626, or in any case in which a minor is taken
10 before any officer of a law enforcement agency, the person or the
11 county probation officer may, five years or more after the
12 jurisdiction of the juvenile court has terminated as to the person,
13 or, in a case in which no petition is filed, five years or more after
14 the person was cited to appear before a probation officer or was
15 taken before a probation officer pursuant to Section 626 or was
16 taken before any officer of a law enforcement agency, or, in any
17 case, at any time after the person has reached 18 years of age,
18 petition the court for sealing of the records, including records of
19 arrest, relating to the person's case, in the custody of the juvenile
20 court and probation officer and any other agencies, including law
21 enforcement agencies, entities, and public officials as the petitioner
22 alleges, in his or her petition, to have custody of the records. The
23 court shall notify the district attorney of the county and the county
24 probation officer, if he or she is not the petitioner, and the district
25 attorney or probation officer or any of their deputies or any other
26 person having relevant evidence may testify at the hearing on the
27 petition. If, after hearing, the court finds that since the termination
28 of jurisdiction or action pursuant to Section 626, as the case may
29 be, he or she has not been convicted of a felony or of any
30 misdemeanor involving moral turpitude and that rehabilitation has
31 been attained to the satisfaction of the court, it shall order all
32 records, papers, and exhibits in the person's case in the custody
33 of the juvenile court sealed, including the juvenile court record,
34 minute book entries, and entries on dockets, and any other records
35 relating to the case in the custody of the other agencies, entities,
36 and officials as are named in the order. Once the court has ordered
37 the person's records sealed, the proceedings in the case shall be
38 deemed never to have occurred, and the person may properly reply
39 accordingly to any inquiry about the events, the records of which
40 are ordered sealed.

1 (B) The court shall send a copy of the order to each agency,
2 entity, and official named in the order, directing the agency or
3 entity to seal its records. Each agency, entity, and official shall
4 seal the records in its custody as directed by the order, shall advise
5 the court of its compliance, and thereupon shall seal the copy of
6 the court's order for sealing of records that the agency, entity, or
7 official received.

8 (C) In any case in which a ward of the juvenile court is subject
9 to the registration requirements set forth in Section 290 of the
10 Penal Code, a court, in ordering the sealing of the juvenile records
11 of the person, shall also provide in the order that the person is
12 relieved from the registration requirement and for the destruction
13 of all registration information in the custody of the Department of
14 Justice and other agencies, entities, and officials.

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

20 (2) An unfulfilled order of restitution that has been converted
21 to a civil judgment pursuant to Section 730.6 shall not be a bar to
22 sealing a record pursuant to this subdivision.

23 (3) Outstanding restitution fines and court-ordered fees shall
24 not be considered when assessing whether a petitioner's
25 rehabilitation has been attained to the satisfaction of the court and
26 shall not be a bar to sealing a record pursuant to this subdivision.

27 (4) The person who is the subject of records sealed pursuant to
28 this section may petition the superior court to permit inspection
29 of the records by persons named in the petition, and the superior
30 court may order the inspection of the records. Except as provided
31 in subdivision (b), the records shall not be open to inspection.

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

(c) (1) Subdivision (a) does not apply to Department of Motor Vehicle ~~Vehicle~~ records of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of any such conviction would be a public record under Section 1808 of the Vehicle Code. However, if a court orders a case record containing any such conviction to be sealed under this section, and if the Department of Motor Vehicles maintains a public record of such a conviction, the court shall notify the Department of Motor Vehicles of the sealing and the department shall advise the court of its receipt of the notice.

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

(3) This subdivision does not prevent the sealing of any record which is maintained by any agency or party other than the Department of Motor Vehicles.

(4) This subdivision does not affect the procedures or authority of the Department of Motor Vehicles for purging department records.

(d) Unless for good cause the court determines that the juvenile court record shall be retained, the court shall order the destruction of a person's juvenile court records that are sealed pursuant to this section as follows: five years after the record was ordered sealed, if the person who is the subject of the record was alleged or adjudged to be a person described by Section 601; or when the person who is the subject of the record reaches ~~the age of~~ 38 years ~~of age~~ if the person was alleged or adjudged to be a person described by Section 602, except that if the subject of the record was found to be a person described in Section 602 because of the

1 commission of an offense listed in subdivision (b) of Section 707
2 when he or she was 14 years of age or older, the record shall not
3 be destroyed. Any other agency in possession of sealed records
4 may destroy its records five years after the record was ordered
5 sealed.

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

12 (f) This section shall not permit the sealing of a person's juvenile
13 court records for an offense where the person is convicted of that
14 offense in a criminal court pursuant to the provisions of Section
15 707.1. This subdivision is declaratory of existing law.

16 (g) (1) *This section does not prohibit a court from enforcing a*
17 *civil judgment for an unfulfilled order of restitution obtained*
18 *pursuant to Section 730.6. A minor is not relieved from the*
19 *obligation to pay victim restitution, restitution fines, and*
20 *court-ordered fines and fees because the minor's records are*
21 *sealed.*

22 (2) *A victim or a local collection program may continue to*
23 *enforce victim restitution orders, restitution fines, and*
24 *court-ordered fines and fees after a record is sealed. The juvenile*
25 *court shall have access to any records sealed pursuant to this*
26 *section for the limited purposes of enforcing a civil judgment or*
27 *restitution order.*

28 ~~(g)~~

29 (h) (1) On and after January 1, 2015, each court and probation
30 department shall ensure that information regarding the eligibility
31 for and the procedures to request the sealing and destruction of
32 records pursuant to this section shall be provided to each person
33 who is either of the following:

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

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

38 (2) The Judicial Council shall, on or before January 1, 2015,
39 develop informational materials for purposes of paragraph (1) and
40 shall develop a form to petition the court for the sealing and

1 destruction of records pursuant to this section. The informational
2 materials and the form shall be provided to each person described
3 in paragraph (1) when jurisdiction is terminated or when the case
4 is dismissed.

5 SEC. 3. Section 903.3 of the Welfare and Institutions Code is
6 amended to read:

7 903.3. (a) A person who is 26 years of age or older shall,
8 unless indigent, be liable for the cost to the county and court for
9 any investigation related to the sealing and for the sealing of any
10 juvenile court or arrest records pursuant to Section 781 pertaining
11 to that person.

12 (b) In the event a petition is filed for an order sealing a record,
13 a person who is 26 years of age or older may be required to
14 reimburse the county and court for the actual cost of services
15 rendered, whether or not the petition is granted and the records are
16 sealed or expunged, at a rate to be determined by the county board
17 of supervisors for the county and by the court for the court, not to
18 exceed one hundred fifty dollars (\$150). Ability to make this
19 reimbursement shall be determined by the court using the standards
20 set forth in paragraph (2) of subdivision (g) of Section 987.8 of
21 the Penal Code and shall not be a prerequisite to a person's
22 eligibility under this section. The court may order reimbursement
23 in any case in which the petitioner appears to have the ability to
24 pay, without undue hardship, all or any portion of the cost for
25 services.

26 (c) Notwithstanding subdivision (a), a person shall not be liable
27 for the costs described in this section if a petition to declare the
28 minor a dependent child of the court pursuant to Section 300 is
29 dismissed at or before the jurisdictional hearing.

30 (d) Any determination of amount made by a court under this
31 section shall be valid only if either (1) made under procedures
32 adopted by the Judicial Council or (2) approved by the Judicial
33 Council.

34 SEC. 4. If the Commission on State Mandates determines that
35 this act contains costs mandated by the state, reimbursement to
36 local agencies and school districts for those costs shall be made
37 pursuant to Part 7 (commencing with Section 17500) of Division
38 4 of Title 2 of the Government Code.

O