

AMENDED IN SENATE APRIL 20, 1999

AMENDED IN SENATE APRIL 8, 1999

SENATE BILL

No. 199

Introduced by Senator Polanco

January 19, 1999

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

LEGISLATIVE COUNSEL'S DIGEST

SB 199, as amended, Polanco. Juveniles: confidentiality of records and reports.

Existing law limits the inspection of certain documents relating to a juvenile court proceeding, as specified. Existing law prohibits the dissemination of any records or reports relating to a matter within the jurisdiction of the juvenile court prepared by or released by the court, a probation department, or the county department of social services, any portion of those records or reports, and information relating to the contents of those records or reports, to any person or agency other than an authorized receiving agency.

This bill would revise and recast these provisions to limit the inspection of a juvenile case file, as defined, and would require the release of a juvenile case file to the public, ~~upon~~ *pursuant to* an order by the juvenile court ~~pursuant to~~ *after a hearing on a* noticed petition therefor, when the child is deceased, except as specified. The bill would require, ~~when the deceased child has a sibling or half sibling who is or was within the jurisdiction of the court,~~ the redaction of any information

relating to ~~the sibling or half-sibling~~ any child other than the deceased or which could identify ~~the sibling or half-sibling~~ another child.

The bill would also provide that unless a person is listed in specified state law and is entitled to access a juvenile case file or any portion thereof that is privileged or confidential pursuant to another state law or federal law or regulation, the person must petition the juvenile court, which, consistent with that law or regulation, may only release the file or portion thereof if disclosure is not detrimental to the safety, protection, or physical or emotional well-being of a child who is or was within the jurisdiction of the juvenile court. By imposing additional duties upon local officials, this bill would create a state-mandated local program.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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 827 of the Welfare and
- 2 Institutions Code is amended to read:
- 3 827. (a) (1) Except as provided in paragraphs (2),
- 4 (3), and (4) of this subdivision and Section 828, a juvenile
- 5 case file may be inspected only by the following:
- 6 (A) Court personnel.
- 7 (B) The district attorney, a city attorney, or city
- 8 prosecutor authorized to prosecute criminal or juvenile
- 9 cases under state law.
- 10 (C) The minor who is the subject of the proceeding.



1 (D) His or her parents or guardian.

2 (E) The attorneys for the parties, and judges, referees,
3 other hearing officers, probation officers and law
4 enforcement officers who are actively participating in
5 criminal or juvenile proceedings involving the minor.

6 (F) The superintendent or designee of the school
7 district where the minor is enrolled or attending school.

8 (G) Members of the child protective agencies as
9 defined in Section 11165.9 of the Penal Code.

10 (H) The State Department of Social Services to carry
11 out its duties pursuant to Division 9 (commencing with
12 Section 10000), and Part 5 (commencing with Section
13 7900) of Division 12 of the Family Code to oversee and
14 monitor county child welfare agencies, children in foster
15 care or receiving foster care assistance, and out-of-state
16 placements.

17 (I) To authorized legal staff or special investigators
18 who are peace officers who are employed by, or who are
19 authorized representatives of, the State Department of
20 Social Services, as necessary to the performance of their
21 duties to inspect, license, and investigate community care
22 facilities, and to ensure that the standards of care and
23 services provided in those facilities are adequate and
24 appropriate and to ascertain compliance with the rules
25 and regulations to which the facilities are subject. The
26 confidential information shall remain confidential except
27 for purposes of inspection, licensing, or investigation
28 pursuant to Chapter 3 (commencing with Section 1500)
29 and Chapter 3.4 (commencing with Section 1596.70) of
30 Division 2 of the Health and Safety Code, or a criminal,
31 civil, or administrative proceeding in relation thereto.
32 The confidential information may be used by the State
33 Department of Social Services in a criminal, civil, or
34 administrative proceeding. The confidential information
35 shall be available only to the judge or hearing officer and
36 to the parties to the case. Names that are confidential shall
37 be listed in attachments separate to the general
38 pleadings. The confidential information shall be sealed
39 after the conclusion of the criminal, civil, or
40 administrative hearings, and shall not subsequently be



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

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

13 (K) Any other person who may be designated by court
14 order of the judge of the juvenile court upon filing a
15 petition.

16 (2) A juvenile case file, any portion thereof, and
17 information relating to the content of the juvenile case
18 file, shall not be disseminated by the receiving agencies
19 to any persons or agencies, other than those persons or
20 agencies authorized to receive documents pursuant to
21 this section. Further, a juvenile case file, any portion
22 thereof, and information relating to the content of the
23 juvenile case file, shall not be made as an attachment to
24 any other documents without the prior approval of the
25 presiding judge of the juvenile court, unless it is used in
26 connection with and in the course of a criminal
27 investigation or a proceeding brought to declare a person
28 a dependent child or ward of the juvenile court.

29 (3) Notwithstanding any other provision of law, a
30 juvenile case file relating to a minor who is deceased shall
31 be released to the public ~~upon~~ *pursuant to* an order by the
32 juvenile court ~~pursuant to~~ *after a hearing on* a noticed
33 petition, except as provided ~~in this paragraph~~. ~~When the~~
34 ~~deceased child has a sibling or half-sibling who is or was~~
35 ~~within the jurisdiction of the juvenile court, any in this~~
36 ~~paragraph. Any information relating to the sibling or~~
37 ~~half-sibling another child~~ or which could identify ~~the~~
38 ~~sibling or half-sibling another child~~, except for
39 information about the deceased, shall be redacted from
40 the juvenile case file prior to release, unless a specific



1 order is made by the juvenile court to the contrary.
2 Except as provided in paragraph (4), the presiding judge
3 of the juvenile court may issue an order prohibiting or
4 limiting access to the juvenile case file, or any portion
5 thereof, of a deceased child only upon a showing that
6 release of the juvenile case file or any portion thereof is
7 detrimental to the safety, protection, or physical or
8 emotional well-being of ~~a sibling or half-sibling who is a~~
9 ~~dependent or former dependent child.~~ *another child who*
10 *is or was within the jurisdiction of the juvenile court.*

11 (4) If a juvenile case file, or any portion thereof, is
12 privileged or confidential pursuant to any other state law
13 or federal law or regulation, ~~including, but not limited to,~~
14 ~~Sections 49076 and 49077 of the Education Code, Sections~~
15 ~~994, 1014, and 1035.8 of the Evidence Code, Section 7805~~
16 ~~and Chapter 7 (commencing with Section 9200) of Part~~
17 ~~2 of Division 13 of the Family Code, Sections 11167 and~~
18 ~~11167.5 of the Penal Code, Sections 302, 308, 318, 345, 346,~~
19 ~~656.2, 675, 676, 4135, 4514, 5328, and 10850 of the Welfare~~
20 ~~and Institutions Code, and Section 2.14 of Title 42 of the~~
21 ~~Code of Federal Regulations, the requirements of that~~
22 *the requirements of that* state law or federal law or
23 regulation prohibiting or limiting release of the juvenile
24 case file or any portions thereof shall prevail. Unless a
25 person is listed in subparagraphs (A) to (J), inclusive, of
26 paragraph (1) and is entitled to access under the other
27 state law or federal law or regulation without a court
28 order, all those seeking access, *pursuant to other*
29 *authorization*, to portions of, or information relating to
30 the contents of, juvenile case files protected under
31 another state law or federal law or regulation, shall
32 petition the juvenile court. The juvenile court may only
33 release the portion of, or information relating to the
34 contents of, juvenile case files protected by another state
35 law or federal law or regulation if disclosure is not
36 detrimental to the safety, protection, or physical or
37 emotional well-being of a child who is or was within the
38 jurisdiction of the juvenile court. This paragraph shall not
39 be construed to limit the ability of the juvenile court to



1 carry out its duties in conducting juvenile court
2 proceedings.

3 (5) Prior to the release of the juvenile case file or any
4 portion thereof, the court shall afford due process,
5 including a notice of and an opportunity to file an
6 objection to the release of the record or report to all
7 interested parties.

8 (b) (1) While the Legislature reaffirms its belief that
9 juvenile court records, in general, should be confidential,
10 it is the intent of the Legislature in enacting this
11 subdivision to provide for a limited exception to juvenile
12 court record confidentiality to promote more effective
13 communication among juvenile courts, law enforcement
14 agencies, and schools to ensure the rehabilitation of
15 juvenile criminal offenders as well as to lessen the
16 potential for drug use, violence, and other forms of
17 delinquency.

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



1 needlessly vulnerable or to protect other persons from
2 needless vulnerability.

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

13 An intentional violation of the confidentiality
14 provisions of this section is a misdemeanor punishable by
15 a fine not to exceed five hundred dollars (\$500).

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

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

36 (d) Each notice sent by the court pursuant to
37 subdivision (b) shall be stamped with the instruction:
38 "Unlawful Dissemination Of This Information Is A
39 Misdemeanor." Any information received from the court
40 shall be kept in a separate confidential file at the school



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

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

23 (e) For purposes of this section, a "juvenile case file"
24 means a petition filed in any juvenile court proceeding,
25 reports of the probation officer, and all other documents
26 filed in that case or made available to the probation
27 officer in making his or her report, or to the judge,
28 referee, or other hearing officer, and thereafter retained
29 by the probation officer, judge, referee, or other hearing
30 officer.

31 SEC. 2. Notwithstanding Section 17610 of the
32 Government Code, if the Commission on State Mandates
33 determines that this act contains costs mandated by the
34 state, reimbursement to local agencies and school
35 districts for those costs shall be made pursuant to Part 7
36 (commencing with Section 17500) of Division 4 of Title
37 2 of the Government Code. If the statewide cost of the
38 claim for reimbursement does not exceed one million



1 dollars (\$1,000,000), reimbursement shall be made from
2 the State Mandates Claims Fund.

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