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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

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**Bill No:** AB 1877                      **Hearing Date:** June 18, 2024  
**Author:** Jackson  
**Version:** March 19, 2024  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** SJ

**Subject:** *Juveniles: sealing records*

## HISTORY

Source: Author

Prior Legislation: AB 2425 (Stone), Ch. 330, Stats. 2020  
SB 1126 (Jones), Ch. 338, Stats. 2020  
AB 1537 (Cunningham), Ch. 50, Stats. 2019  
AB 2952 (Stone), Ch. 1002, Stats. 2018  
AB 529 (Stone), Ch. 685, Stats. 2017  
SB 312 (Skinner), Ch. 679, Stats. 2017  
AB 1945 (Stone) Ch. 858, Stats. 2016  
AB 666 (Stone) Ch. 368, Stats. 2015  
AB 1038 (Leno) Ch. 249, Stats. 2014

Support: ACLU California Action; Alliance for Children's Rights; California Academy of Child and Adolescent Psychiatry; California Alliance of Child and Family Services; California Coalition for Youth; California Public Defenders Association; Center for Employment Opportunities; GLIDE; Initiate Justice; La Defensa; Oakland Privacy; Pacific Juvenile Defender Center; Secure Justice; Smart Justice California

Opposition: None known

Assembly Floor Vote: 57 - 11

## PURPOSE

*The purpose of this bill is to require a county probation officer to petition a court to seal the juvenile records of a person when the person has reached 18 and the juvenile court's jurisdiction has been terminated, as specified, and to require the Department of Justice (DOJ) to identify specified juvenile arrest and citation records in its databases on a monthly basis and to automatically seal those records.*

*Existing law* provides that, any minor who is between 12 and 17 years of age that violates any law of this state or of the United States or any ordinance of any city or county other than an ordinance establishing a curfew based solely on age, is within the jurisdiction of the juvenile court, and may be adjudged to be a ward of the court. (Welf. & Inst. Code, § 602, subd. (a).)

*Existing law* provides that a minor under 12 years of age who is alleged to have committed murder or a specified sex offenses, is within the jurisdiction of the juvenile court, which may adjudge the minor to be a ward of the court. (Welf. & Inst. Code, § 602, subd. (b).)

*Existing law* authorizes the district attorney to make a motion to transfer a minor from juvenile court to a court of criminal jurisdiction in a case in which a minor is alleged to have committed a felony when the minor was 16 years of age or older, or in a case in which a specified serious offense is alleged to have been committed by a minor when the minor was 14 or 15 years of age, but the minor was not apprehended prior to the end of juvenile court jurisdiction. (Welf. & Inst. Code, § 707, subd. (a).)

*Existing law* requires the court to order the probation officer to submit a report on the behavioral patterns and social history of the minor when a prosecutor makes a motion to transfer a juvenile case to adult criminal court. (Welf. & Inst. Code § 707, subd. (a)(1).)

*Existing law* authorizes a county probation officer or juvenile adjudged a ward of the court, or any person cited to appear before a probation officer, or if a minor is taken before any law enforcement officer to file a petition to seal juvenile records in the following circumstances:

- If a petition was filed against the juvenile, five years or more after the end of the juvenile court's jurisdiction;
- If there was no petition filed against the juvenile, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer or law enforcement agency; or,
- At any time in any case after the person has reached the age of 18 years of age, or, in any case at any time after the person has reached 18 years of age. (Welf. & Inst. Code, § 781, subd. (a)(1)(A).)

*Existing law* requires a court to seal a juvenile record, whether after arrest or adjudication, in any case: (a) juvenile court jurisdiction has been terminated; (b) the person has not been convicted of any felony or misdemeanor of moral turpitude since being terminated from juvenile court jurisdiction; and (c) the court is satisfied the person has attained rehabilitation. (Welf. & Inst. Code, § 781, subd. (a)(1)(A).)

*Existing law* requires the court to direct any agency named in the order as possessing juvenile records to seal the records and advise the court of its compliance. (Welf. & Inst. Code, § 781, subd. (a)(1)(B).)

*Existing law* requires a court to dismiss a petition and seal the records where a juvenile completes informal supervision or probation. Requires the court to order sealed all records pertaining to the dismissed petition in the custody of the juvenile court, and in the custody of law enforcement agencies, the probation department, and the DOJ. (Welf. & Inst. Code, § 786, subd. (a).)

*Existing law* requires county probation or prosecutor to seal arrest and other records related to a juvenile's arrest and referral and participation in either a probation or prosecution diversion or supervision program following a person's satisfactory completion of diversion or supervision. (Welf. & Inst. Code, § 786.5, subd. (a)(1)-(2).)

*Existing law* authorizes a petition for juvenile record sealing to be filed for specified felonies, as defined by Welfare and Institutions Code section 707, subdivision (b), committed by a person 14 years of age or older, only in the following circumstances:

- Where a person is committed to the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ), is 21 years of age or older, and has completed probation after release from juvenile court;
- Where a person is not committed to DJJ, is 18 years of age or older, and has completed probation related to that offense imposed by the court. (Welf. & Inst. Code, § 781, subd. (a)(1)(D)(i)(I-II).)

*Existing law* authorizes the probation officer to destroy all records and papers in the proceedings concerning a minor after five years from the date on which the jurisdiction of the juvenile court over the minor is terminated. (Welf. & Inst. Code, § 826, subd. (a).)

*Existing law* prohibits a case file that is covered by, or included in, an order of the court sealing a record pursuant to Section 781 or 786 from being inspected, except as specified by those provisions of law. (Welf. & Inst. Code, § 827, subd. (g).)

*Existing law* provides that any information gathered by a law enforcement agency relating to the taking of a minor into custody may be disclosed to another law enforcement agency, including a school district police or security department, or to any person or agency that has a legitimate need for the information for purposes of official disposition of a case, except as limited by sealing statutes. Requires the disposition of a taking into custody to be included with any information disclosed if available. (Welf. & Inst. Code, § 828.)

*This bill* requires the county probation officer, notwithstanding Section 781 of the Welfare and Institutions Code or Section 1203.47 of the Penal Code, if a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, to do either of the following once the person has reached 18 years of age:

- If the person will not remain under the juvenile court's delinquency jurisdiction, the county probation officer is required to petition the court to seal the records relating to the person's case that are in the custody of the juvenile court, probation officer, law enforcement agency, or any other private or public agency. Requires the probation officer to provide a copy of the petition to the minor and their counsel at least 30 days prior to filing the petition.
- If the person will remain under the juvenile court's delinquency jurisdiction, the county probation officer is required petition the court, as specified, no later than one year after the termination of the juvenile court's delinquency jurisdiction.

*This bill* prohibits the following from being sealed:

- A person's juvenile court records relating to a case that was transferred from juvenile court to a court of criminal jurisdiction under Section 707.1 if the person was convicted in the court of criminal jurisdiction.
- A person's juvenile court records relating to a Section 707(b) offense that was committed when the person was 14 years of age or older, unless that offense was dismissed or reduced to a misdemeanor or a lesser offense that is not listed Section 707(b).

- A person's juvenile court records relating to an offense for which the person is required to register pursuant to Section 290.008 of the Penal Code.

*This bill* requires the court, if it finds that the person has not been convicted of a felony or a misdemeanor involving moral turpitude after the juvenile court's jurisdiction was terminated to order sealed all records, papers, and exhibits in the person's case that are in the custody of the juvenile court, law enforcement agency, probation department, DOJ, or any other private or public agency, including the juvenile court record, minute book entries, docket entries, and arrest records. Prohibits the person's defense counsel from being ordered to seal their records. Requires the court to send a copy of the order to each agency named in the order. Requires each agency to seal the records in its custody as directed by the order, send a notice to the court that it has complied with the order, and seal the copy of the court's order the agency received.

*This bill* provides that if the court has ordered the person's records sealed, the proceedings of the sealed case shall be deemed never to have occurred and the person may properly reply accordingly to any inquiry about the events.

*This bill* requires the probation officer to notify, in writing, the person and their counsel of the reason for not filing the petition if the probation officer does not file a petition as outlines above.

*This bill* provides that the sealed record may only be accessed, inspected, or utilized under the following circumstances:

- If the person who is the subject of the sealed records petitions the court to permit inspection of the records and the court grants inspection.
- By the court for the limited purpose of verifying the prior jurisdictional status of a ward who is petitioning the court to resume its jurisdiction, as specified.
- By the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation.

*This bill* specifies that in order to access, inspect, or utilize the sealed record, the prosecuting attorney is required to submit a request to the juvenile court to access information in the sealed record for this purpose. Requires the request to include the prosecutor's rationale for believing that access to the information in the record may be necessary to meet the disclosure obligation and the date by which the records are needed.

*This bill* requires the juvenile court to notify the subject of the sealed records and their attorney of the prosecutor's request and provide them with the opportunity to respond, in writing or by appearance, to the request. Requires the court to approve the prosecutor's request if, upon review of the relevant records, it determines that access to a specific sealed record or portion of a sealed record is necessary to enable the prosecuting attorney to comply with the disclosure obligation. Requires the juvenile court to state on the record appropriate limits on the access, inspection, and utilization of the sealed records in order to protect the confidentiality of the subject of the sealed records, if the court approves the prosecuting attorney's request. Provides that a court ruling allowing disclosure of information pursuant to this subdivision does not affect whether the information is admissible in a criminal or juvenile proceeding.

*This bill* provides that its provisions do not impose any additional discovery obligations on a prosecuting attorney.

*This bill* provides that its provisions do not apply to juvenile case files pertaining to a dependency case.

*This bill* provides that access to, or inspection of, a sealed record is not considered an unsealing of the record and does not require notice to any other agency.

*This bill* provides that its provisions do not apply to records in the custody of the Department of Motor Vehicles (DMV) relating to a conviction for an offense under the Vehicle Code or any local ordinance, as provided. Provides that if a court orders the record containing this conviction to be sealed, and the DMV maintains a public record of the conviction, the court is required to notify the department of the sealing.

*This bill* provides that, notwithstanding any other law, if the DMV is notified by the court of a sealing, the DMV is required to allow access to its record of conviction only to the subject of the record and to insurers that have been granted requestor code numbers by the department. Requires an insurer that has been given access to a record of conviction to be given notice of the sealing when the record is disclosed. Authorizes the insurer to use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the record. Prohibits the insurer from using the information for any other purpose or disclosing it to any other person or agency.

*This bill* prohibits a petition for sealing from being denied due to an unfulfilled order of restitution or restitution fine.

*This bill* provides that its provisions do not prohibit a court from enforcing a civil judgment for an unfulfilled order of restitution, as specified. Provides that a person is not relieved from the obligation to pay victim restitution, a restitution fine, or a court-ordered fine because their records are sealed. Provides that the juvenile court has access to any sealed records for the limited purpose of enforcing a civil judgment or restitution order.

*This bill* prohibits a court from granting relief under the provisions of this bill unless the prosecuting attorney has been given 15 days' notice of the petition for sealing. Requires the probation officer to notify the prosecuting attorney when a petition is filed. Prohibits the prosecuting attorney from moving to set aside or otherwise appeal the grant of that petition if the prosecuting attorney fails to appear or object to the petition after receiving notice.

*This bill* requires the court to order the destruction of a person's sealed juvenile court records unless the court determines there is good cause to retain the juvenile court record.

*This bill* requires the court to order the destruction five years after the record was ordered sealed if the subject of the record was alleged or adjudged to be a person described by Section 601.

*This bill* requires the court to order the destruction when the subject reaches 38 years of age if the subject of the record was alleged or adjudged to be a person described by Section 602.

*This bill* prohibits the records from being destroyed if the subject was found to be a person described in Section 602 because of the commission of a 707(b) offense and the person was 14 years of age or older at the time of the offense.

*This bill* requires the court to order any other agency in possession of sealed records to destroy its records five years after the records were ordered sealed.

*This bill* provides that the relief afforded in the provisions of the bill do not preclude any other relief provided by law.

*This bill* requires DOJ to review, on a monthly basis, the records in the statewide criminal justice databases and, based on information in the state summary criminal history repository, to identify persons who were cited or arrested before they reached 18 years of age with records of citation or arrest that meet specified criteria and are eligible for record relief.

*This bill* provides that a person is eligible for relief, if the arrest occurred on or after January 1, 1973, and meets any of the following conditions:

- The citation or arrest was for a misdemeanor offense and the charge was dismissed.
- The arrest was for a misdemeanor offense, there is no indication that juvenile delinquency or criminal proceedings have been initiated, at least one calendar year has elapsed since the date of the arrest, and no adjudication occurred or the arrestee was acquitted of any charges that arose from that arrest.
- The arrest was for a felony offense not listed in Section 707(b), there is no indication that juvenile delinquency or criminal proceedings have been initiated, at least three calendar years have elapsed since the date of the arrest, and no adjudication occurred or the arrestee was acquitted of any charges arising from that arrest.

*This bill* required DOJ to grant relief to a person without requiring a petition or motion by a party for that relief if the relevant information is present in the department's electronic records.

Requires DOJ to seal its records in the same manner as described in Section 781 if the department grants record sealing relief.

*This bill* provides that a citation or arrest for which record sealing relief has been granted shall be deemed never to have occurred and the person may properly reply accordingly to any inquiry about the events.

*This bill* requires DOJ to annually publish on the OpenJustice Web portal, as described in Section 13010 of the Penal Code, statistics for each county regarding the total number of arrests granted relief pursuant to this section and the percentage of arrests for which the state summary criminal history information does not include a disposition.

*This bill* provides that if DOJ grants record sealing relief, it must notify the arresting law enforcement agency, the relevant probation department, and the prosecuting agency, and the arresting law enforcement agency, the relevant probation department, and the prosecuting agency shall seal the records in their custody relating to the citation or arrest no later than 60 days from the date of notification by the department. Requires the law enforcement agency, the probation department, and the prosecuting agency to notify DOJ that the records have been sealed upon sealing.

*This bill* requires sealed records sealed to be destroyed within one year of sealing.

*This bill* includes other technical and conforming changes.

## COMMENTS

### 1. Need For This Bill

According to the author:

California should be ensuring that our youth can start their adult lives securely and with a strong foundation. AB 1877 would require the sealing of all criminal records by a minor upon reaching 18 years of age, upon the absence of a conviction involving moral turpitude, and the court's satisfaction with the juvenile's rehabilitation.

This bill provides an important step towards ensuring that our young people can pursue their educational, professional, and personal ambitions without being denied these opportunities simply because of a juvenile record which could have already been sealed.

### 2. Juvenile Record Sealing

Existing law contains several provisions governing the circumstances in which a person may seek to seal juvenile records. Welfare and Institutions Code section 781 generally authorizes a petition to seal juvenile records in any case where juvenile jurisdiction is terminated or dismissed. (Welf. & Inst. Code, § 781, subd. (a)(1)(A).) Welfare and Institutions Code section 786 authorizes a court to seal records where a wardship petition is dismissed after successful completion of probation or informal supervision. (Welf. & Inst. Code § 786, subd. (a).) Welfare and Institutions Code section 786.5, on the other hand, mandates a court seal records upon satisfactory completion of diversion. (Welf. & Inst. Code, § 786.5, subd. (a).)

In cases where a juvenile successfully completes diversion, county probation must, within 60 days of successful completion, determine whether the juvenile "satisfactorily completed" diversion, and if so, it must seal any records in its custody and notify the arresting law enforcement agency to seal the arrest records within their custody within 60 days. (Welf. & Inst. Code, § 786.5, subd. (d).)

Welfare and Institutions Code section 781 also specifies a petition to seal records is generally requested by either the county probation department or the person of record. County probation or the person of record may petition the court to seal records in the following cases: five years after the termination of the court's jurisdiction; where no petition or charges are filed against the juvenile; and any time after the person turns 18 years of age. (Welf. & Inst. Code, § 781, subd. (a)(1)(B)-(D).) Existing law requires a court and law enforcement to seal juvenile records where a petition is dismissed, without exception. (See *In re Dean W.* (2017) 16 Cal.App.5th 970, 976.)

However, a court may not seal a record or dismiss a petition if the petition was sustained based on the commission of a serious or violent felony, as specified in Welfare and Institutions Code section 707, subdivision (b) (hereinafter referred to as "707(b) offenses") and the person was 14

years of age or older unless the section 707, subdivision (b) offense was dismissed or reduced to a lesser offense not listed in section 707, subdivision (b). (Welf. & Inst. Code, § 786, subd. (d).) As a general matter, juvenile court records must be destroyed when the person of record reaches the age of 38 unless good cause is shown for maintaining those records. (Welf. & Inst. Code, § 826, subd. (a).) The person of record may also petition to have records retained by other agencies destroyed, and the request must be granted unless good cause is shown for retention of the records. (Welf. & Inst. Code, § 826, subd. (b).) When records are destroyed pursuant to these provisions, the proceedings “shall be deemed never to have occurred.” (Welf. & Inst. Code, § 826, subd. (a).) Courts have interpreted the phrase “never to have occurred” to mean that the juvenile proceeding is deemed not to have existed. (*Parmett v. Superior Court (Christal B.)* (1989) 212 Cal.App.3d 1261, 1267.)

Juvenile records that are ineligible for automatic record sealing via Welfare and Institutions Code section 786, may be sealed pursuant to Welfare and Institutions Code section 781. Under section 781, a person may petition the court to seal records related to a non-707(b) offense if the person is at least 18 years old, or it has been at least 5 years since the case was closed or the person’s last contact with probation, and the court finds that the person has been rehabilitated. (Welf. & Inst. Code, § 781, subd. (a)(1)(A).)

If the person of record was convicted of a 707(b) offense and was committed to DJJ, the petitioner must be 21 years of age and have completed probation supervision. (Welf. & Inst. Code, § 781, subd. (a)(1)(D)(i)(I).) If the person of record was convicted of a 707(b) offense and was not committed to DJJ, the petitioner only need to have attained 18 years of age and have completed probation supervision. (Welf. & Inst. Code, § 781, subd. (a)(1)(D)(i)(II).) Records related to a 707(b) offense committed after the petitioner attained 14 years of age and for which the person is required to register as a sex offender pursuant to Penal Code section 290.008 are prohibited from being sealed. (Welf. & Inst. Code, § 781, subd. (a)(1)(F).)

### **3. Inspection of the Juvenile Case File**

Welfare and Institutions Code section 827 authorizes specific entities to inspect juvenile case files. A juvenile case file is defined as “a petition filed in a juvenile court proceeding, reports of the probation officer, and all other documents filed in that case or made available to the probation officer in making the probation officer’s report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer.” (Welf. & Inst. Code, § 827, subd. (e).) While existing law generally seeks to protect the confidentiality of juvenile court records, it does provide for limited exceptions “to promote more effective communication among juvenile courts, family courts, law enforcement agencies, and schools to ensure the rehabilitation of juvenile criminal offenders as well as to lessen the potential for drug use, violence, other forms of delinquency, and child abuse.” (Welf. & Inst. Code, § 827, subd. (b)(1).)

### **4. Effect of This Bill**

This bill requires a county probation officer to petition a juvenile court to seal juvenile records when the person of record has reached 18 and the juvenile court’s jurisdiction has been terminated, as specified. This bill also requires DOJ to identify specified juvenile arrest and citation records in its databases on a monthly basis and to automatically seal those records. Specifically, this bill would require DOJ to automatically seal juvenile citation and arrest records in the following circumstances:



- The citation or arrest was for a misdemeanor offense and the charge was dismissed.
- The arrest was for a misdemeanor offense, there is no indication that juvenile delinquency or criminal proceedings have been initiated, at least one calendar year has elapsed since the date of the arrest, and no adjudication occurred or the arrestee was acquitted of any charges that arose from that arrest.
- The arrest was for a non-707(b) felony offense, there is no indication that juvenile delinquency or criminal proceedings have been initiated, at least three calendar years have elapsed since the date of the arrest, and no adjudication occurred or the arrestee was acquitted of any charges arising from that arrest.

## 5. Argument in Support

The Pacific Juvenile Defender Center writes:

AB 1877 modernizes juvenile record sealing in three important ways: by automating the sealing of uncharged arrests, by requiring probation to notify the Department of Justice when they are sealing certain records under existing law, and by empowering probation to petition the juvenile court for sealing on the behalf of a minor or former minor.

... [P]eople may face unforeseen consequences when records of arrest are not promptly sealed. ... Many people who are arrested as minors, especially those whose case never proceeded to court, do not even know that their juvenile law enforcement contact constituted an arrest. ... AB 1877 would provide a clear path for addressing the impacts of juvenile arrests by vesting responsibility with probation and the Department of Justice. These institutional actors have the best standing to seal arrests because individuals often do not realize the existence or consequence of an arrest until they are faced with consequences that can be disproportionate and difficult to remedy.

... AB 1877 would ensure that the Department of Justice is notified when probation has determined that an arrest record must be sealed so that the minor can receive the complete relief that the law intended.

... AB 1877 ... would vest probation with the ability to petition for sealing at crucial stages in a young person's case. ... The new section 788 also achieves balance by not requiring sealing if the offense is particularly serious or has certain collateral consequences. Thus, AB 1877 achieves the rehabilitative goals of the juvenile system while also honoring a longstanding legislative carveout of certain types of offenses from general records relief.

AB 1877 makes discrete changes that will improve the material and dignitary conditions of people with juvenile records across the state.

-- END --