
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

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Author: Becker
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Consultant: SJ

Subject: *Juveniles*

HISTORY

Source: Pacific Juvenile Defender Center

Prior Legislation: SB 448 (Becker), Ch. 608, Stats. 2023
AB 2629 (Santiago), Ch. 970, Stats. 2022
AB 2425 (Stone), Ch. 330, Stats. 2020
SB 1126 (Jones), Ch. 338, Stats. 2020
AB 1537 (Cunningham), Ch. 50, Stats. 2019
AB 1423 (Wicks), Ch. 583, Stats. 2019
AB 2952 (Stone), Ch. 1002, Stats. 2018
AB 529 (Stone), Ch. 685, Stats. 2018
SB 393 (Lara), Ch. 680, 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: Alliance for Boys and Men of Color; California Alliance for Youth and Community Justice; California Public Defenders Association; Center on Juvenile and Criminal Justice; Communities United for Restorative Youth Justice; East Bay Community Law Center; MILPA Collective; National Center for Youth Law

Opposition: None known

PURPOSE

The purpose of this bill is to: 1) require sealing of criminal court records when a person who was improperly charged in adult criminal court has been certified to a juvenile court and the person's juvenile court records are sealed; 2) prohibit defense counsel for a minor from being ordered to seal their records when the minor's juvenile record is sealed; 3) allow a person with a conviction for a misdemeanor involving moral turpitude or a felony to petition for juvenile record sealing if the felony or misdemeanor conviction was dismissed, vacated, or pardoned, or the felony was reduced to a misdemeanor that does not involve moral turpitude; 4) allow a minor's felony arrest record to be sealed when proceedings were not commenced, the proceedings were dismissed, or the minor was acquitted; 5) add citation records to the type of records that must be sealed when a juvenile satisfactorily completes a program of diversion or

informal supervision; 6) require various entities to seal citation, arrest, and other records in cases where the prosecutor has declined to initiate proceedings or the probation department has elected not to refer the juvenile to a program of diversion or supervision; 7) provide that a minor be given equal consideration for informal probation regardless of whether the minor lives in the county where the offense occurred; 8) clarify that the jurisdiction of the appellate court is not affected by a juvenile record sealing; and 9) modify the definition of “juvenile case file” to include electronic records.

COMMENTS

Existing law provides that any minor between 12 years of age and 17 years of age, inclusive, who persistently or habitually refuses to obey the reasonable and proper orders or directions of the minor’s parents, guardian, or custodian, or who is beyond the control of that person, or who is a minor between 12 years of age and 17 years of age, inclusive, when the minor violated any ordinance of any city or county of this state establishing a curfew based solely on age is within the jurisdiction of the juvenile court which may adjudge the minor to be a ward of the court. (Welf. & Inst. Code, § 601, subd. (a).)

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, except as provided. (Welf. & Inst. Code, § 602, subd. (a).)

Existing law requires the judge, whenever a case is before any court upon an accusatory pleading and it is suggested or appears to the judge before whom the person is brought that the person charged was, at the date the offense is alleged to have been committed, under the age of 18 years, to immediately suspend all proceedings against the person on the charge. Requires the judge to examine into the age of the person, and if, from the examination, it appears to his or her satisfaction that the person was at the date the offense is alleged to have been committed under the age of 18 years, requires the judge to immediately certify all of the following to the juvenile court of the county: that the person is charged with a crime; that the person appears to have been under the age of 18 years at the date the offense is alleged to have been committed, giving the date of birth of the person when known; and that proceedings have been suspended against the person on the charge by reason of his or her age, with the date of the suspension. Requires the certification and accusatory pleading to be promptly transmitted to the clerk of the juvenile court. (Welf. & Inst. Code, § 604, subds. (a), (c).)

This bill requires the juvenile court, if the person whose case has been certified to a juvenile court has their records sealed in juvenile court, to order all criminal court records associated with that juvenile record sealed.

Existing law provides that a judge of the juvenile court in which a petition was filed or that has taken jurisdiction of a case, as specified, may dismiss the petition, or may set aside the findings and dismiss the petition, if the court finds that the interests of justice and the welfare of the person who is the subject of the petition require that dismissal, or if it finds that they are not in need of treatment or rehabilitation. Provides that the court has jurisdiction to order dismissal or setting aside of the findings and dismissal regardless of whether the person who is the subject of

the petition is, at the time of the order, a ward or dependent child of the court. (Welf. & Inst. Code, § 782, subd. (a).)

Existing law provides that five years or more after the jurisdiction of the juvenile court has terminated over a person adjudged a ward of the court or after a minor appeared before a probation officer, or, in any case at any time after the person has reached the age of 18, the person or county probation officer may petition the juvenile court for sealing of the records, including arrest records, relating to the person's case, in the custody of the juvenile court, the probation officer, and any other agencies and public officials as the petitioner alleges to have custody of the records. (Welf. & Inst. Code, § 781, subd. (a)(1)(A).)

Existing law requires the court to order all records, papers, and exhibits in the person's case in the custody of the juvenile court sealed, including the juvenile court record, minute book entries, and entries on dockets, and any other records relating to the case in the custody of the other agencies, entities, and officials as are named in the order, if the court finds that since the termination of jurisdiction or action, the person has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court. Provides that once the court has ordered the person's records sealed, the proceedings in the case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, the records of which are ordered sealed. (Welf. & Inst. Code, § 781, subd. (a)(1)(A).)

This bill prohibits defense counsel for the minor from being ordered to seal their records.

This bill provides that a person who has been convicted of a felony, or misdemeanor involving moral turpitude, may obtain record sealing relief pursuant to Section 781 of the Welfare and Institutions Code if all of that person's felony convictions, and misdemeanor convictions involving moral turpitude, have been subsequently dismissed, vacated, pardoned, or reduced to misdemeanors that do not involve moral turpitude. Specifies that such post-conviction relief includes, but is not limited to, a dismissal pursuant to Sections 1203.4, 1203.4a, 1203.4b, 1203.41, 1203.42, and 1203.43 of the Penal Code, vacatur pursuant to Section 236.14 of the Penal Code, and the reduction of a felony to a misdemeanor pursuant to Section 17 of the Penal Code.

Existing law requires the court, if a minor satisfactorily completes an informal program of supervision, probation, as specified, or a term of probation for any offense, to order the petition dismissed and order sealed all records pertaining to the dismissed petition in the custody of the juvenile court, law enforcement agencies, the probation department, or the Department of Justice (DOJ). (Welf. & Inst. Code, § 786, subd. (a).)

Existing law provides that upon the order of dismissal under the court-initiated sealing process, the arrest and other proceedings in the case shall be deemed not to have occurred and the person who was the subject of the petition may reply accordingly to an inquiry by employers, educational institutions, or other persons or entities regarding the arrest and proceedings in the case. (Welf. & Inst. Code, § 786, subd. (b).)

This bill prohibits defense counsel for the minor from being ordered to seal their records.

Existing law requires the probation department to seal the arrest and other records in its custody relating to a juvenile's arrest and referral and participation in a diversion or supervision program under both of the following circumstances:

- Upon satisfactory completion of a program of diversion or supervision to which a juvenile is referred by the probation officer in lieu of the filing of a petition to adjudge the juvenile a ward of the juvenile court, including a program of informal supervision, as specified.
- Upon satisfactory completion of a program of diversion or supervision to which a juvenile is referred by the prosecutor in lieu of the filing of a petition to adjudge the juvenile a ward of the juvenile court, including a program of informal supervision, as specified.
(Welf. & Inst. Code, § 786.5, subd. (a).)

This bill adds citation records to those records that must be sealed.

Existing law requires the probation department to notify the arresting law enforcement agency to seal the arrest records, and requires the arresting law enforcement agency to seal the records in its custody relating to the arrest no later than 60 days from the date of notification by the probation department. (Welf. & Inst. Code, § 786.5, subd. (b).)

This bill adds the citing law enforcement agency to the entities that must be notified by the probation department to seal the citation records, requires the citing law enforcement agency to seal the records in its custody relating to the citation following notification by the probation department, and requires the citing law enforcement agency to notify the probation department that its records have been sealed.

Existing law provides that upon sealing of the records, the arrest or offense giving rise to any of the circumstances shall be deemed not to have occurred and the individual may respond accordingly to any inquiry, application, or process in which disclosure of this information is requested or sought. (Welf. & Inst. Code, § 786.5, subd. (c).)

This bill requires the probation department, the DOJ, and law enforcement agencies to seal the citation, arrest, and other records in their custody relating to a juvenile's citation, arrest, and detention if the prosecutor has declined to initiate proceedings within the applicable statute of limitations and notified the probation department of that decision. Requires the probation department to seal the citation, arrest, and other records in its custody upon notification of the prosecutor's decision, and to notify the relevant law enforcement agencies regarding record sealing. Provides that this provision of the bill does not affect any other applicable remedies for sealing of juvenile case files.

This bill requires probation department to seal the citation, arrest, and other records in its custody and proceed notify the relevant law enforcement agencies regarding record sealing if the probation department deems it unnecessary to refer the juvenile to a program of diversion or supervision, or elects to counsel the juvenile and take no further action. Requires the probation department to seal the arrest and other records in its custody relating to the juvenile's arrest in any case that was referred to the prosecuting attorney and the prosecuting attorney notifies the probation officer that it has declined to file a petition, and to notify the relevant law enforcement agencies regarding record sealing.

Existing law allows any person who has been arrested for a misdemeanor, with or without a warrant, while a minor, may, during or after minority, petition the court in which the proceedings occurred or, if there were no court proceedings, the court in whose jurisdiction the arrest occurred, for an order sealing the records in the case, including any records of arrest and detention, if any of the following occurred:

- The person was released due to insufficient grounds for making a criminal complaint against the person arrested;
- The proceedings were dismissed, or the person was discharged, without a conviction; or,
- The person was acquitted.
(Pen. Code, § 851.7, subd. (a).)

This bill adds citation records for misdemeanors and adds arrest and citation records for a felony. Makes other conforming changes.

Existing law provides that if a petition for the sealing of a juvenile arrest record is granted, the arrest, detention, and any further proceedings in the case shall be deemed not to have occurred, and the petitioner may answer accordingly any question relating to their occurrence. (Pen. Code, § 851.7, subd. (b).)

Existing law requires any application to the probation officer to commence proceedings in the juvenile court to be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 602, or that a minor committed an offense described in Section 602 within the county, and setting forth facts in support. Requires the probation officer to immediately make any investigation the probation officer deems necessary to determine whether proceedings in the juvenile court are to be commenced. Requires the probation officer to make a referral to services to prevent or eliminate the need for removal of the minor from the minor's home if the officer determines that it is appropriate to recommend services to the family. (Welf. & Inst. Code, § 653.5, subd. (a).)

Existing law requires the probation officer to cause the affidavit to be taken to the prosecuting attorney if the probation officer determines that proceedings should be commenced to declare a person to be a ward of the juvenile court, except as provided. (Welf. & Inst. Code, § 653.5, subd. (b).)

Existing law requires the prosecuting attorney to institute proceedings in accordance with their role as public prosecutor but authorizes the prosecuting attorney to refer the matter to the probation officer for whatever action the probation officer may deem appropriate if it appears to the prosecuting attorney that the affidavit was not properly referred, that the offense for which the minor was referred should be charged as a misdemeanor, or that the minor may benefit from a program of informal supervision. (Welf. & Inst. Code, § 653.5, subd. (e).)

This bill requires the probation officer, in all matters where the probation officer determines proceedings should not be commenced, or the prosecuting attorney refers the matter to the probation officer for whatever action the probation officer may deem appropriate, as specified, to promptly release, upon request, copies of the juvenile probation record to the minor who is the subject of the juvenile probation record, their parent or guardian, or their counsel. Requires the probation officer to remove identifying information pertaining to any other juvenile from any juvenile probation record provided under this provision, except as provided.

This bill authorizes counsel for the minor requesting the juvenile probation record to receive an unredacted juvenile probation record for the sole purpose of complying with counsel's ethical duties to evaluate whether a conflict of interest exists, as specified.

This bill provides the following definitions:

- “Juvenile probation record” refers to records or information relating to the taking of a minor into custody, temporary custody, or detention, including the police, arrest, and crime reports.
- “Any other juvenile” refers to additional minors who were taken into custody or temporary custody, or detained, and who also could be considered a subject of the juvenile police record, as defined, or juvenile probation record, as defined.

Existing law authorizes the probation officer to refer the minor to services, as specified, in any case in which the probation officer, after investigation of an application for a petition or any other investigation the probation officer is authorized to make, concludes that a minor is within the jurisdiction of the juvenile court, or would come within the jurisdiction of the court if a petition were filed, and with consent of the minor and the minor's parent or guardian, in lieu of filing a petition to declare a minor a ward of the court or requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court. (Welf. & Inst. Code, § 654, subd. (a).)

Existing law authorizes the court to, if a petition has been filed by the prosecuting attorney to declare a minor a ward of the court under Section 602, without adjudging the minor a ward of the court and with the consent of the minor and the minor's parents or guardian, continue any hearing on a petition for six months and order the minor to participate in a program of informal supervision. Requires the court to order the petition be dismissed if the minor successfully completes the program of supervision. (Welf. & Inst. Code, § 654.2, subd. (a).)

Existing law authorizes the probation officer to recommend informal supervision if the minor is eligible for informal supervision, and the probation officer believes the minor would benefit. (Welf. & Inst. Code, § 654.2, subd. (b).)

This bill provides that a minor be given equal consideration for informal probation regardless of whether the minor lives in the county where the offense occurred.

Existing law specifies the jurisdiction of the juvenile court which may adjudge a person to be a dependent child of the court. (Welf. & Inst. Code, § 300.)

Existing law specifies the groups of nonminors who are either within the court's jurisdiction or who the court is authorized to retain in its jurisdiction. (Welf. & Inst. Code, § 303, subds. (a)-(c).)

Existing law requires the court to assume transition jurisdiction pursuant to Section 450 over a person notwithstanding a court order vacating the underlying adjudication pursuant to Section 236.14 of the Penal Code. (Welf. & Inst. Code, § 303, subd. (f).)

This bill adds dismissing the underlying adjudication pursuant to Section 782 of the Welfare and Institutions Code to this provision of law.

Existing law provides that a nonminor who attained 18 years of age while subject to an order for foster care placement and who has not attained 21 years of age for whom the court has dismissed dependency jurisdiction, as provided, or delinquency jurisdiction, as provided, or transition jurisdiction, as provide, but has retained general jurisdiction, or the county child welfare services, probation department, or tribal placing agency on behalf of the nonminor, may petition the court in the same action in which the child was found to be a dependent or delinquent child of the juvenile court, for a hearing to resume the dependency jurisdiction over a former dependent or to assume or resume transition jurisdiction over a former delinquent ward. Provides that the petition may be brought notwithstanding a court order vacating the underlying adjudication pursuant to Section 236.14 of the Penal Code. (Welf. & Inst. Code, § 388, subd. (e)(1).)

This bill adds dismissing the underlying adjudication pursuant to Section 782 of the Welfare and Institutions Code to this provision of law.

Existing law specifies which minors and nonminors are within the transition jurisdiction of the juvenile court. (Welf. & Inst. Code, § 450, subd. (a).)

This bill adds minors and nonminors whose underlying adjudication was dismissed pursuant to Section 782 of the Welfare and Institutions Code to the group of individuals who are within the transition jurisdiction of the juvenile court.

Existing law authorizes the court, at a hearing during which termination of jurisdiction over a ward is considered, to modify its order of jurisdiction and assume transition jurisdiction over the ward as an alternative to termination of jurisdiction. Authorizes the court to assume transition jurisdiction over a ward, transition dependent, or nonminor dependent whose underlying adjudication is vacated pursuant to Section 236.14 of the Penal Code. (Welf. & Inst. Code, § 451, subd. (a).)

This bill adds wards, transition dependents, or nonminor dependents whose underlying adjudication is dismissed pursuant to Section 782 of the Welfare and Institutions Code to the group of individuals over whom the court may assume transition jurisdiction.

Existing law provides that a judgment in a proceeding under Section 601 or 602 may be appealed from, by the minor, in the same manner as any final judgment, and any subsequent order may be appealed from, by the minor, as from an order after judgment. Provides that pending appeal of the order or judgment, the granting or refusal to order release rests in the discretion of the juvenile court. (Welf. & Inst. Code, § 800, subd. (a)(1).)

Existing law requires the record to be prepared and transmitted immediately after filing of the notice of appeal. (Welf. & Inst. Code, § 800, subd. (e).)

This bill requires the record to be prepared and made available to the parties and the appellate court notwithstanding any order by the juvenile court to seal the record pursuant to Section 781 or 786.

This bill provides that the juvenile court may transfer jurisdiction to another county, terminate its jurisdiction, or seal the record or records of the youth under Section 781 or 786 while an appeal is pending. Provides that the transfer of jurisdiction to another county, termination of

jurisdiction, or sealing of records under Section 781 or 786 does not affect the jurisdiction of the appellate court. Requires the juvenile court to access its records and assume jurisdiction to the extent necessary to follow the directions of the appellate court if the appellate court remands the matter to the juvenile court after jurisdiction has been terminated or the record has been sealed under Section 781 or 786. Requires the matter to return to the juvenile court that last exercised jurisdiction if the matter returns to the juvenile court after jurisdiction has been transferred to another county.

Existing law specifies the categories of individuals who are authorized to inspect a juvenile case file. (Welf. & Inst. Code, § 827, subd. (a).)

This bill adds the attorney representing a person who is, or was, subject to juvenile proceedings under Section 601 or 602.

Existing law specifies when access to juvenile case files pertaining to matters within the jurisdiction of the juvenile court pursuant to Section 300 are limited. (Welf. & Inst. Code, § 827, subd. (a)(3).)

This bill specifies when access to juvenile case files pertaining to matters within the jurisdiction of the juvenile court pursuant to Section 601 or 602 are limited.

Existing law defines “juvenile case file” 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).)

Existing law defines “writing” as “handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.” (Evid. Code, § 250.)

This bill modifies the definition of “juvenile case file” to include all records, including any writing as defined in Section 250 of the Evidence Code, or electronically stored information relating to the minor, that is 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.

COMMENTS

1. Need For This Bill

According to the author:

The Welfare and Institutions Code (WIC) governing juvenile justice has not been updated to reflect technological advances or process changes. This lack of updates has created lengthy processes in juvenile court and breakdowns in communication which have negatively impacted youth in the system.

For example, due to a gap in current law, youth who are arrested but never charged must utilize the same complex process to have their records sealed as youth who have been formally adjudicated. These non-adjudicated youth would have to wait until they are 18 or 5 years after the referral, prove they have not suffered any crimes involving moral turpitude, and demonstrate rehabilitation to the court even though they were never charged with a crime.

SB 1161 makes clarifying amendments to the WIC in a number of areas, including access to juvenile records, record sealing when charges will not be filed, availability of informal probation, access to institutional records, and preservation of foster care benefits for non-minor dependent youth in order to improve the clarity and efficacy of the WIC.

This bill helps to ultimately streamline both access and sealing opportunities for eligible youth in the juvenile justice system.

2. Major Provisions of This Bill

The major provisions of this bill make changes to statutes pertaining to juvenile case files, juvenile record sealing, jurisdiction of the appellate court, and eligibility for informal probation. Several provisions in this bill are intended to clarify existing law. Others are extensions of and consistent with existing law.

Record Sealing

Defense counsel's own records

Provisions of the bill preclude defense counsel for a minor from being ordered to seal their own records when the minor's records have been sealed via Welfare and Institutions Code section 781 or Welfare and Institutions Code section 786. Proponents of the bill argue this change is necessary given that defense attorneys have an ethical and professional obligation to maintain and preserve client files, and individuals with a juvenile record sometimes reach out to their attorney who represented them in the juvenile court proceeding years later regarding their juvenile record.

Records when charges were not sustained

Proponents of the bill contend that there is no existing mechanism to seal a youth's felony arrest record when the prosecutor declines to file a petition. Welfare and Institutions Code section 781 and Welfare and Institutions Code section 786 apply to cases in which a petition was filed in juvenile court. Welfare and Institutions Code section 786.5 applies in cases in which the youth completed a diversion program. Finally, Penal Code section 851.7 applies to minors who were subject to a misdemeanor arrest and unlike the record sealing statutes in the Welfare and Institutions Code, it does not utilize language typically used when referring to juvenile court proceedings. This bill amends Penal Code section 851.7 to add citations and felonies, and amends Welfare and Institutions Code section 786.5 to add citations and other conforming language.

Effect of post-conviction relief on eligibility for juvenile record sealing

Welfare and Institutions Code section 781 bars a person from juvenile record sealing if the person has been convicted of a felony or a misdemeanor involving moral turpitude following their juvenile court adjudication. This bill amends Welfare and Institutions Code section 781 to allow an individual who has been convicted of a felony or misdemeanor involving moral turpitude to petition for juvenile record sealing if all of that person's felony convictions, and misdemeanor convictions involving moral turpitude, have been subsequently dismissed, vacated, pardoned, or reduced to misdemeanors that do not involve moral turpitude.

Criminal court record sealing after a case has been certified to juvenile court

Proponents of the bill argue that there is no mechanism for a minor improperly charged in criminal court and who has been certified back to juvenile court to seal the records related to the proceedings in criminal court prior to that certification. This bill amends Welfare and Institutions Code section 604 to provide for sealing of the criminal court records associated with sealed juvenile court records.

Appellate jurisdiction when juvenile record is sealed

This bill provides that the jurisdiction of the appellate court is not affected by a juvenile record sealing pursuant to Welfare and Institutions Code section 781 or 786.

Juvenile Case Files*Confidentiality of records*

Access to records pertaining to a Welfare and Institutions Code section 300 cases—dependency court cases— is explicitly limited when the juvenile case file or any portion of it is deemed privileged or confidential pursuant to state or federal law or regulation. (Welf. & Inst. Code, § 827, subd. (a)(3).) Proponents of the bill assert that privileged and confidential records are sometimes contained within a juvenile case file for Welfare and Institutions Code section 601 or 602 cases, delinquency court cases. This bill amends Welfare and Institutions Code section 827 to provide the same protections for records within a juvenile case file pertaining to delinquency court cases.

Defense counsel access to their clients' juvenile records

Welfare and Institutions Code section 827 delineates the categories of individuals and entities that have access to a juvenile case file. Among those entities and individuals that have access to a juvenile case file are the attorneys for the parties who are actively participating in criminal or juvenile proceedings involving the minor. (Welf. & Inst. Code, § 827, subd. (a)(1)(E).) Proponents of the bill contend that attorneys representing adults in a variety of proceedings such as resentencing proceedings, habeas proceedings, and parole suitability proceedings, are sometimes unable to inspect and copy a client's juvenile case files without a court order due to some courts' interpretation of Welfare and Institutions Code section 827. This bill amends Welfare and Institutions Code section 827 to grant access to attorneys representing clients with juvenile records.

Access to electronically stored records

Under current law, “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).) According to proponents of the bill, many entities that possess records that fall within the definition of “juvenile case file” use electronic or digital means of storing that information. However, because the term “document” is not expressly defined in Welfare and Institutions Code section 827, some attorneys have had difficulty obtaining information stored electronically or digitally because the entities in possession of those records have adopted a narrow definition of “document” that only includes written information. This bill amends Welfare and Institutions Code section 827 to redefine “juvenile case file” to explicitly include electronically stored information.

Other Provisions

This bill amends Welfare and Institutions Code section 653.5 to require the probation officer to provide the juvenile probation record to a minor, the minor’s attorney, or the minor’s counsel, upon request, in cases where the probation officer has determined the minor is eligible and suitable for informal supervision.

This bill amends Welfare and Institutions Code section 654.2 to ensure that a minor remains eligible for informal probation regardless of whether the minor lives in the county where the offense occurred.

This bill additionally amends Welfare and Institutions Code sections 303, 388, 450, and 451 to ensure that a foster youth who is in the juvenile court’s jurisdiction due to delinquency proceedings and who obtains a dismissal in the interests of justice pursuant to Welfare and Institutions Code section 782 does not lose extended foster care eligibility. This bill is double-referred to the Senate Judiciary Committee which will analyze these provisions of the bill.

3. Argument in Support

According to the National Center for Youth Law:

While SB 1161’s amendments to the WIC are fairly minor on an individual basis, collectively, they constitute a substantial improvement of the current code, providing much-needed clarification to the WIC and affording significant benefits to those impacted by the juvenile justice system. For example, youth who were arrested but never charged with a crime or referred to a diversion program by probation must utilize the same lengthy and complex process to have their records sealed as youth who have been formally adjudicated. ... SB 1161 enacts a simplified process that is already codified in the WIC for youth who experience an even lesser degree of intervention by law enforcement or probation.

SB 1161 also provides that related criminal records are sealed when a case is transferred back to juvenile court from a criminal court; clarifies that expunged adult convictions do not serve as a bar to record sealing; and ensures that defense attorneys may have access to their own clients’ juvenile records to assist them in

dealing with collateral consequences as well as potential post-adjudication or post-conviction relief.

...

In recent years, California's juvenile justice laws have been reformed to reflect the ever-growing body of research about adolescent brain development. Efforts to treat justice-involved youth using a public health lens as opposed to a purely criminal lens have helped to increase opportunities for diversion, record sealing, and "clean slate" opportunities for youth in the justice system, reforms which are especially important for youth of color who are overrepresented in that system. SB 1161's changes are fully in alignment with the Legislature's needs-oriented, public health approach that recognizes that treating youth effectively serves both the needs of the youth and the goal of public safety.

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