

# Judicial Council of California • Administrative Office of the Courts

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## INVITATION TO COMMENT SPR14-12

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Title	Action Requested
Juvenile Law: Instructions to Seal Juvenile Records	Review and submit comments by June 18, 2014
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 5.830; adopt forms JV-595 and JV-595-INFO; revise forms JV-590 and JV-600	January 1, 2015
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Laura Pedicini, 415-865-7459 laura.pedicini@jud.ca.gov
Hon. Jerilyn L. Borack, Cochair	
Hon. Kimberly J. Nystrom-Geist, Cochair	

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### Executive Summary and Origin

Assembly Bill 1006 (Yamada; Stats. 2013, ch. 269) directed the Judicial Council, effective January 1, 2015, to develop informational materials and a form to enable a former ward or individual for whom a petition was filed under Welfare and Institutions Code, section 602, and any individual who had contact with a probation department under section 626, to petition the court for the sealing and destruction of juvenile records under section 781 and rule 5.830<sup>1</sup>. Section 781(g) provides that each county probation department and court must ensure that record-sealing information and a form petition are provided to eligible youth. It also instructs that the sealing information and the form petition “shall be provided . . . when jurisdiction is terminated or when the case is dismissed.” The Family and Juvenile Law Advisory committee proposes new and amended forms and revision to rule 5.830 to implement this statute.

### The Proposal

This proposal recommends adoption of one mandatory information form, *How to Make Your Juvenile Records Private* (form JV-595-INFO), and one optional petition form, *Request to Seal Juvenile Records* (form JV-595), to implement Assembly Bill 1006. In addition, rule 5.830 would be amended to reflect the directives of AB 1006: the petition and information form would be referred to within the rule, and the distribution requirements would also be specified.

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code, unless otherwise specified

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*

Additionally, *Juvenile Wardship Petition* (form JV-600) would be revised to include a notice alerting minors about record sealing at an earlier phase of the proceedings. Finally, *Order to Seal Juvenile Records* (form JV-590) would be revised from a mandatory form to an optional form to provide courts with the flexibility to develop an order that reflects local agency and court practices.

Section 781 enables eligible individuals to petition the juvenile court to have juvenile records sealed under certain circumstances specified within the code. The records eligible for sealing include contacts with the juvenile justice system; group homes, camps, and foster care agencies; schools; the Department of Motor Vehicles; and other agencies. These contacts include juvenile court records resulting from formal adjudications under section 602 of the code and informal contacts with probation and law enforcement under sections 601 and 626 of the code. To qualify for sealing, among other requirements, the records must not fall within section 707(b) of the code if committed by an individual 14 or over, the offense must not have led to a conviction in adult court under section 707.1, and the petitioner must not have been convicted of a felony or misdemeanor involving moral turpitude as an adult. In addition, the court must find that the petitioner has been satisfactorily rehabilitated.

#### **Propose new form JV-595-Info**

Previously, no statutory directives mandated that the court and probation “shall ensure” that eligible individuals are informed of available record-sealing options. The newly revised code directs that the informational materials and optional form must be provided by the court or probation to eligible individuals when jurisdiction is terminated or the case is dismissed. Proposed new mandatory *How to Make Your Juvenile Records Private* (form JV-595-INFO) includes information on the benefits and limitations of record sealing. It is intended to use plain language and a user-friendly format to explain the process required for record sealing, with the goal of increasing the likelihood that the optional form JV-595, *Request to Seal Juvenile Records*, is completed accurately so that courts can properly seal all appropriate juvenile records. It also emphasizes that only eligible records included on the form and known to the court will be sealed. This emphasis reinforces that probation will not be taxed with investigation requirements and reduces the burden on the court and probation by clarifying that the responsibility of identifying agencies where records may be found rests with the petitioner. The form also explains that when a probation case is closed, the probation officer will provide the petitioner with a list of the petitioner’s known contacts housed with the juvenile justice system and other agencies. This information will assist the petitioner in filling out form JV-595, *Request to Seal Juvenile Records*, as completely as possible.

#### **Propose new form JV-595**

Proposed new optional *Request to Seal Juvenile Records* (form JV-595) is intended to provide the petitioner with a simple but optional method to request sealing. It directs the petitioner to include all known contacts with law enforcement; probation; group homes, camps, and foster care agencies; schools; the Department of Motor Vehicles; and other agencies. It also instructs the petitioner to include contacts in all counties, as provided by rule 5.830, which states: “The

order must apply in the county of the court hearing the petition and in all other counties in which there are identified juvenile records concerning the petitioner that are eligible for sealing.<sup>2</sup> Section 781(a) directs the court to “send a copy of the order to each agency and official named therein, directing the agency to seal its records and stating the date thereafter to destroy the sealed records.” Some courts have interpreted the requirement to be limited to in-county agencies. By ensuring that the form instructs that *all* identified agencies must be provided with the order, this misinterpretation will be resolved and form JV-590, *Order to Seal Juvenile Records*, will be used more consistently and comprehensively.

### **Revise form JV-600, *Juvenile Wardship Petition***

The committee also proposes revising *Juvenile Wardship Petition* (form JV-600) to include a directive informing youth about the option of record sealing and identifying form JV-595-INFO, *How to Make Your Juvenile Records Private*, as a source of information. This proposed revision will serve two purposes: (1) it will alert minors about record sealing at an earlier phase of the juvenile court proceedings, and (2) it will provide a supplementary way to reach those minors who may be named in a petition but have limited contact with probation.

### **Revise form JV-590, *Order to Seal Juvenile Records*, by making it an optional form**

*Order to Seal Juvenile Records* (form JV-590) is currently a mandatory form. To provide courts with maximum flexibility to issue record-sealing orders that reflect the individual court’s needs, practices, and local agencies, the committee proposes that form JV-590, *Order to Seal Juvenile Records*, be revised from a mandatory form to an optional form. This change would provide flexibility from county to county, with the optional form available if needed.

### **Amend rule 5.830**

Proposed changes to rule 5.830 involve incorporating references to forms JV-595-INFO, JV-595, and JV-590, and defining the court’s and probation department’s roles in ensuring that the forms are provided as required. The rule would also direct probation to provide the petitioner with a list of the petitioner’s known contacts housed with the juvenile justice system at the time that the case is closed, which would assist the petitioner in filling out the petition as completely as possible.

In its current form, rule 5.830 has not been interpreted consistently with regard to its description of the records that must be sealed in other counties when the court’s record-sealing order is issued. The rule specifies that the sealing order “must apply in the county of the court hearing the petition and in all other counties in which there are juvenile records concerning the petitioner.” It is recommended that the word *eligible* be inserted before the word *juvenile* to clarify that only those records that can be legally sealed are covered by the order. The committee also proposes adding an advisory comment that provides general context on the

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<sup>2</sup> Clarification about proposed changes to the rule will be provided in the section of this invitation to comment specific to the rule.

purpose of record sealing and addresses the scope and overall specifications of the act of record sealing.

### **Alternatives Considered**

With the passage of Assembly Bill 1006, the Legislature directed the Judicial Council to develop informational materials and a form petition to ensure that eligible individuals are adequately informed about the option of sealing and provided with a form to assist them in petitioning the court. Consideration was given to how the informational materials could be most effectively presented and in what format. The committee determined that an information form, available on the court website, would be more likely to reach the target audience and remain relevant than a less formal handout, which might, over time, be forgotten. In addition, making the information form mandatory would raise its relevance by increasing awareness and encouraging compliance. The committee, to further increase the likelihood for the form to reach its target audience and to provide information at an earlier phase of the proceedings, determined that adding a notice about record sealing to the *Juvenile Wardship Petition* (form JV-600) would be beneficial.

Consideration was also given to whether rule 5.830 needed to be revised. Ensuring consistency and clarifying the new requirements are the clear benefits of revising the rule as proposed.

*Request to Seal Juvenile Records*, form JV-595, was created as required by the Legislature but is proposed as an optional form to allow petitioners to submit a request to seal in whatever manner they prefer. Although the form provides a convenient method of petitioning the court, mandating its use may delay applications and run contrary to the intent of Assembly Bill 1006. Similarly, revising form JV-590, *Order to Seal Juvenile Records*, from a mandatory form to an optional form will lead to more flexibility in implementation for the courts.

Although the new legislation's target population is primarily youth described by sections 602 and 626 of the Welfare and Institutions Code, consideration was given to whether efforts should be made to reach youth described by section 781(d)—specifically, those youth who are arrested and dealt with informally by law enforcement. Although it would clearly be beneficial to reach these youth, the legislation does not provide an avenue to accomplish this goal, and efforts to reach those individuals not described in section 781(g) would be burdensome to the court and probation.

### **Implementation Requirements, Costs, and Operational Impacts**

Courts will be required to produce paper copies of the information form and petition as required by AB 1006. Some courts may incur programming charges if electronic systems are used for the court order. However, the committee believes that full implementation of this proposal may aid court operations and reduce probation department costs by providing the youth with a listing of relevant records at case closing and by streamlining the process in a single county. Although this effort may result in additional time to send notices of record sealing, it should also reduce or

eliminate the need for the youth to file requests in multiple counties or to inspect court files to determine which records to request for sealing.

## Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose of ensuring that information regarding the eligibility for and the procedures to request sealing and destruction of records is provided to each person for whom a petition has been filed on or after January 1, 2015, to adjudge the person a ward of the juvenile court and to specified other minors who are taken into temporary custody and brought before a probation officer under Welfare and Institutions Code section 626?
- By amending the rule to require the probation department to provide youth with a list of known cases that involve the youth (“rap sheet”), will the process of filling out the petition be less burdensome to the youth? Does the benefit outweigh the burden to probation?
- Do you agree that the JV-595 petition form should be optional so that juveniles who may choose to submit a petition on a self-created application or local form are able to do so?
- Do you believe that form JV-595-INFO is presented in sufficiently plain language to provide the target audience with an easy-to-understand overview of record sealing? The form was intentionally written in a plain language format to assist in that goal; however, do you have concerns that the efforts to simplify the form may have resulted in its failing to include more complex but important legal concepts?
- What is your opinion about enabling petitioners to have eligible records sealed in more than one county? A decision was reached to structure the forms to reinforce the substance of the rule, which has directed courts to seal records in other counties since 1999. Do you believe that directing a court to mail the sealing order to agencies housing eligible records in other counties will be too burdensome to the court? How do you think the burden shouldered by the court and the petitioner should be allocated?
- Is directing probation to provide petitioners with a list of known contacts in the juvenile justice system (“rap sheet”) at the close of the case too burdensome?
- Do you think that the advisory committee comment provides sufficient clarity about the scope and purpose of record sealing?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- What would the implementation requirements be for courts—for example, revising processes and procedures to ensure that probation has followed through with providing information?
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- Regarding how the rule could be implemented, do the courts have alternate suggestions that would better assist the courts with implementation but still meet the requirements of the bill?
- What suggestions do the courts have for setting up a system to monitor whether information has successfully reached identified individuals who may qualify for sealing?

### **Attachments and Links**

1. Text of proposed Cal. Rules of Court, rule 5.830, at pages 7–8
2. Proposed new and revised forms JV-590, JV-595, JV-595-INFO, and JV-600, at pages 9–14
3. Assembly Bill 1066,  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB1006](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1006)

Rule 5.830 of the California Rules of Court would be amended, effective January 1, 2015, to read:

1 **Rule 5.830. Sealing records**

2  
3 **(a) Sealing records—former wards (§ 781)**

4  
5 (1) A former ward of the court may apply to petition the court to order juvenile  
6 records sealed. Determinations under section 781 must be made by the court  
7 in the county in which wardship was last terminated.

8  
9 (2) When jurisdiction is terminated or the case is dismissed, the court must  
10 directly provide, or instruct the probation department to provide, form JV-  
11 595-INFO, *How to Make Your Juvenile Records Private*, and form JV-595,  
12 *Request to Seal Juvenile Records*, to former wards.

13  
14 (3) When wardship is terminated, the probation department must provide the  
15 former ward with a list of known cases and contacts from the ward’s juvenile  
16 record and the date the probation case closed.

17  
18 ~~(1)~~(3) *Application—submission*

19  
20 (A) The application for a petition to seal records must be submitted to the  
21 probation department in the county in which wardship was last  
22 terminated.

23  
24 (B) The application for a petition to seal juvenile records may be submitted  
25 on form JV-595, *Request to Seal Juvenile Records*, or on another form  
26 that includes all required information.

27  
28 ~~(2)~~(4) \*\*\*

29  
30 ~~(3)~~(5) \*\*\*

31  
32 ~~(4)~~(6) If the petition is granted, the court must order the sealing of all records  
33 described in section 781 using form JV-590, *Order to Seal Juvenile Records*,  
34 or a similar form. The order must apply in the county of the court hearing the  
35 petition and in all other counties in which eligible juvenile records  
36 concerning the petitioner are identified by the petitioner on the petition.

37  
38 **(b) Sealing—nonwards**

39  
40 (1) \*\*\*





*Probation stamps date when form is received.***DRAFT  
NOT APPROVED  
BY THE JUDICIAL  
COUNCIL**

This form can be used to petition the juvenile court to seal your juvenile records if you meet the requirements of Welfare and Institutions Code section 781. More information about sealing is available on form JV-595-INFO, *How to Make Your Juvenile Records Private*.

On page two of this form, include all the officials and agencies you came in contact with when you were under the age of 18, including law enforcement, probation, the Department of Motor Vehicles, and the district attorney's office. Include agencies in EVERY county. Submit this form to the probation department in the county where you were last on juvenile probation, or if you were not on probation, in any county where you had contact with law enforcement or probation that did not result in a court case. Once the probation department receives the completed form, it will have 90 days to file a record-sealing petition with the court for you, or 180 days if you include agencies outside of this county.

*Fill in court name and street address:***Superior Court of California, County of***Fill in your name:***Name:***Fill in case number, if known:***Case Number:**

- ① My information:
- a. Name: \_\_\_\_\_
- b. AKA (*nickname, or other name I've used*): \_\_\_\_\_
- c. Address: \_\_\_\_\_
- d. City, state, zip code: \_\_\_\_\_
- e. Area code and telephone number: \_\_\_\_\_
- f. Date of birth: \_\_\_\_\_

- ②  I had a case that went to court.  
Case file number: \_\_\_\_\_ The date my case was closed: \_\_\_\_\_
- I do not remember my case file number or the date my case was closed.

- ③ I had contact with law enforcement but did not go to court.
- Date I had contact with law enforcement: \_\_\_\_\_
- Name of law enforcement or other agency: \_\_\_\_\_

- ④ I understand that the probation department is responsible for requesting the juvenile court to seal the records of only those agencies listed on page 2 of this form. I understand that after I file this document and pay any fees that are required, the probation department will have 90 days to conduct an investigation and file a record-sealing petition for me with the juvenile court, or 180 days if I am requesting that information located in more than one county be sealed. I also understand that some records may not be eligible for sealing. I am aware that form JV-595-INFO, *How to Make Your Juvenile Records Private*, provides more information on this process. I also understand that the federal government will not recognize sealing of records, and that juvenile records must be reported, even though sealed, if I apply for enlistment in the armed services.



Case Number:

Your name: \_\_\_\_\_

**Note: Your probation officer provided you with a list of contacts with law enforcement when your case closed. That document should make filling out this form easier for you because it includes the contacts that probation is aware of from your juvenile record. The best way to ensure that all your juvenile records are sealed is for you to list all contacts on this form or attach the list of contacts probation provided to you. Include cases and contacts in both the county where you are filing this petition and in any other county where you had contact with law enforcement and other agencies. Contacts in other counties, if not included on this form may not be sealed, and you may need to file again in the county where the record is located.**

AGENCY, COURT, or OFFICIAL

COUNTY or Counties (*list ALL that apply*)

Include all contacts you had with the agencies listed below in every county, up until your 18th birthday:

- Court Clerk: \_\_\_\_\_
- Probation Department: \_\_\_\_\_
- Sheriff's Department: \_\_\_\_\_
- District Attorney: \_\_\_\_\_
- Police Department: \_\_\_\_\_
- The school I've attended that may have records related *to my behavior*: \_\_\_\_\_  
(*every school in every county*): \_\_\_\_\_
- Department of Motor Vehicles: \_\_\_\_\_
- Group Homes: \_\_\_\_\_
- Ranches: \_\_\_\_\_
- Juvenile Hall: \_\_\_\_\_
- Homeland Security: \_\_\_\_\_

**7** I declare that the information on this form is true and correct to the best of my knowledge.

Date:

\_\_\_\_\_  
*Type or print your name*

 \_\_\_\_\_  
*Sign your name*

If you did something wrong when you were under 18, the justice system, your school(s), and/or DMV may have records about what you did.

If you make those records **private** (sealed), it could be easier for you to:

- Find a job.
- Get a driver's license.
- Get a loan.
- Rent an apartment.
- Go to college.

### Who qualifies to seal their juvenile records?

You qualify if:

- You are at least **18**; or
- It has been at least **5 years** since:
  - your case was closed, or
  - your last contact with probation; and
- A judge decides you are trustworthy and have turned your life around.

### You do *not* qualify if you were convicted as an adult of an offense involving moral turpitude, such as:

- A sex or drug crime,
- Murder or other violent crime,
- Forgery, welfare fraud, or other crime of dishonesty; or

### when you were 14 or older:

The court found that you committed a serious offense listed in Welfare & Institutions Code, section 707(b), such as murder, arson, rape, other violent crime.

### Do not apply *now* if you are on probation or if you have:

- Unpaid fines, fees, restitution, or traffic fines;
- A suspended or revoked driver's license;
- Active citations for not going to court when ordered (failure to appear);
- An active case in adult criminal court; or
- An active case in civil court related to something you did wrong when you were under 18.

### Can anyone see my sealed records?

- Insurance companies can see your DMV records.
- The federal government (and the military) can see your sealed records, if you apply for a federal job or enlist.
- The court may see your records, if you are a witness or involved in a defamation case.
- If you apply for benefits as a nonminor dependent, the court may see your records.

### How do I ask to have my records sealed?

1. You must fill out a court form. Form JV-595, *Request to Seal Juvenile Records*, at [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm) can be used, or your court may have a local form.
2. Your probation officer will provide you with a list of contacts, known to probation and sometimes called “a rap sheet,” at the close of your case.
3. Write the names of all agencies from your contacts list on your form. Also list any other agency that might have records on you, such as:
  - Juvenile court,
  - Probation,
  - Police or sheriff,
  - District attorney's office,
  - Schools,
  - Group homes, and
  - Department of Motor Vehicles.
4. Take your completed form to the probation department where you were *last* on probation. (If you were not on probation, take your form to any county probation office where you have a juvenile record.)
5. You may have to pay a fee.
6. Probation will review your form within **90 days** (or **180 days**, if you have records in two or more counties).
7. The court will review your application. The court may decide right away. Or the court may order a hearing. If there is a hearing, you will receive a notice in the mail with the date and time of the hearing. If the Notice says your hearing is “unopposed,” you may choose not to go.
8. If you qualify, the court will make an order to seal the eligible records listed on your application. **Important! The court can seal only records it knows about. Make sure you list all records from all counties where you have any records.**
9. The court will order each agency on your list to seal your records. The court will also order the records destroyed by a certain date.
10. The court will mail you a copy of its order. Be sure to keep it in a safe place.

### Sex Offender Registration (Penal Code, § 290)

If the court seals a record that required you to register as a sex offender, the order will say you do **not** have to continue to register.

### Questions?

If you are not sure if you qualify to seal your records or if you have other questions, talk to a lawyer. The court is not allowed to give you advice.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (Name): _____	<h2 style="margin: 0;">DRAFT</h2> <h3 style="margin: 10px 0 0 0;">Not approved by the Judicial Council</h3>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
<b>JUVENILE WARDSHIP PETITION</b> <input type="checkbox"/> § 601(a) <input type="checkbox"/> § 601(b) <input type="checkbox"/> § 602(a)	CASE NUMBER:

1. Petitioner on information and belief alleges the following:

a. <input type="checkbox"/> The child named below comes within the jurisdiction of the juvenile court under the following sections of the Welfare and Institutions Code (check applicable boxes; see attachments for concise statements of facts): <input type="checkbox"/> 601(a) <input type="checkbox"/> 601(b) <input type="checkbox"/> 602(a)      Violation (specify code section):			
b. <input type="checkbox"/> Under a previous order of this court, dated _____, the child was declared a ward under Welfare and Institutions Code section <input type="checkbox"/> 601(a) <input type="checkbox"/> 601(b) <input type="checkbox"/> 602(a).			
c. Child's name and address:	d. Age:	e. Date of birth:	f. Sex:
g. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown  If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	h. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown  If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged		
i. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown  If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	j. Other (state name, address, and relationship to child):  <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.		
k. Attorney for child (if known): Address:   Phone number:	l. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained. Date and time of detention (custody): Current place of detention (address):		

(See important notices on page 2.)

