

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

**W18-06**

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Title	Action Requested
Juvenile Law: Sealing of and Access to Records	Review and submit comments by February 14, 2018
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt Cal. Rules of Court, rule 5.850; amend rules 5.552 and 5.840; approve forms JV-597 and JV-598; revise forms JC-590, JV-595-INFO, JV-596, and JV-596-INFO	September 1, 2018
	Contact
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Proposed by	
Family and Juvenile Law Advisory Committee	
Hon. Jerilyn L. Borack, Cochair	
Hon. Mark A. Juhas, Cochair	

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### **Executive Summary and Origin**

The Family and Juvenile Law Advisory Committee proposes new and amended rules and new and revised forms to conform to recently enacted statutory provisions concerning the sealing of juvenile records. The proposal would update recently adopted rules and forms to implement sealing of records under Welfare and Institutions Code section 786<sup>1</sup> to include changes to that section that go into effect on January 1, 2018; modify forms to reflect the authority of the court to seal records for section 707(b) offenses; and adopt a new rule and optional form for use by probation to seal records under newly enacted section 786.5.

### **Background**

In 2013, the Legislature took action to ensure that all juveniles who come before the court or a probation officer receive information about the process to request sealing of records and required the adoption of a Judicial Council form that can be used to petition the court for sealing under Welfare and Institutions Code section 781 (Assem. Bill 1006 [Yamada]; Stats. 2013, ch. 269). In 2014, the Legislature went a step further by enacting section 786, which requires courts to seal records – without the filing of a petition – for any child 14 years of age or older who was not a serious or violent (707(b)) offender and who satisfactorily completed probation (Sen. Bill 1038 [Leno]; Stats. 2014, ch. 249). That legislation, however, spurred many questions and concerns

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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.*

within the juvenile justice system, and legislation has been enacted in every year since 2014 to clarify the scope and impacts of section 786.<sup>2</sup>

In 2017, the Legislature enacted Assembly Bill 529 (Stone; Stats. 2017, ch. 685), which further amended section 786 to require the court to seal records for any case that it dismisses on the motion of the prosecution, on its own motion, or because the petition is not sustained after an adjudication hearing. AB 529 also enacted section 786.5, which requires the probation department to seal the records of any juvenile who successfully completes a diversion program for an arrest that does not lead to the filing of a petition with the juvenile court and to notify any agency overseeing the diversion program to seal its records. This sealing would result in the arrest being deemed not to have occurred. If the probation department determines that the diversion program was not successfully completed, section 786.5 requires that notice of that determination be provided to the individual and that the individual have an opportunity to petition the court for a review of that determination. Also enacted in 2017 was Senate Bill 312 (Skinner; Stats. 2017, ch. 679), which clarified that records for section 707(b) offenses can be sealed under section 786 if the offense was reduced to a misdemeanor and authorized courts to seal other 707(b) records (other than those for registerable sex offenses under section 290.008) under section 781, as long as access to those records is provided under specified circumstances. Finally, the Legislature, in 2017, enacted Senate Bill 462 (Atkins; Stats. 2017, ch. 462), which presents specific standards for accessing juvenile case files for data collection and research purposes, with specific confidentiality protections required.

## **The Proposal**

The proposal recommends adopting a new rule of court, rule 5.850, and approving two optional forms, JV-597 and JV-598, to implement the new requirements under section 786.5 for sealing diversion records. It also proposes amending rule 5.840 and revising both mandatory sealing informational forms, JV-595-INFO and JV-596-INFO, as well as the two optional sealing order forms, JV-590 and JV-596, to incorporate recent changes in juvenile records sealing law. Finally, the proposal would amend rule 5.552, on access to juvenile case files, to incorporate the new provisions in section 827.12 allowing access for data collection and research purposes.

## **Rule and forms proposals to implement amendments to section 786**

Because section 786 has been expanded to require the court to seal records when it dismisses a petition without finding the child a ward of the delinquency court, amendments and revisions to the rule and forms to implement section 786 are proposed, as follows, to reflect this expansion. Section 786 was also amended to clarify that a 707(b) offense that has been reduced to a misdemeanor is eligible for sealing, and changes have been made to the rule to reflect that clarification.

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<sup>2</sup> See Assembly Bill 1945 (Stone; Stats. 2016, ch. 858), Assembly Bill 666 (Stone; Stats. 2015, ch. 368), and Assembly Bill 989 (Cooper; Stats. 2015, ch. 375).

**Amended rule 5.840.** This rule describes the procedures for the court to seal records under section 786. Now that the court must seal records if it dismisses a case before wardship in the same manner that it currently seals records for satisfactory completion of probation, the rule must incorporate this expansion of the statute.

**Revised form JV-596.** To assist courts in implementing the new requirements of section 786, the council approved optional sealing order form JV-596, *Dismissal and Sealing of Records—Welfare and Institutions Code Section 786*, effective July 1, 2016. For this form to be used to seal records under newly enacted section 786(e), it needs to be revised to allow the court to find that the petition was dismissed before wardship as an alternative to finding that probation was satisfactorily completed.

### **Rules and forms proposals for sealing by probation for diversion cases**

Newly enacted section 786.5 requires the probation department to seal records for diversion cases when the diversion program has been satisfactorily completed and to provide notice that it has sealed the records, or if it has not, the reason for not doing so. It also provides the right to petition the court for review of a determination that records should not be sealed. A new rule and new optional forms, described immediately below, are proposed to implement this new statute.

**New rule 5.850.** The committee proposes adopting a new rule of court to implement the requirements of newly enacted section 786.5. The new rule includes the procedures to be followed to petition the court if a record is not sealed by probation for satisfactory completion of the program and review of that determination by the juvenile court is sought. These procedures include a requirement that the probation department file with the court the request for the court to review the determination for the child and that the court appoint counsel for any child seeking review in a court hearing before or during the hearing. The committee is seeking specific comment on these procedures.

**New form JV-597.** The committee is proposing an optional form to be used by probation to comply with the requirements of section 786.5 that the probation department provide written notice that it has or has not sealed records for diversion program participants. This form would also provide notice to those individuals whose records are not sealed that they may petition the court for review of the probation department's determination. The committee notes that many probation departments may prefer to develop something similar locally, but wanted to provide an option for those departments seeking assistance in implementing the new requirements.

**New form JV-598.** Because section 786.5 allows a diversion participant whose records are not sealed to petition the court for review of the determination that he or she did not satisfactorily complete the program, this proposal includes an optional form petition that could be used by participants to seek that review. This form includes simple instructions and, to provide a mechanism for review, could accompany the notice that records were not being sealed.

### **Form change to implement amendments to section 781 allowing for sealing of 707(b) offenses**

Before the enactment of SB 312, records for offenses committed by individuals aged 14 or older listed in section 707(b) were ineligible for sealing under section 781. Now those records can be sealed under specific circumstances as long as they are not for 707(b) sex offenses that require registration under Penal Code section 290.008. However, access to these records is allowed in future proceedings for a variety of reasons, and the prohibition on the destruction of the court's records of these offenses remains. In addition to updating various information forms, as discussed below, this proposal would revise optional *Order to Seal Juvenile Records—Welfare and Institutions Code Section 781* (form JV-590) to allow the court to specify that the court records will not be destroyed under section 781(d) as an alternative to setting a destruction date.

### **Record sealing information form revisions<sup>3</sup>**

The Judicial Council has two sealing-specific informational forms that describe the law concerning record sealing for different audiences and contexts, each of which is proposed to be updated to reflect the changes in sealing law discussed above. Form JV-596-INFO is to be given at the termination of the case to wards whose records are sealed under section 786, and form JV-595-INFO is for those wards whose cases are not dismissed under section 786 and who need information about petitioning the court for the sealing of records under section 781. Both of these forms need to be revised to include information about the expansion of section 786 and the possibility of record sealing by probation under new section 786.5, and to clarify the much narrower constraints on record sealing by request under section 781 for 707(b) offenses.

### **Amendments to rule 5.552 to implement section 827.12 access for data collection and research**

Rule 5.552 presents the procedures for accessing juvenile case files and provides that any access that is unauthorized under section 827 or 828 requires that a petition be filed with the juvenile court.<sup>4</sup> Newly enacted section 827.12 allows law enforcement, probation, the court, the Department of Justice, and other state and local agencies with custody of a juvenile delinquency case file to access those records for data collection or reporting requirements imposed under the terms of a grant or as required by state or federal law, provided that personally identifying information is not released. In addition, it gives provisions for a chief probation officer to make a request of the juvenile court that access and data be provided from juvenile delinquency case files and related juvenile records in the possession of the probation department for the purpose of data sharing or research, provided that the court finds that the methodology to protect confidentiality is sound and that any personally identifying information that is accessed is not further released. To ensure that rule 5.552 is not in conflict with section 827.12, it needs to be

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<sup>3</sup> Revisions to form JV-060 to reflect record sealing changes are included in another proposal circulating for comment in this cycle *Juvenile Law: Information for Parents*.

<sup>4</sup> The Judicial Council approved amendments to rule 5.552 that become effective January 1, 2018. Because the proposed amended rules would become effective September 1, 2018, this proposal works from the rule text that will be effective on January 1, 2018.

amended to incorporate cross-references to the statute and to include the required findings that the court must make before authorizing the release of information from confidential files.

### **Alternatives Considered**

The committee considered not proposing a form for probation to comply with section 786.5, allowing each county to develop a solution to meet its own needs, but concluded that, as an optional form, the proposed form would not interfere with local efforts to implement the section. The committee also considered limiting the rule of court on section 786.5 to the court review process but determined that the process was intertwined with the notice requirements for probation under the statute and thus drafted the rule to include general procedures for probation to follow consistent with the statute.

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

Printing costs may be incurred to replace any existing stock of the mandatory sealing information forms. Some courts may incur programming charges if electronic systems are used for the court orders and they opt to use the optional revised order forms. In addition, all of the sealing law changes will result in more cases being eligible for sealing under sections 781 and 786 and thus will create additional court workload, as will the option to seek review under section 786.5, which will bring cases into the court that otherwise would not have required a court file or intervention (although this influx may be partially offset by filing of fewer 781 petitions for diversion cases overall). All of these impacts are as a result of the legislative changes and are necessary to make the rules and forms legally accurate. In addition, because the informational forms are available in other languages, there will be costs to translate the revised forms.

## 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?
- Is it helpful to probation departments to approve optional form JV-597 for their use, or would it be preferable to rely on local probation notice forms?
- Should proposed new rule 5.850 to implement section 786.5 cover the probation notice requirements or focus only on court procedures to review a determination that a diversion program was not satisfactorily completed?
- Is it preferable to require the probation department to file a request for review of denial of sealing under section 786.5, or should that burden be on the child?
- Is it necessary to appoint counsel for a child who seeks to challenge the denial of sealing under section 786.5, or should appointment be at the discretion of the court?
- Do the changes to rule 5.552 effectively implement newly enacted section 827.12?

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

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would four months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### Attachments and Links

1. Proposed Cal. Rules of Court, rules 5.552, 5.840, and 5.850, at pages 7–10
2. Proposed forms JV-590, JV-595-INFO, JV-596, JV-596-INFO, JV-597, and JV-598, at pages 11–21
3. Assembly Bill 529,  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180AB529](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB529)
4. Senate Bill 312,  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB312](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB312)
5. Senate Bill 462  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB462](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB462)

Rule 5.850 of the California Rules of Court is adopted and rules 5.552 and 5.840 are amended, effective September 1, 2018, to read:

1 **Rule 5.552. Confidentiality of records (§§ 827, 827.12, 828)**

2  
3 (a) \* \* \*

4  
5 (b) **Petition**

6  
7 Juvenile case files may ~~only~~ be obtained or inspected only in accordance with  
8 sections 827, 827.12, and 828. They may not be obtained or inspected by civil or  
9 criminal subpoena. With the exception of those persons permitted to inspect  
10 juvenile case files without court authorization under sections 827 and 828, and the  
11 specific requirements for accessing juvenile case files provided in section  
12 827.12(a)(1), every person or agency seeking to inspect or obtain juvenile case files  
13 must petition the court for authorization using *Request for Disclosure of Juvenile*  
14 *Case File* (form JV-570). A chief probation officer seeking juvenile court  
15 authorization to access and provide data from case files in the possession of the  
16 probation department under section 827.12(a)(2) must comply with the  
17 requirements of subdivision (e) of this rule.

18  
19 (1)–(2) \* \* \*

20  
21 (c)–(d) \* \* \*

22  
23 (e) **Release of case file information for research (§ 827.12(a)(2))**

24  
25 The court may authorize a chief probation officer to access and provide data  
26 contained in juvenile delinquency case files and related juvenile records in the  
27 possession of the probation department for the purpose of data sharing or  
28 conducting or facilitating research on juvenile justice populations, practices,  
29 policies, or trends if the court finds the following:

30  
31 (1) The research, evaluation, or study includes a sound method for the  
32 appropriate protection of the confidentiality of an individual whose juvenile  
33 delinquency case file is accessed for this purpose. In considering whether a  
34 method is sound, the court must have information on:

35  
36 (A) The names and qualifications of any nonprobation personnel who will  
37 have access to personally identifying information as defined in Civil  
38 Code section 1798.79.8(b);

39  
40 (B) Procedures to mask personally identifying information that is shared  
41 electronically; and  
42

1 (C) Data security protocols to ensure that access to the information is  
2 limited to those people authorized by the court.

3  
4 (2) No further release, dissemination, or publication of personally identifying  
5 information by the probation department or a program evaluator, researcher,  
6 or research organization that is retained by the probation department will take  
7 place for research or evaluation purposes.

8  
9 (3) If the information is being released for human subject research as defined in  
10 45 Code of Federal Regulations part 46, the probation department has  
11 provided notice and an opportunity to respond to the office of the public  
12 defender, and is prepared to enter into a formal agreement with the entity or  
13 entities conducting the research that specifies what may and may not be done  
14 with the information disclosed.

15  
16 (4) The disclosure requirements of section 10850 are met if any dependency  
17 information in a delinquency file may be disclosed.

18  
19 (5) A date for destruction of records containing personally identifying  
20 information in the possession of nonprobation department personnel has been  
21 set to prevent inappropriate disclosure of the records.

22  
23 **(ef) Reports of law enforcement agencies (§ 828)**

24  
25 **(fg) Other applicable statutes**

26  
27  
28 **Rule 5.840. Dismissal of petition and sealing of records (§ 786)**

29  
30 **(a) \* \* \***

31  
32 **(b) Dismissal of petition**

33  
34 If the court finds that a minor subject to this rule has satisfactorily completed his or  
35 her informal or formal probation supervision, the court must order the petition  
36 dismissed. The court must not dismiss a petition if it was sustained based on the  
37 commission of an offense listed in subdivision (b) of section 707 when the minor  
38 was 14 or older unless the finding on that offense has been dismissed or was  
39 reduced to a misdemeanor or an offense not listed in subdivision (b) of section 707.  
40 The court may also dismiss prior petitions filed or sustained against the minor if  
41 they appear to the satisfaction of the court to meet the sealing and dismissal criteria  
42 in section 786. An unfulfilled order, condition, or restitution or an unpaid  
43 restitution fee must not be deemed to constitute unsatisfactory completion of

1 probation supervision. The court may not extend the period of supervision or  
2 probation solely for the purpose of deferring or delaying eligibility for dismissal  
3 and sealing under section 786.  
4

5 **(c) Sealing of records**

6  
7 For any petition dismissed by the court under section 786, including any petition  
8 dismissed before the child is adjudicated a ward of the court, the court must also  
9 order sealed all records in the custody of the court, law enforcement agencies, the  
10 probation department, and the Department of Justice pertaining to those dismissed  
11 petition(s) using form JV-596, *Dismissal and Sealing of Records—Welfare and*  
12 *Institutions Code Section 786*, or a similar form. The court may also seal records  
13 pertaining to these cases in the custody of other public agencies upon a request by  
14 an individual who is eligible to have records sealed under section 786, if the court  
15 determines that sealing the additional record(s) will promote the successful reentry  
16 and rehabilitation of the individual. The prosecuting attorney, probation officer, and  
17 court must have access to these records as specifically provided in section 786.  
18 Access to the records for research purposes must be provided as required in section  
19 787.  
20

21 **(d)–(f) \* \* \***

22  
23  
24 **Rule 5.850 Sealing of records by probation in diversion cases (§ 786.5)**

25  
26 **(a) Applicability**

27  
28 This rule states the procedures to seal the records of persons who are subject to  
29 section 786.5.  
30

31 **(b) Sealing of records**

32  
33 Upon satisfactory completion of a program of diversion or supervision under a  
34 referral by the probation officer or the prosecutor in lieu of filing a petition to  
35 adjudge the person a ward of the juvenile court, including a program of informal  
36 supervision under section 654, the probation department must seal the arrest and  
37 other records in its custody relating to the arrest or referral and participation in the  
38 program. The probation department must also notify the public or private agency  
39 operating the diversion program to which the person has been referred to seal any  
40 records in its custody relating to the arrest or referral and participation in the  
41 program, and the operator of the program must do so promptly.  
42

43 **(c) Notice to participant**

1  
2 The probation department must notify the person in writing that his or her records  
3 have been sealed based on satisfactory completion of the program. If the record is  
4 not sealed, the probation department must notify the person in writing of the  
5 reason or reasons for not sealing the record and provide the person with a copy of  
6 the *Petition to Review Denial of Diversion Program Sealing of Records* (form  
7 JV-598) or similar local form to allow the person to seek court review of the  
8 probation department's determination. The notice to the participant concerning  
9 sealing and satisfactory completion must be provided within 60 days of completion  
10 of the program or 60 days from a determination that the program has not been  
11 completed by the person.

12  
13 **(d) Review of unsatisfactory completion of program by the juvenile court**

14  
15 A person who receives notice from the probation department that he or she has not  
16 satisfactorily completed the program and that his or her records have not been  
17 sealed may submit a request to that same probation department for the court to  
18 review that determination, and the probation department must file that petition with  
19 the court for a hearing to review whether he or she has met the satisfactory  
20 completion requirement and is eligible for record sealing by the probation  
21 department. This petition must be filed with the juvenile court in the county that  
22 issued the notice within 60 days of the petitioner's receiving the notice from the  
23 probation department and must include a copy of that notice. The clerk of the court  
24 must set the matter for hearing and notify the petitioner and the probation  
25 department of the date of the hearing. If the petitioner is not represented by counsel,  
26 the clerk must provide a copy of the petition to the probation department at the time  
27 notice of the hearing is provided. If the court finds after the hearing that the  
28 petitioner is eligible for sealing of the records under section 786.5, it must order the  
29 probation department to promptly comply with the sealing and notice requirements  
30 of this rule.

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>NOT APPROVED BY THE JUDICIAL COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
CASE NAME: _____	
<b>ORDER TO SEAL JUVENILE RECORDS— WELFARE AND INSTITUTIONS CODE SECTION 781</b>	CASE NUMBER: _____

1. Name of the petitioner (*specify aliases*): \_\_\_\_\_ Date of birth: \_\_\_\_\_
2. a. Date of hearing: \_\_\_\_\_ Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
 b. Judicial officer (*name*): \_\_\_\_\_
3.  The court has read and considered the petition and the report of the probation officer.
4. The petition is  
 a.  granted. b.  denied.

THE COURT ORDERS

5. a.  The sealing of petitioner's juvenile records in the custody of this court and the courts, agencies, and officials named below (*designate county*):  
 See attachment (5) for additional names.  
 b. The destruction of all sealed records according to Welfare and Institutions Code section 781(d).  
 c.  Date court records must be destroyed: \_\_\_\_\_  Or court records must be retained pursuant to section 781(d).  
 d. Date all other records must be destroyed: \_\_\_\_\_
6.  Petitioner is relieved from the registration requirements under Penal Code section 290, and the registration information in the custody of the Department of Justice and other agencies and officials listed above shall be destroyed.
7. The clerk will send a certified copy of this order to the clerk in each county in which a record is ordered sealed and a copy to each agency and official listed above.

Date: \_\_\_\_\_ \_\_\_\_\_  
 JUDICIAL OFFICER OF THE SUPERIOR COURT

[SEAL]

CLERK'S CERTIFICATE

I certify that the foregoing is a true and correct copy of the original on file in my office.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

## JV-595-INFO How to Ask the Court to Seal Your Records

If you were arrested or subject to a court proceeding or had contact with the juvenile justice system when you were under 18, there may be records kept by courts, police, schools, or other public agencies 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.

### If the court sealed your records when probation was terminated, you do not need to ask for them to be sealed.

There are now two ways that records may be sealed in California. As of January 1, 2015, courts or probation departments are required to seal records in certain cases when the court or probation department finds that probation (formal, informal, or diversion) is satisfactorily completed or if your case was otherwise dismissed after the petition was filed. If the court or probation sealed all of your records at the end of your case, you should have received a copy of the sealing order, and you do not need to ask the court to seal the records in that sealing order.

For more information about when the court seals your records at termination of probation, see form **JV-596-INFO**.

If you have more than one juvenile case or contact and/or are unsure if your records were sealed by the court, ask your attorney or probation officer **or the juvenile court clerk** in the county where you had a case or contact.

### Who qualifies to ask the court to seal their juvenile records?

If the court has not already sealed your records, you can ask the court to make that order. You qualify if:

- You are at least **18** or it has been at least five years since your case was closed; and
- You have been rehabilitated to the satisfaction of the court.

### What if you owe restitution or fines?

The court may seal your records even if you have not paid your full restitution order to the victim.

The court will not consider outstanding fines and court ordered fees when deciding whether to seal your records, but you are still required to pay the restitution, fines, and fees, and your records can be looked at to enforce those orders.

### When do you *not* qualify to seal your records?

- If you were convicted as an adult of an offense involving moral turpitude, such as:
  - A sex or serious drug crime;
  - Murder or other violent crime; or
  - Forgery, welfare fraud, or other crime of dishonesty.
- If, when you were 14 or older, the court found that you committed a sex offense listed in Welfare and Institutions Code section 707(b) for which you must register under Penal Code section 290.008 because you were paroled from the Department of Juvenile facilities.

If you are unsure if you are eligible, ask your attorney.

### Who can see your sealed records?

- DMV can see your vehicle and traffic records and share them with insurance companies.
- 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.
- A prosecuting attorney may see your records that were sealed for an offense listed under section 707(b) in a later proceeding for the reasons listed in Welfare and Institutions Code section 781(d).
- If your sealed record was for a 707(b) offense when you were 14 or older, the prosecutor, probation, and the court may unseal your records if you are charged with a subsequent felony.
- You can request the court to unseal your records if you want to have access to them or allow someone else to inspect them.

### Can employers see your records if they are not sealed?

Juvenile records are not allowed to be disclosed to most employers, and employers are not allowed to ask about or consider your juvenile history in most cases. There are exceptions to this rule if you are applying to be a peace officer or to work in health settings. Also, federal employers may still have access to your juvenile history. You should seek legal advice if you have questions of what an employer can ask of you.



**How do you ask to have your 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 When you file your petition, the probation department will compile a list of every law enforcement agency, entity, or person the probation department knows has a record of your case, as well as a list of any prior contacts with law enforcement or probation, and attach it to your petition.
- ③ If you think there are agencies that might have records on you that were never sent to probation, you need to include them, or the court will not know to seal them.

If you are not sure what contacts you might have had with law enforcement, you can get your criminal history record from the Department of Justice. See <http://oag.ca.gov/fingerprints/security> for more information.

- ④ Take your completed form to the probation department where you were on probation. (If you were not on probation, take your form to any county probation office where you have a juvenile record.) Note: A small number of counties require you to take your form to the court. More information on each county's specific requirements is available at [www.courts.ca.gov/28120.htm](http://www.courts.ca.gov/28120.htm).
- ⑤ If you are currently 26 years of age or older, you may have to pay a fee. If you cannot afford the fee, ask the probation department or the court about a fee waiver.
- ⑥ Probation will review your form and submit it to the court 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 to seal your juvenile records. 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" (meaning there is no disagreement with your request), you may choose not to go.

- ⑧ If you qualify to have your juvenile records sealed, 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. The court will tell you if it does not seal records from another court that were listed on your petition, and you will need to file a petition in that county to seal those records.**
- ⑨ If the court grants your request, it will order each agency, entity, or person on your list to seal your records. The court will also order the records destroyed by a certain date. **If the sealed records are for a 707(b) offense when you were 14 or older, the court will not destroy those records.**
- ⑩ The court will provide you with a copy of its order. Be sure to keep it in a safe place.

**What about 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.

**If your records are sealed, do you have to report the offenses in the sealed records on job, school, or other applications?**

**No.** Once your records are sealed, the law treats those offenses as if they did not occur and you do not need to report them. **However**, the military and some federal agencies may not recognize sealing of records and may be aware of your juvenile justice history, even if your records are sealed. If you are seeking to enlist in the military or apply for a job requiring you to provide information about your juvenile records, seek legal advice about this issue.

**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 legal advice. More information about sealing your records can be found at [www.courts.ca.gov/28120.htm](http://www.courts.ca.gov/28120.htm).

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>NOT APPROVED BY THE JUDICIAL COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
CASE NAME: _____	
<b>DISMISSAL AND SEALING OF RECORDS— WELFARE AND INSTITUTIONS CODE SECTION 786</b>	CASE NUMBER: _____

1. Name of subject child: \_\_\_\_\_ Date of birth: \_\_\_\_\_
2. a. Date of hearing: \_\_\_\_\_ Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
 b. Judicial officer (name): \_\_\_\_\_
3. The court has read and considered the report of the probation officer and any other evidence presented or information provided.

**THE COURT MAKES THE FOLLOWING FINDINGS AND ORDERS:**

4.  The child has satisfactorily completed a program of informal supervision, probation under section 725, or a term of probation,  or  the petition was dismissed before wardship.
5. The petition(s) filed on (date(s)): \_\_\_\_\_ is/are dismissed.
6. The child's juvenile records related to the arrest(s) on (date(s)): \_\_\_\_\_ regarding an alleged violation of (specify offense(s)): \_\_\_\_\_ in the custody of this court and of the courts, agencies, and officials listed below are ordered sealed:  
 Probation Dept. (specify county): \_\_\_\_\_  
 California Dept. of Justice  
 Law enforcement agency (specify all): \_\_\_\_\_  
 Law enforcement case number(s): \_\_\_\_\_
7.  The court finds that sealing the following additional public agency records will promote the successful reentry and rehabilitation of the subject child and orders the records in their custody relating to petitions and arrests listed in items 5 and 6 sealed:  
 District Attorney (specify county): \_\_\_\_\_  
 School:  
 Department of Motor Vehicles:  
 Other (specify): \_\_\_\_\_  
  
 Attachment. Number of pages attached: \_\_\_\_\_

CHILD'S NAME:	CASE NUMBER:
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8. All records pertaining to the dismissed petition are to be destroyed on the dates stated in this item, and the arrest is deemed never to have occurred except that the prosecuting attorney, probation officer, child welfare agency, and court may access these records for the specific purposes stated in Welfare and Institutions Code section 786.

- a. Date court records must be destroyed:
- b. Date all other records must be destroyed:

9. The clerk shall send a certified copy of this order to the clerk in each county in which a record is ordered sealed and one copy each to the child, the child's attorney, and the agencies and officials listed in items 6 and 7.

Date:



\_\_\_\_\_  
JUDICIAL OFFICER OF THE SUPERIOR COURT

**CLERK'S CERTIFICATE**

[SEAL]

I certify that the foregoing is a true and correct copy of the original on file in my office.

Date:

Clerk, by \_\_\_\_\_, Deputy

**In many cases, the court or probation department will seal your juvenile records if you satisfactorily complete probation (formal or informal supervision or a diversion program).**

If your case is terminated by the juvenile court after January 1, 2015, because you satisfactorily completed your probation (formal, informal, or diversion), or if your case was otherwise dismissed after the petition was filed, in many cases, the court or probation will have dismissed the petition(s) and sealed your records. If the court or probation sealed your records for this reason, you should have received a copy of the sealing order with this form.

If the court or probation finds you have not satisfactorily completed your probation, it will not dismiss your case and will not seal your records at termination. If you want to have your records sealed in this situation, you will need to ask the court to seal your records at a later date (see form **JV-595-INFO** for information about asking the court to seal your records).

The court will not seal your records at the end of your case if you were found to have committed an offense listed in Welfare and Institutions Code section 707(b) (a violent offenses such as murder, rape, or kidnapping, and also some offense involving drugs or weapons) when you were 14 or older and it was not dismissed or reduced to a misdemeanor or a lesser offense not listed in 707(b), but except for certain sex offenses, you can ask the court to seal your records at age 18 (or age 21 if you were committed to the Division of Juvenile Facilities).

### **How will the court decide if probation is satisfactorily completed?**

If you have done what you were ordered to do while on probation and have not been found to have committed any further crimes (felonies or any misdemeanors for crimes involving moral turpitude, such as a sex crime or a crime involving dishonesty), the court will find that your probation was satisfactorily completed even if you still owe restitution, court ordered fees, and fines, **BUT...**

### **Restitution and court fines and fees must still be paid.**

Even if your records are sealed, you must still pay your restitution and court-ordered fees and fines. Your sealed records can be looked at to enforce those orders.

### **Which records will be sealed?**

The court will order your court, probation, Department of Justice, and law enforcement agency records sealed for the case the court is closing and earlier cases, if the court determines you are eligible. If you or your attorney ask the court, it can also seal records of other agencies (such as the District Attorney's office) if it finds that doing so would help you to be rehabilitated.

If you have more than one juvenile case and are unsure which records were sealed, ask your attorney or probation officer.

### **Who can see your sealed records?**

- If your records were sealed by the court at termination, the prosecutor and others can look at your record to determine if you are eligible to participate in a deferred entry of judgment or informal supervision program.
- If you apply for benefits as a nonminor dependent, the court may see your records.
- If a new petition is filed against you for a felony offense, probation can look at what programs you were in but cannot use that information to keep you in juvenile hall or to punish you.
- If the juvenile court finds you have committed a felony, your sealed records can be viewed to decide what disposition (sentence) the court should order.
- If you are arrested for a new offense and the prosecuting attorney asks the court to transfer you to adult court, your record can be reviewed to decide if transfer is appropriate.
- If you are in foster care, child welfare can look at your records to determine where you should live and what services you need.
- If your case was dismissed before you became a ward, the prosecutor can look at your records for six months after the dismissal in order to refile the dismissed petition based on new information or evidence.
- If you want to see your records or allow someone else to see them, you can ask the court to unseal them.

NOTE: Even if someone looks at your records in one of these situations, your records will stay sealed and you do not need to ask the court to seal them again.

**Do you have to report the offenses in the sealed records on job, school, or other applications?**

**No.** Once your records are sealed, the law treats those offenses as if they did not occur and you do not need to report them. **However**, the military and some federal agencies may not recognize sealing of records and may be aware of your juvenile justice history, even if your records are sealed. If you want to enlist in the military or apply for a job that asks you to provide information about your juvenile records, seek legal advice about this issue.

**Can employers see your records if they are not sealed?**

Juvenile records are not allowed to be disclosed to most employers, and employers are not allowed to ask about or consider your juvenile history in most cases. There are exceptions to this rule if you are applying to be a peace officer or to work in health settings. Also, federal employers may still have access to your juvenile history. You should seek legal advice if you have questions of what an employer can ask of you.

<b>DIVERSION PROGRAM, PROBATION DEPARTMENT NOTICE ON SEALING OF RECORDS—WELFARE AND INSTITUTIONS CODE SECTION 786.5</b>	Probation Dept., County of:  <b>DRAFT NOT APPROVED BY THE JUDICIAL COUNCIL</b>
CHILD'S NAME:	

1. Name of subject child: \_\_\_\_\_ Date of birth: \_\_\_\_\_
2. a. Date of completion of diversion program: \_\_\_\_\_ or date of noncompletion of diversion program: \_\_\_\_\_
- b.  Probation officer (*name*): \_\_\_\_\_

**3. RECORDS ARE SEALED**

The subject child has successfully completed a program of diversion or supervision after referral by the probation officer or prosecutor in lieu of the filing of a petition to adjudge the child a ward of the juvenile court. All records relating to the arrest or referral and participation in the program for an alleged violation of (specify offense(s)): \_\_\_\_\_ in the department's custody have been sealed, and the arrest is deemed never to have occurred except that a probation department responsible for the supervision of a person may access this record for the purpose of complying with section 654.3(e).

The probation department hereby notifies the following public or private agencies operating the diversion program to which the child was referred that it must promptly seal any records relating to the juvenile's arrest or referral or participation in the program in its custody:

(Specify agency): \_\_\_\_\_  
 (Specify agency): \_\_\_\_\_

**4. PROGRAM COMPLETION IS UNSATISFACTORY—RECORDS ARE NOT SEALED**

The probation department has determined that the sealing is inappropriate because the program was not satisfactorily completed for the reasons stated below and has therefore not sealed the child's records. A copy of form JV-598, *Petition to Review Denial of Diversion Program Sealing of Records*, has been provided to the child to allow the child to seek juvenile court review of this determination.

CHILD'S NAME:	Probation Dept., County of:
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- 5. The probation department shall send a copy of this order to the child, the child's attorney, and the agencies and officials listed in item 3.

Date:

  
PROBATION OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;"><b>DRAFT</b></p> <p style="text-align: center;"><b>NOT APPROVED BY THE JUDICIAL COUNCIL</b></p>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME	
<b>PETITION TO REVIEW DENIAL OF DIVERSION PROGRAM SEALING OF RECORDS</b>	CASE NUMBER:  Date: Time: Department:

**INSTRUCTIONS**

- Use this form if you received a notice from probation saying that you did not satisfactorily your diversion program and you want the court to review this determination so that your records can be sealed.
  - How to fill out the form:
    - A. Put your name and contact information in the box at the top of the form and in item 1 below.
    - B. Put the address of the juvenile court in the county where you were on probation for this offense.
    - C. Fill out item 2 about why you think that you did satisfactorily complete your diversion program.
    - D. Attach the notice from probation that you received telling you that you did not satisfactorily complete your diversion program.
- For information about record sealing, go to [www.courts.ca.gov/28120.htm](http://www.courts.ca.gov/28120.htm).

**1. MY INFORMATION**

My name is:  
 I was born on (date):

**2. WHY COMPLETION OF PROBATION SHOULD BE DETERMINED BY THE COURT TO BE SATISFACTORY**

For the reasons stated below, I believe that I substantially complied with the reasonable terms of program participation that were within my capacity to perform.

CHILD'S NAME	CASE NUMBER:
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**3. ATTACHMENT OF PROBATION NOTICE**

I have attached a copy of the notice from probation determining that I did not complete my program satisfactorily (form JV-597 or similar local form) to this form.

**4. REQUEST FOR INTERPRETER**

If there is a hearing, I will need a (*language*) \_\_\_\_\_ interpreter.

Date:



\_\_\_\_\_  
SIGNATURE of PETITIONERr

**INSTRUCTIONS—AFTER YOU COMPLETE THIS FORM**

**Give this form and the attached copy of the notice from probation to the probation officer or department that gave you the notice. The probation department will file it with the court and tell you when to come to court for your hearing. If you do not have an attorney, the court will appoint one for you before or at the hearing.**