

Assembly Bill No. 1877

CHAPTER 811

An act to amend Sections 786.5, 787, and 827.95 of, and to add Sections 781.2 and 788 to, the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor September 28, 2024. Filed with
Secretary of State September 28, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1877, Jackson. Juveniles: sealing records.

(1) Existing law requires the juvenile court to order the petition of a minor who is subject to the jurisdiction of the court dismissed if the minor satisfactorily completes a term of probation or an informal program of supervision, as specified, and requires the court to seal all records pertaining to that dismissed petition in the custody of the juvenile court and in the custody of law enforcement agencies, the probation department, or the Department of Justice in accordance with a specified procedure. Existing law also generally authorizes a person who is the subject of a juvenile court record, or the county probation officer, to petition the court to seal the person's records, including records of arrest, relating to the person's case in the custody of the juvenile court and the probation officer and any other agencies, including law enforcement agencies and public officials.

This bill would require a county probation officer, once a person who was the subject of a petition has reached 18 years of age and the juvenile court's jurisdiction has been terminated, to petition the court to seal certain records, as specified. The bill would require the court to order all records sealed if the court finds that the person has not been convicted of a felony or a misdemeanor involving moral turpitude after the juvenile court's jurisdiction was terminated, as specified. If the probation officer does not file a petition, the bill would require the probation officer to notify the person and their counsel of the reason for not filing the petition. The bill would prescribe methods for a record that has been ordered sealed by the court to be accessed, inspected, or utilized, including by request of the subject of the record. Unless the court determines there is good cause to retain the juvenile court record, the bill would require the court to order the destruction of a person's juvenile court records that are sealed, as specified. By imposing additional duties on county probation departments, this bill would impose a state-mandated local program.

(2) Existing law requires the Department of Justice, on a monthly basis, to review the records in the statewide criminal justice databases and identify persons who are eligible for arrest record relief and automatic conviction record relief, as specified.

This bill would require the department, on a monthly basis, to review state summary criminal history information and identify arrests that are, among other conditions, of a person who was younger than 18 years of age and which did not result in a charge being sustained and do not have related pending juvenile delinquency matters, as specified. The bill would require the department to provide a list of those arrests to all agencies associated with the record of arrest, and would require each arresting agency to review that list and seal its records of the arrest, if the agency's records do not indicate that the arrest is not eligible to be sealed. The bill would require the agency to report to the Department of Justice the records that shall be sealed, and would require the department to then seal its records of those arrests. By imposing additional duties on local agencies, this bill would impose a state-mandated local program. The bill would require the department to, commencing July 1, 2028, annually publish statistics on these arrests, as specified. The bill would only make these requirements operative upon an appropriation for these purposes in the annual Budget Act, and only after July 1, 2027.

(3) Existing law requires a 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 certain circumstances, as specified. 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, as specified.

This bill would require the probation department to additionally notify the Department of Justice, and require the department to seal the records in its custody relating to the arrest, as specified.

(4) Existing law authorizes a court and a state or local agency to access certain sealed juvenile records for the limited purpose of complying with data collection or data reporting requirements imposed by other provisions of law. Existing law authorizes a court to grant a researcher or research organization access to information contained in those records, as specified.

This bill would additionally authorize a court, a state or local agency, and, subject to approval by a court, a researcher or research organization to access those juvenile records sealed by the court as a result of a petition filed by the probation department pursuant to the above provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(5) This bill would incorporate additional changes to Section 786.5 of the Welfare and Institutions Code proposed by SB 1161 to be operative only if this bill and SB 1161 are enacted and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. Section 781.2 is added to the Welfare and Institutions Code, to read:

781.2. (a) (1) On a monthly basis, the Department of Justice shall review state summary criminal history information and shall identify arrests that are eligible to be sealed.

(2) An arrest shall be eligible to be sealed if either of the following apply:

(A) The arrest only included misdemeanor offenses, at least one calendar year has elapsed since the date of the arrest, and all of the following apply:

(i) The person was younger than 18 years of age at the time of the arrest.

(ii) The arrest occurred on or after January 1, 1973.

(iii) There are currently no pending juvenile delinquency matters related to the arrest that have not yet been resolved, and the arrest did not result in a charge being sustained against the arrested individual. This includes, but is not limited to, situations where the arresting agency deemed the arrest a detention only, the prosecuting agency declined to file charges related to the arrest, all charges were dismissed, or the arrestee was acquitted of all charges.

(B) The arrest included a felony offense not listed in subdivision (b) of Section 707, at least three calendar years have elapsed since the date of the arrest, and all of the following apply:

(i) The person was younger than 18 years of age at the time of the arrest.

(ii) The arrest occurred on or after January 1, 1973.

(iii) There are currently no pending juvenile delinquency matters related to the arrest that have not yet been resolved and the arrest did not result in a charge being sustained against the arrested individual. This includes, but is not limited to, situations where the arresting agency deemed the arrest a detention only, the prosecuting agency declined to file charges related to the arrest, all charges were dismissed, or the arrestee was acquitted of all charges.

(b) The department shall provide a list of arrests that are identified pursuant to paragraph (2) of subdivision (a) to all agencies associated with the record of arrest.

(c) On a monthly basis, the arresting agency shall review the list of arrests provided pursuant to subdivision (b) and shall seal eligible arrest records if the arresting agency's records do not contain information indicating that the arrest is not eligible to be sealed, without requiring an individual to petition for their arrest to be sealed.

(d) Within six months of receiving the list of arrests provided pursuant to subdivision (b), arresting agencies shall electronically report to the Department of Justice, in a manner prescribed by the Department of Justice, the records that shall be sealed.

(e) If arresting agencies have previously eliminated or sealed arrest records, then within six months of receiving the list of those arrests provided pursuant to subdivision (b), the agency shall electronically report to the

Department of Justice, in a manner prescribed by the Department of Justice, that those records shall be sealed.

(f) The Department of Justice shall seal arrests reported pursuant to subdivisions (d) and (e) of this section within 90 days. Any physical arrest records are exempt from this process and the Department of Justice shall seal those records at the point in which they are recorded in the state summary criminal history information repository.

(g) Commencing July 1, 2028, the Department of Justice shall annually publish statistics on the OpenJustice Web portal, as defined in subdivision (d) of Section 13010, for each county regarding the total number of arrests in each of the following categories:

(1) The number of arrests identified pursuant to paragraph (1) of subdivision (a).

(2) The number of arrests provided to arresting agencies pursuant to subdivision (b).

(3) The number of arrests reported to be sealed pursuant to subdivisions (d) and (e).

(4) The number of arrests where sealing is in-progress by the Department of Justice pursuant to subdivisions (d) and (e).

(5) The number of arrests where sealing has been completed by the Department of Justice pursuant to subdivisions (d), (e), and (f).

(h) Nothing in this section affects arrest statistics reported to the Department of Justice pursuant to Sections 13010, 13011, and 13012.

(i) This section shall become operative on July 1, 2027, subject to an appropriation for these purposes in the annual Budget Act.

SEC. 2. Section 786.5 of the Welfare and Institutions Code is amended to read:

786.5. (a) Notwithstanding any other law, the probation department shall 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:

(1) 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 pursuant to Section 654.

(2) 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 pursuant to Section 654.

(b) The probation department shall notify the arresting law enforcement agency and the Department of Justice to seal the arrest records described in subdivision (a), and the arresting law enforcement agency and the Department of Justice shall seal the records in their custody relating to the arrest no later than 60 days from the date of notification by the probation department. Upon sealing, the arresting law enforcement agency and the Department of Justice shall notify the probation department that the records have been sealed. Within 30 days from receipt of notification by the arresting

law enforcement agency and the Department of Justice that the records have been sealed pursuant to this section, the probation department shall notify the minor in writing that their record has been sealed pursuant to this section. If records have not been sealed pursuant to this section, the written notice from the probation department shall inform the minor of their ability to petition the court directly to seal their arrest and other related records.

(c) Upon sealing of the records pursuant to this section, the arrest or offense giving rise to any of the circumstances specified in subdivision (a) 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.

(d) (1) For the records relating to the circumstances described in subdivision (a), the probation department shall issue notice as follows:

(A) The probation department shall notify a public or private agency operating a diversion program to which the juvenile has been referred under these circumstances to seal records in the program operator's custody relating to the arrest or referral and the participation of the juvenile in the diversion or supervision program, and the operator of the program shall seal the records in its custody relating to the juvenile's arrest or referral and participation in the program no later than 60 days from the date of notification by the probation department. Upon sealing, the public or private agency operating a diversion program shall notify the probation department that the records have been sealed.

(B) The probation department shall notify the participant in the supervision or diversion program in writing that their record has been sealed pursuant to the provisions of this section based on their satisfactory completion of the program. If the record is not sealed, the probation department shall notify the participant in writing of the reason or reasons for not sealing the record.

(2) An individual who receives notice from the probation department that the individual has not satisfactorily completed the diversion program and that the record has not been sealed pursuant to this section may petition the juvenile court for review of the decision in a hearing in which the program participant may seek to demonstrate, and the court may determine, that the individual has met the satisfactory completion requirement and is eligible for the sealing of the record by the probation department, the arresting law enforcement agency, and the program operator under the provisions of this section.

(e) Satisfactory completion of the program of supervision or diversion shall be defined for purposes of this section as substantial compliance by the participant with the reasonable terms of program participation that are within the capacity of the participant to perform. A determination of satisfactory or unsatisfactory completion shall be made by the probation department within 60 days of completion of the program by the juvenile, or, if the juvenile does not complete the program, within 60 days of determining that the program has not been completed by the juvenile.

(f) (1) Notwithstanding subdivision (a), the probation department of a county responsible for the supervision of a person may access a record sealed by a probation department pursuant to this section for the sole purpose of complying with subdivision (e) of Section 654.3. The information contained in the sealed record and accessed by the probation department under this paragraph shall in all other respects remain confidential and shall not be disseminated to any other person or agency. Access to, or inspection of, a sealed record authorized by this paragraph shall not be deemed an unsealing of the record and shall not require notice to any other agency.

(2) (A) Any record, that has been sealed pursuant to this section may be accessed, inspected, or utilized by the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation.

(B) (i) A prosecuting attorney shall not use information contained in a record sealed pursuant to this section for any purpose other than those provided in subparagraph (A).

(ii) Once the case referenced in subparagraph (A) has been closed and is no longer subject to review on appeal, the prosecuting attorney shall destroy any records obtained pursuant to this subparagraph.

SEC. 2.5. Section 786.5 of the Welfare and Institutions Code is amended to read:

786.5. (a) Notwithstanding any other law, the probation department shall seal the citation, 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:

(1) 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 pursuant to Section 654.

(2) 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 pursuant to Section 654.

(b) The probation department shall notify the citing or arresting law enforcement agency and the Department of Justice to seal the citation or arrest records described in subdivisions (a) and (g), and the citing or arresting law enforcement agency and the Department of Justice shall seal the records in their custody relating to the arrest no later than 60 days from the date of notification by the probation department. Upon sealing, the citing or arresting law enforcement agency and the Department of Justice shall notify the probation department that the records have been sealed. Within 30 days from receipt of notification by the citing or arresting law enforcement agency and the Department of Justice that the records have been sealed pursuant to this section, the probation department shall notify the minor in writing that their record has been sealed pursuant to this section. If records have

not been sealed pursuant to this section, the written notice from the probation department shall inform the minor of their ability to petition the court directly to seal their citation, arrest, and other related records.

(c) Upon sealing of the records pursuant to this section, the arrest or offense giving rise to any of the circumstances specified in subdivision (a) 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.

(d) (1) For the records relating to the circumstances described in subdivision (a), the probation department shall issue notice as follows:

(A) The probation department shall notify a public or private agency operating a diversion program to which the juvenile has been referred under these circumstances to seal records in the program operator's custody relating to the arrest or referral and the participation of the juvenile in the diversion or supervision program, and the operator of the program shall seal the records in its custody relating to the juvenile's arrest or referral and participation in the program no later than 60 days from the date of notification by the probation department. Upon sealing, the public or private agency operating a diversion program shall notify the probation department that the records have been sealed.

(B) The probation department shall notify the participant in the supervision or diversion program in writing that their record has been sealed pursuant to the provisions of this section based on their satisfactory completion of the program. If the record is not sealed, the probation department shall notify the participant in writing of the reason or reasons for not sealing the record.

(2) An individual who receives notice from the probation department that the individual has not satisfactorily completed the diversion program and that the record has not been sealed pursuant to this section may petition the juvenile court for review of the decision in a hearing in which the program participant may seek to demonstrate, and the court may determine, that the individual has met the satisfactory completion requirement and is eligible for the sealing of the record by the probation department, the arresting law enforcement agency, and the program operator under the provisions of this section.

(e) Satisfactory completion of the program of supervision or diversion shall be defined for purposes of this section as substantial compliance by the participant with the reasonable terms of program participation that are within the capacity of the participant to perform. A determination of satisfactory or unsatisfactory completion shall be made by the probation department within 60 days of completion of the program by the juvenile, or, if the juvenile does not complete the program, within 60 days of determining that the program has not been completed by the juvenile.

(f) (1) Notwithstanding subdivision (a), the probation department of a county responsible for the supervision of a person may access a record sealed by a probation department pursuant to this section for the sole purpose of complying with subdivision (e) of Section 654.3. The information

contained in the sealed record and accessed by the probation department under this paragraph shall in all other respects remain confidential and shall not be disseminated to any other person or agency. Access to, or inspection of, a sealed record authorized by this paragraph shall not be deemed an unsealing of the record and shall not require notice to any other agency.

(2) (A) Any record, that has been sealed pursuant to this section may be accessed, inspected, or utilized by the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation.

(B) (i) A prosecuting attorney shall not use information contained in a record sealed pursuant to this section for any purpose other than those provided in subparagraph (A).

(ii) Once the case referenced in subparagraph (A) has been closed and is no longer subject to review on appeal, the prosecuting attorney shall destroy any records obtained pursuant to this subparagraph.

(g) The probation department, the Department of Justice, and law enforcement agencies shall 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. Upon notification of the prosecutor's decision, the probation department shall seal the citation, arrest, and other records in its custody and proceed pursuant to subdivision (b). This subdivision shall not affect any other applicable remedies for sealing of juvenile case files.

(h) 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, the probation department shall seal the citation, arrest, and other records in its custody and proceed pursuant to subdivision (b). 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, the probation department shall seal the arrest and other records in its custody relating to the juvenile's arrest and proceed according to subdivision (b).

SEC. 3. Section 787 of the Welfare and Institutions Code is amended to read:

787. (a) Notwithstanding any other law, a record sealed pursuant to Section 781, 786, 786.5, or 788 may be accessed by a law enforcement agency, probation department, court, the Department of Justice, or other state or local agency that has custody of the sealed record for the limited purpose of complying with data collection or data reporting requirements that are imposed by other provisions of law. However, no personally identifying information from a sealed record accessed under this subdivision may be released, disseminated, or published by or through an agency, department, court, or individual that has accessed or obtained information from the sealed record.

(b) Notwithstanding any other law, a court may authorize a researcher or research organization to access information contained in records that have been sealed pursuant to Section 781, 786, 786.5, or 788 for the purpose of conducting research on juvenile justice populations, practices, policies, or trends, if both of the following are true:

(1) The court is satisfied that the research project or study includes a methodology for the appropriate protection of the confidentiality of an individual whose sealed record is accessed pursuant to this subdivision.

(2) Personally identifying information relating to the individual whose sealed record is accessed pursuant to this subdivision is not further released, disseminated, or published by or through the researcher or research organization.

(c) For the purposes of this section “personally identifying information” has the same meaning as in Section 1798.79.8 of the Civil Code.

SEC. 4. Section 788 is added to the Welfare and Institutions Code, to read:

788. (a) Notwithstanding Section 781, of this code or Section 1203.47 of the Penal Code, if a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, the county probation officer shall do either of the following once the person has reached 18 years of age:

(1) If the person will not remain under the juvenile court’s delinquency jurisdiction, the county probation officer shall petition the court to seal the records relating to the person’s case that are in the custody of the juvenile court, probation officer, law enforcement agency, or any other private or public agency. The probation officer shall provide a copy of the petition to the minor and their counsel at least 30 days prior to filing the petition.

(2) If the person will remain under the juvenile court’s delinquency jurisdiction, the county probation officer shall petition the court as specified in paragraph (1) no later than one year after the termination of the juvenile court’s delinquency jurisdiction.

(b) All of the following shall not be sealed pursuant to this section:

(1) A person’s juvenile court records relating to a case that was transferred from juvenile court to a court of criminal jurisdiction under Section 707.1 if the person was convicted in the court of criminal jurisdiction.

(2) A person’s juvenile court records relating to an offense listed in subdivision (b) of Section 707 that was committed when the person was 14 years of age or older, unless that offense was dismissed or reduced to a misdemeanor or a lesser offense that is not listed in subdivision (b) of Section 707.

(3) A person’s juvenile court records relating to an offense for which the person is required to register pursuant to Section 290.008 of the Penal Code.

(c) If the court finds that the person has not been convicted of a felony or a misdemeanor involving moral turpitude after the juvenile court’s jurisdiction was terminated, it shall order sealed all records, papers, and exhibits in the person’s case that are in the custody of the juvenile court, law enforcement agency, probation department, Department of Justice, or

any other private or public agency, including the juvenile court record, minute book entries, docket entries, and arrest records. The person's defense counsel shall not be ordered to seal their records. The court shall send a copy of the order to each agency named in the order. Each agency shall seal the records in its custody as directed by the order, send a notice to the court that it has complied with the order, and seal the copy of the court's order the agency received.

(d) If the court has ordered the person's records sealed, the proceedings of the sealed case shall be deemed never to have occurred and the person may properly reply accordingly to any inquiry about the events.

(e) When the probation officer does not file a petition pursuant to this section, the probation officer shall notify, in writing, the person and their counsel of the reason for not filing the petition.

(f) (1) A record that has been ordered sealed by the court under this section may be accessed, inspected, or utilized only under any of the following circumstances:

(A) If the person who is the subject of the sealed records petitions the court to permit inspection of the records and the court grants inspection.

(B) By the court for the limited purpose of verifying the prior jurisdictional status of a ward who is petitioning the court to resume its jurisdiction pursuant to subdivision (e) of Section 388.

(C) (i) By the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation. The prosecuting attorney shall submit a request to the juvenile court to access information in the sealed record for this purpose. The request shall include the prosecutor's rationale for believing that access to the information in the record may be necessary to meet the disclosure obligation and the date by which the records are needed. The juvenile court shall notify the subject of the sealed records and their attorney of the prosecutor's request and provide them with the opportunity to respond, in writing or by appearance, to the request. The court shall approve the prosecutor's request if, upon review of the relevant records, it determines that access to a specific sealed record or portion of a sealed record is necessary to enable the prosecuting attorney to comply with the disclosure obligation. If the juvenile court approves the prosecuting attorney's request, the court shall state on the record appropriate limits on the access, inspection, and utilization of the sealed records in order to protect the confidentiality of the subject of the sealed records. A court ruling allowing disclosure of information pursuant to this subdivision does not affect whether the information is admissible in a criminal or juvenile proceeding.

(ii) This subparagraph does not impose any additional discovery obligations on a prosecuting attorney.

(iii) This subparagraph does not apply to juvenile case files pertaining to matters within the jurisdiction of the juvenile court pursuant to Section 300.

(2) Access to, or inspection of, a sealed record authorized by this subdivision is not considered an unsealing of the record and does not require notice to any other agency.

(h) (1) This section does not apply to records in the custody of the Department of Motor Vehicles relating to a conviction for an offense under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle if the record of the conviction would be a public record under Section 1808 of the Vehicle Code. However, if a court orders the record containing this conviction to be sealed under this section, and the department maintains a public record of the conviction, the court shall notify the department of the sealing.

(2) Notwithstanding any other law, if the department is notified by the court of a sealing pursuant to this subdivision, the department shall allow access to its record of conviction only to the subject of the record and to insurers that have been granted requestor code numbers by the department. An insurer that has been given access to a record of conviction shall be given notice of the sealing when the record is disclosed. The insurer may use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the record. The insurer shall not use the information for any other purpose and shall not disclose it to any other person or agency.

(i) A petition for sealing shall not be denied due to an unfulfilled order of restitution or restitution fine.

(j) (1) This section does not prohibit a court from enforcing a civil judgment for an unfulfilled order of restitution obtained pursuant to Section 730.6. A person is not relieved from the obligation to pay victim restitution, a restitution fine, or a court-ordered fine because their records are sealed.

(2) The juvenile court shall have access to any records sealed pursuant to this section for the limited purpose of enforcing a civil judgment or restitution order.

(k) A court shall not grant relief under this section unless the prosecuting attorney has been given 15 days' notice of the petition for sealing. The probation officer shall notify the prosecuting attorney when a petition is filed. If the prosecuting attorney fails to appear or object to the petition after receiving notice, the prosecuting attorney shall not move to set aside or otherwise appeal the grant of that petition.

(l) Unless the court determines there is good cause to retain the juvenile court record, the court shall order the destruction of a person's juvenile court records that are sealed pursuant to this section.

(1) If the subject of the record was alleged or adjudged to be a person described by Section 601, the court shall order the destruction five years after the record was ordered sealed.

(2) If the subject of the record was alleged or adjudged to be a person described by Section 602, the court shall order the destruction when the subject reaches 38 years of age. If the subject was found to be a person described in Section 602 because of the commission of an offense listed in

subdivision (b) of Section 707 and was 14 years of age or older at the time of the offense, the records shall not be destroyed.

(3) The court shall order any other agency in possession of sealed records to destroy its records five years after the records were ordered sealed.

(m) The relief provided in this section does not preclude any other relief provided by law.

SEC. 5. Section 827.95 of the Welfare and Institutions Code is amended to read:

827.95. (a) (1) Notwithstanding Section 827.9, a law enforcement agency in this state shall not release a copy of a juvenile police record if the subject of the juvenile police record is any of the following:

(A) A minor who has been diverted by police officers from arrest, citation, detention, or referral to probation or any district attorney, and who is currently participating in a diversion program or has satisfactorily completed a diversion program.

(B) A minor who has been counseled and released by police officers without an arrest, citation, detention, or referral to probation or any district attorney, and for whom no referral to probation has been made within 60 days of the release.

(C) A minor who does not fall within the jurisdiction of the juvenile delinquency court under current state law.

(2) A law enforcement agency shall release, upon request, a copy of a juvenile police record described in paragraph (1) to the minor who is the subject of the juvenile police record and their parent or guardian only if identifying information pertaining to any other juvenile, within the meaning of subdivision (d), has been removed from the record.

(b) (1) The law enforcement agency in possession of the juvenile police record described in subdivision (a) shall seal the applicable juvenile police record and all other records in its custody relating to the minor's law enforcement contact or referral and participation in a diversion program as follows:

(A) Any juvenile police record created following a law enforcement contact with a minor described in subparagraph (A) of paragraph (1) of subdivision (a) shall be considered confidential and deemed not to exist while the minor is completing a diversion program, except to the law enforcement agency, the service provider, the minor who is the subject of the police record, and their parent or guardian. The diversion service provider shall notify the referring law enforcement agency of a minor's satisfactory completion of a diversion program within 30 days of the minor's satisfactory completion. The law enforcement agency shall seal the juvenile police record no later than 30 days from the date of notification by the diversion service provider of the minor's satisfactory completion of a diversion program.

(B) Any juvenile police record created following a law enforcement contact with a minor described in subparagraph (B) of paragraph (1) of subdivision (a) shall be sealed no later than 60 days from the date of verification that the minor has not been referred to probation or any district

attorney. Verification shall be completed within six months of the decision to counsel and release the minor.

(C) Any juvenile police record created following a law enforcement contact with a minor described in subparagraph (C) of paragraph (1) of subdivision (a) shall be sealed immediately upon verification that the minor does not fall within the jurisdiction of the juvenile delinquency court under current state law.

(D) Upon sealing of the records under this subdivision, the offense giving rise to the police record shall be deemed to not have occurred and the individual may respond accordingly to any inquiry, application, or process in which disclosure of this information is requested or sought.

(2) A law enforcement agency that seals a juvenile police record pursuant to subparagraph (A) of paragraph (1) shall notify the applicable diversion service provider and the Department of Justice immediately upon sealing of the record. Any records in the diversion service provider's custody relating to the minor's law enforcement contact or referral and participation in the program shall not be inspected by anyone other than the service provider, and shall be released only to the minor who is the subject of the record and their parent or guardian, as described in subdivision (c).

(3) If the minor is a dependent of the juvenile court, the law enforcement agency shall notify the minor's social worker that the juvenile police records have been sealed and that any such records in the social worker's custody relating to the minor's law enforcement contact or referral and participation in a diversion program shall also be sealed.

(4) (A) A law enforcement agency shall notify a minor in writing that their police record has been sealed pursuant to paragraph (1). If the law enforcement agency determines that a minor's juvenile police record is not eligible for sealing pursuant to paragraph (1), the law enforcement agency shall notify the minor in writing of its determination.

(B) An individual who receives notice from a law enforcement agency that they are not eligible for sealing under paragraph (1) may request reconsideration of the law enforcement agency's determination by submitting to the law enforcement agency a petition to seal a report of a law enforcement agency and any documentation supporting their eligibility for sealing under paragraph (1). For purposes of this subparagraph, a sworn statement by the petitioner shall qualify as supporting documentation.

(5) Police records sealed under paragraph (1) shall not be considered part of the "juvenile case file," as defined in subdivision (e) of Section 827.

(6) (A) Any police record that has been sealed pursuant to this section may be accessed, inspected, or utilized by the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation.

(B) (i) A prosecuting attorney shall not use information contained in a record sealed pursuant to this section for any purpose other than those provided in subparagraph (A).

(ii) Once the case referenced in subparagraph (A) has been closed and is no longer subject to review on appeal, the prosecuting attorney shall destroy any records obtained pursuant to this subparagraph.

(c) (1) Diversion service provider records related to the provision of diversion services to a minor described in subparagraph (A) of paragraph (1) of subdivision (a) shall not be considered part of a “juvenile case file,” as defined in subdivision (e) of Section 827, and shall be kept confidential except to the minor who is the subject of the record or information and their parent or guardian. This section does not require the release of confidential records created, collected, or maintained by diversion service providers in the course of diversion service delivery.

(2) (A) If any other state or federal law or regulation grants access to portions of, or information relating to, the contents of a diversion service provider record related to diversion, the requirements of that state or federal law or regulation governing access to the record or portions thereof shall prevail.

(B) The release of any diversion service provider records related to diversion by any party with access under applicable California state or federal laws shall be governed by those applicable state or federal laws, and shall otherwise be prohibited.

(3) Diversion service providers shall release diversion service provider records to the minor who is the subject of the record, or their parent or guardian, upon receiving a signature authorization by the minor, parent, or guardian and using existing internal confidentiality procedures of the service provider.

(d) For purposes of this section, the following definitions apply:

(1) “Juvenile police record” refers to records or information relating to the taking of a minor into custody, temporary custody, or detention.

(2) With respect to a juvenile police record, “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.

(3) “Diversion” refers to an intervention that redirects youth away from formal processing in the juvenile justice system, including, but not limited to, counsel and release or a referral to a diversion program as defined in Section 1457.

(4) “Diversion service provider” refers to an agency or organization providing diversion services to a minor.

(5) “Diversion service provider record” refers to any records or information collected, created, or maintained by the service provider in connection to providing diversion program services to the minor.

(6) “Satisfactory completion” refers to substantial compliance by the participant with the reasonable terms of program participation that are within the capacity of the participant to perform, as determined by the service provider.

(e) On or before January 1, 2022, the Judicial Council, in consultation with the California Law Enforcement Association of Record Supervisors

(CLEARs), shall develop forms for distribution by law enforcement agencies to the public to implement this section. Those forms shall include, but are not limited to, the Petition to Seal Report of Law Enforcement Agency. The material for the public shall include information about the persons who are entitled to a copy of the juvenile police record described in subdivision (a) and the specific procedures for requesting a copy of the record if a petition is necessary.

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 786.5 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1161. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 786.5 of the Welfare and Institutions Code, and (3) this bill is enacted after Senate Bill 1161, in which case Section 2 of this bill shall not become operative.

SEC. 7. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.