



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.: 21-160*

For business meeting on: October 1, 2021

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<b>Title</b>	<b>Agenda Item Type</b>
Juvenile Law: Sealing of Records	Action Required
<b>Rules, Forms, Standards, or Statutes Affected</b>	<b>Effective Date</b>
Amend Cal. Rules of Court, rule 5.850; approve forms JV-581, JV-582, and JV-589; revise forms JV-595-INFO, JV-596-INFO, and JV-597	January 1, 2022
	<b>Date of Report</b>
	August 4, 2021
<b>Recommended by</b>	<b>Contact</b>
Family and Juvenile Law Advisory Committee	Tracy Kenny, 916-263-2838 <a href="mailto:tracy.kenny@jud.ca.gov">tracy.kenny@jud.ca.gov</a>
Hon. Jerilyn L. Borack, Cochair	
Hon. Mark A. Juhas, Cochair	

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### Executive Summary

The Family and Juvenile Law Advisory Committee recommends amending a rule of court, revising three forms, and approving three new optional forms to implement recent legislative changes concerning the sealing of juvenile records. The legislative changes allow access to sealed records for two additional purposes, and expand sealing of records for youth diverted from the juvenile courts.

### Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2022:

1. Amend California Rules of Court, rule 5.850 concerning the sealing of records for probation diversion cases to conform to recent legislative changes on timing and notice;

2. Approve two new optional forms *Law Enforcement Notice on Sealing of Records* (form JV-581) and *Petition to Seal Juvenile Police Records* (form JV-582), for law enforcement use when sealing the records of youth diverted by those agencies and their partners;
3. Approve one new optional form *Acknowledgment of Juvenile Diversion Record Sealed* (form JV-589) for use in sealing probation diversion records;
4. Revise optional form *Probation Department Notice on Sealing of Records After Diversion Program* (form JV-597) to provide for the sealing of arrest records by law enforcement; and
5. Revise two mandatory information forms *How to Ask the Court to Seal Your Records* (form JV-595-INFO) and *Sealing of Records for Satisfactory Completion of Probation* (form JV-596-INFO) to incorporate information on recent legislative changes allowing for access to sealed records.

The text of the amended rule and the new and revised forms are attached at pages 6–19.

### **Relevant Previous Council Action**

Effective September 1, 2018, the Judicial Council adopted rule 5.850 and approved two forms, *Probation Department Notice on Sealing of Records After Diversion Program* (form JV-597) and *Petition to Review Denial of Sealing of Records After Diversion Program* (form JV-598), to implement newly enacted Welfare and Institutions Code section 786.5 requiring probation departments to seal the records of youth who satisfactorily complete pre-petition diversion programs.<sup>1</sup>

Forms JV-595-INFO and JV-596-INFO were both originally approved by the council effective January 1, 2016, to implement statutory requirements and have been revised since then to reflect changes in the law.

### **Analysis/Rationale**

#### **Background**

In 2014, the Legislature enacted section 786 to require the sealing and dismissal of specified juvenile petitions when a child has satisfactorily completed probation. In that legislation and numerous subsequent bills, the Legislature has sought to provide access to those records for a variety of purposes. In 2020, Senate Bill 1126 (Jones; Stats. 2020, ch. 338) enacted an additional provision allowing access to the records by the probation department, prosecuting attorney, attorney for the child, or the court when a new petition has been filed and the issue of competency has been raised. In addition, Assembly Bill 2321 (Jones-Sawyer; Stats. 2020, ch. 329) was enacted to allow access to records sealed under section 786 or section 781 (sealing at the request of the subject of the records), by the court or a prosecutor in order to certify victim helpfulness for specified immigration relief purposes. These expansions of access need to be

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<sup>1</sup> Hereafter, all statutory references are to the Welfare and Institutions Code unless otherwise specified.

reflected on existing information forms that explain who can access sealed juvenile court records.

In 2017, the Legislature enacted legislation<sup>2</sup> to provide a mechanism to seal the records for youth who were referred by the prosecutor or the probation department to a pre-petition informal program pursuant to section 654. That legislation provided for the sealing of records relating to the arrest and to the diversion program, after successful completion of the program, by the probation department and any public or private agency that provided diversion or supervision services. The Judicial Council adopted California Rules of Court, rule 5.850 and two optional forms (JV-597 and JV-598) to assist with the implementation of that legislation, in part because the legislation allows a participant whose completion is found not satisfactory to petition the court for a review of that determination.

In 2020, the Legislature enacted Assembly Bill 2425 (Stone; Stats. 2020, ch. 330) to amend section 786.5 to provide that records also be sealed by the arresting law enforcement agency, and requiring that the probation department receive confirmation of the sealing and communicate that to the program participant. In addition, that legislation provides that law enforcement agencies that divert youth in lieu of arrest must also seal records and directs the Judicial Council to develop forms to assist with this responsibility.

#### **New forms to implement law enforcement duties to seal prearrest diversion records**

Newly enacted section 827.95 requires law enforcement agencies to seal the records of youth: (1) who have been diverted prior to arrest or referral to probation, and who have satisfactorily completed their diversion program; (2) who have been counseled and released, with no referral to probation made within 60 days; or (3) who are not subject to the jurisdiction of the juvenile court. The statute requires the Judicial Council, in consultation with the California Law Enforcement Association of Records Supervisors, Inc. (CLEARs), to develop forms to implement these requirements. The proposal includes two optional forms, *Law Enforcement Notice on Sealing of Records* (form JV-581) and *Petition to Seal Juvenile Police Records* (form JV-582), to use to notify youth and relevant agencies about the sealing, as well as a petition form to request reconsideration of a denial of sealing by the law enforcement agency. These forms would be used by law enforcement agencies and would not be filed with the court. The forms recommended for approval were shared with CLEARs before they circulated for comment and during the comment period.

#### **Revisions to information forms to reflect new access provisions**

The committee recommends revising *How to Ask the Court to Seal Your Records* (form JV-595-INFO) to add a bullet point to the section entitled “Who can see my sealed records?” to explain that records may be accessed to allow a court or prosecutor to certify victim helpfulness for immigration relief purposes. The committee also recommends deleting a redundant bullet point on access by the person whose records have been sealed. The committee further recommends

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<sup>2</sup> Assem. Bill 529; Stats. 2017, ch. 685.

revising the analogous section on *Sealing of Records for Satisfactory Completion of Probation* (form JV-596-INFO) to include the victim helpfulness provision, as well as a new provision allowing access to competency-related records when a new petition has been filed and competency is at issue. In addition, minor style changes were made to the forms for clarity and consistency.

### **Implementation of expanded pre-petition diversion sealing**

#### ***Rule 5.850 amendments***

Because the juvenile court is authorized to review a determination by the probation department that a diversion program has been satisfactorily completed, the council adopted rule 5.850 of the California Rules of Court to implement section 786.5. That rule also specifies the procedures for the probation department to follow when section 654 diversion programs are satisfactorily completed. Because AB 2425 has expanded and revised those requirements, the proposal would amend that rule to reflect the current requirements on timing and who must be notified about the obligation to seal. In addition, the rule would be amended to make it gender neutral, and to use “youth” instead of “child” consistent with the new definition in rule 5.502.

#### ***Revisions to existing forms, and new optional form to acknowledge sealing of records***

To assist probation departments in carrying out the expanded sealing requirements added to section 786.5, the committee recommends modifications to the existing *Probation Department Notice on Sealing of Records After Diversion Program* (form JV-597) to provide for the sealing of arrest records by law enforcement and has updated *How to Ask the Court to Seal Your Records* (form JV-595-INFO) to clarify that arrest records will be sealed for probation diversion cases. The proposal also includes a new optional *Acknowledgment of Juvenile Diversion Record Sealed* (form JV-589) for those agencies that must seal the diversion records to acknowledge that sealing has been completed so that the probation department can comply with its new duty to confirm that task and notify the subject of the records.

### **Policy implications**

The primary changes impacting the courts simply update existing mandatory information forms to maintain accuracy. Most of the recommended changes in this proposal will impact agencies other than the courts, including probation departments and law enforcement who must comply with new statutory requirements. Consistent with the statutory directive, the committee sought input from law enforcement with respect to the proposed new forms to ensure that they would assist them in carrying out their new duties.

### **Comments**

This proposal circulated for public comment from April 15 to May 27, 2021, as part of the regular spring comment cycle. The committee received comments from six entities, including the Joint Rules Subcommittee (JRS) of the Trial Court Presiding Judges and Court Executives Advisory Committees, and three superior courts. Five commenters agreed with the proposal, and one agreed with the proposal if modified. The committee made clarifying changes to the forms and significantly reorganized the provisions of rule 5.850 based on the comments. The reorganized rule is not substantively changed but sets forth each responsibility of probation or

the court in a separate subdivision. A chart with the full text of the comments received and the committee's responses is attached at pages 20–26.

### **Alternatives considered**

The committee considered not revising the existing information forms to include the new access provisions but was concerned that not revising them would make them legally inaccurate. The committee considered not proposing a new form for use by probation agencies to receive acknowledgment that diversion records have been sealed but determined that without such an optional form, the existing optional forms would be incomplete.

### **Fiscal and Operational Impacts**

Printing costs may be incurred by courts to provide the revised mandatory information forms. In addition, because the information forms will need to be made available in other languages, there will be costs to translate the revised forms. Courts also noted some minimal costs to train staff regarding the changes to the forms. All of these impacts are a result of legislative changes and are necessary to make the forms legally accurate. As noted above, the approval of the optional forms should make it easier for probation departments and law enforcement agencies to comply with their statutory duties.

### **Attachments and Links**

1. Cal. Rules of Court, rule 5.850, at pages 6–8
2. Forms JV-581, JV-582, JV-589, JV-595-INFO, JV-596-INFO, and JV-597, at pages 9–19
3. Chart of comments, at pages 20–26
4. Link A: Assembly Bill 2321,  
[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB2321](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB2321)
5. Link B: Assembly Bill 2425,  
[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB2425](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB2425)
6. Link C: Senate Bill 1126,  
[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB1126](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB1126)

Rule 5.850 of the California Rules of Court is amended, effective January 1, 2022, to read:

1 Rule 5.850. Sealing of records by probation in diversion cases (§ 786.5)

2  
3 **(a) Applicability**

4  
5 This rule states the procedures to seal the records of persons who are subject to  
6 section 786.5.

7  
8 **(b) Determination of satisfactory completion**

9  
10 Within 60 days of the completion of a program of diversion or supervision under a  
11 referral by the probation officer or the prosecutor instead of filing a petition to  
12 adjudge the person a ward of the juvenile court, including a program of informal  
13 supervision under section 654, the probation department must determine whether  
14 the participant satisfactorily completed a program subject to this rule.

15  
16 **(c) Review of unsatisfactory completion of program by the juvenile court**

17  
18 If the probation department determines that the program has not been completed  
19 satisfactorily, it must notify the person in writing of the reason or reasons for not  
20 sealing the record and provide the person with a copy of the *Petition to Review*  
21 *Denial of Sealing of Records After Diversion Program* (form JV-598) or similar  
22 local form to allow the person to seek court review of the probation department's  
23 determination within 60 days of making that determination, as well as a copy of  
24 *How to Ask the Court to Seal Your Records* (form JV-595-INFO) or other  
25 information on how to petition the court directly to seal arrest and other related  
26 records. A person who receives notice from the probation department that the  
27 program has not been satisfactorily completed and that the records have not been  
28 sealed may seek review of that determination by the court by submitting a petition  
29 to the probation department on the *Petition to Review Denial of Sealing of Records*  
30 *After Diversion Program* (form JV-598) or similar local form, and the probation  
31 department must file that petition with the court for a hearing to review whether the  
32 satisfactory completion requirement has been met and the records are eligible for  
33 sealing by the probation department. The petition must be provided to the probation  
34 department within 60 days of the date the notice from the probation department was  
35 sent, and must include a copy of that notice. The probation department must file the  
36 petition with the juvenile court in the county that issued the notice within 30 days  
37 of receiving it. The clerk of the court must set the matter for hearing and notify the  
38 petitioner and the probation department of the date, time, and location of the  
39 hearing. The court must appoint counsel to represent the youth before or at the  
40 hearing unless the court finds that the youth has made an intelligent waiver of the  
41 right to counsel under section 634 or is already represented. If the court finds after  
42 the hearing that the petitioner is eligible to have the records sealed under section

1           786.5, it must order the probation department to promptly comply with the sealing  
2           and notice requirements of this rule.

3  
4           **~~(b)~~(d) Sealing of records**

5  
6           Upon satisfactory completion of a program of diversion or supervision subject to  
7           this rule, under a referral by the probation officer or the prosecutor instead of filing  
8           a petition to adjudge the person a ward of the juvenile court, including a program of  
9           informal supervision under section 654, the probation department must seal the  
10          arrest and other records in its custody relating to the arrest or referral and  
11          participation in the program. The probation department must notify the arresting  
12          law enforcement agency to seal the records relating to the arrest and referral, and  
13          the arresting law enforcement agency must seal the records in its custody relating to  
14          the arrest, no later than 60 days from the date of the notification. Upon sealing, the  
15          law enforcement agency must notify the probation department that the records have  
16          been sealed. The probation department must also notify the public or private  
17          agency operating the diversion program to which the person has been referred to  
18          seal any records in its custody relating to the arrest or referral and participation in  
19          the program, and the operator of the program must do so promptly no later than 60  
20          days from the date of the notification by the probation department. Upon sealing,  
21          the public or private agency must notify the probation department that the records  
22          have been sealed.

23  
24          **~~(e)~~(e) Notice to participant**

25  
26          ~~Within 60 days of the satisfactory completion of a program subject to this rule,~~  
27          Within 30 days from receipt of the notification by the arresting law enforcement  
28          agency that the records have been sealed, the probation department must notify the  
29          person in writing that his or her the records have been sealed. ~~If the probation~~  
30          ~~department determines that the program has not been completed satisfactorily, it~~  
31          ~~must notify the person in writing of the reason or reasons for not sealing the record~~  
32          ~~and provide the person with a copy of the *Petition to Review Denial of Sealing of*~~  
33          ~~*Records After Diversion Program* (form JV-598) or similar local form to allow the~~  
34          ~~person to seek court review of the probation department's determination within 60~~  
35          ~~days of making that determination.~~

36  
37          **~~(d)~~—Review of unsatisfactory completion of program by the juvenile court**

38  
39          A person who receives notice from the probation department that he or she has not  
40          satisfactorily completed the program and that his or her records have not been  
41          sealed may seek review of that determination by the court by submitting a petition  
42          to the probation department on the *Petition to Review Denial of Sealing of Records*  
43          *After Diversion Program* (form JV-598) or similar local form, and the probation

1 department must file that petition with the court for a hearing to review whether he  
2 or she has met the satisfactory completion requirement and is eligible for record  
3 sealing by the probation department. The petition must be provided to the probation  
4 department within 60 days of the date the notice from the probation department was  
5 sent, and must include a copy of that notice. The probation department must file the  
6 petition with the juvenile court in the county that issued the notice within 30 days of  
7 receiving it. The clerk of the court must set the matter for hearing and notify the  
8 petitioner and the probation department of the date, time, and location of the  
9 hearing. The court must appoint counsel to represent the child before or at the  
10 hearing unless the court finds that the child has made an intelligent waiver of the  
11 right to counsel under section 634 or is already represented. If the court finds after  
12 the hearing that the petitioner is eligible to have the records sealed under section  
13 786.5, it must order the probation department to promptly comply with the sealing  
14 and notice requirements of this rule.

15



<b>LAW ENFORCEMENT NOTICE ON SEALING OF RECORDS (Welf. &amp; Inst. Code, § 827.95)</b>	Law Enforcement Agency:  <b>DRAFT Not approved by the Judicial Council</b>
YOUTH'S NAME:	

1. Name of subject youth: \_\_\_\_\_ Date of birth: \_\_\_\_\_

**2. RECORDS ARE SEALED**

The subject youth has satisfactorily completed a program of diversion from arrest, citation, or referral to probation or the prosecutor.

The law enforcement agency hereby notifies the following public or private agencies operating the diversion program to which the youth was referred that it must promptly seal any records in its custody relating to the youth's arrest or referral or participation in the program, and release them only to the subject youth and the youth's parent or guardian as provided in Welfare and Institutions Code section 827.95(c):

(Specify agency):

(Specify agency report or reference number(s)):

The subject youth was counseled and released by police officers without an arrest, citation, detention, or referral to probation or the prosecutor, and the department has verified that no referral has been made for this youth within 60 days of the release.

The subject youth does not fall within the jurisdiction of the juvenile delinquency court under current state law.

All police records relating to the arrest or referral and participation in the program related to the following law enforcement agency report or reference number(s): \_\_\_\_\_ date of report(s): \_\_\_\_\_

in the department's custody have been sealed, and the arrest is deemed never to have occurred. Upon request, a copy of the police records must be released to the youth and the youth's parent or guardian if identifying information pertaining to any other juvenile has been removed.

The subject youth is a dependent of the juvenile court and the youth's social worker: \_\_\_\_\_ is hereby notified that any records in the social worker's custody pertaining to the law enforcement contact or referral must be sealed.

**3. RECORDS ARE NOT SEALED**

The law enforcement agency has determined that sealing is inappropriate because the diversion program was not satisfactorily completed for the reasons stated below and has not sealed the youth's records.


The subject youth was referred to probation or the prosecutor on (date): \_\_\_\_\_ which is less than 60 days from when the youth was released.

A copy of form JV-582, *Petition to Seal Juvenile Police Records*, or comparable local form has been provided to the youth to allow the youth to request reconsideration of this determination.

4. The law enforcement agency must send a copy of this notice to the youth and the agencies and officials listed in item 2 within the time frames set forth in Welfare and Institutions Code section 827.95.

Date: \_\_\_\_\_

\_\_\_\_\_  
PRINTED NAME OF LAW ENFORCEMENT OFFICER

 \_\_\_\_\_  
SIGNATURE OF LAW ENFORCEMENT OFFICER

<b>PETITION TO SEAL JUVENILE POLICE RECORDS (Welf. &amp; Inst. Code, § 827.95)</b>	Law Enforcement Agency:  <b>DRAFT Not approved by the Judicial Council</b>
YOUTH'S NAME:	

**INSTRUCTIONS**

Use this form if you received a notice from law enforcement saying that your juvenile police records were not sealed because you did not satisfactorily complete your diversion program, or because you were referred to probation or the prosecutor within 60 days of being released from law enforcement custody.

**How to fill out the form:**

- a. Put your name in the box at the top of the form, and your contact information in item 1 below.
- b. In item 2, put the reasons why you think that your records should be sealed; these may include reasons why you think you did satisfactorily complete your diversion program or that you were not referred to probation or the prosecutor. You may also attach any documents that you think show that your records should be sealed.
- c. Attach a copy of the notice from law enforcement telling you that your juvenile police records were not sealed.
- d. Return the completed form to the law enforcement agency listed above. **Do not file with the court.**

For information about juvenile 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*):  
 My address is:  
 Phone number:  
 E-mail address:

**2. WHY MY JUVENILE POLICE RECORDS ARE ELIGIBLE TO BE SEALED**

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

For the reasons stated below, I think the determination that I was referred to probation or the prosecutor is not accurate.

YOUTH'S NAME:	Law Enforcement Agency:
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**3. ATTACHMENT OF LAW ENFORCEMENT NOTICE**

I have attached a copy of the notice from the law enforcement agency stating that my records were not sealed (form JV-581 or similar local form) to this form.

**4. ATTACHMENT OF OTHER DOCUMENTATION**

I have attached other documentation in support of my petition.

Date:

  
 (SIGNATURE OF PETITIONER)

**INSTRUCTIONS—AFTER YOU COMPLETE THIS FORM**

**Give this form, the attached copy of the notice from law enforcement, and any supporting documentation to the law enforcement agency that gave you the notice.**

<p align="center"><b>ACKNOWLEDGMENT OF JUVENILE DIVERSION RECORD SEALED (Welf. &amp; Inst. Code, § 786.5)</b></p>	<p>Probation Dept., County of</p> <p align="center"><b>DRAFT Not approved by the Judicial Council</b></p>
<p>YOUTH'S NAME:</p>	

**INSTRUCTIONS**

Under Welfare and Institutions Code section 786.5, agencies must advise the probation department of their compliance with the probation department's sealing notification. Please return this completed *Acknowledgment of Juvenile Diversion Record Sealed* to the probation department upon sealing of the records.

1. TO THE PROBATION DEPARTMENT: I certify that the records required to be sealed pursuant to the notification from the probation department have been sealed, and a copy of this acknowledgment of record sealed has been sent to the probation department advising it of compliance with the probation department notice.
2. Date of Probation Department Notice:
3. Youth's Name: Date of Birth:
4. Agency Name:

Date:

By: \_\_\_\_\_  
(TYPE OR PRINT YOUR NAME)

 \_\_\_\_\_  
(SIGNATURE)

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 the court makes 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 three ways that records may be sealed in California. As of January 1, 2015, courts are required to seal records in certain cases when the court finds that probation (formal or informal) is satisfactorily completed or if your case was otherwise dismissed after the petition was filed. If the court 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 the completion of probation, see *Sealing of Records for Satisfactory Completion of Probation* (form **JV-596-INFO**).

### **If you satisfactorily completed a probation diversion program, your records will be sealed by probation.**

If you participate in a diversion program or other supervision program instead of going to court, and the probation department determines that you satisfactorily completed that program, the probation department will seal your probation department records and the records for any program you were required to complete, and notify the law enforcement agency to seal its arrest records. If the probation department determines that you did not satisfactorily complete the program, it will not seal those records, but will give you a form to tell you why and a form that you can use to tell the court why you think you did satisfactorily complete the program. If the court agrees with you, it will order your records sealed. Once your records have been sealed probation will send you a notice of the sealing.

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 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 I 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.

### **Who does not qualify to have their records sealed?**

- You do not qualify to have your records sealed 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.
- You do not qualify to have your records sealed 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 Division of Juvenile Justice.

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

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

- The Department of Motor Vehicles 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 Welfare and Institutions Code section 707(b) in a later proceeding for the reasons listed in section 781(d).
- If your sealed record was for a section 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 later felony.
- If a judge or prosecutor needs to determine if a victim of certain offenses was helpful in investigation or prosecution of the offense when the victim is seeking certification in connection with an immigration matter they may access your records to make this determination.
- If a prosecutor thinks something in your record would be helpful to the defense of someone who is charged with a crime in another case, the prosecutor can ask the court to provide that information.
- If you want to see your records or allow someone else to see them, you can ask the court to unseal them.

### Can employers see my 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 about what an employer can ask about you.

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

- ① You must fill out a court form. Form JV-595, *Request to Seal Juvenile Records*, at [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm), can be used, or your court may have a local form.
- ② 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 will 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 name those agencies, or the court will not know to seal those records.

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 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.
- ⑥ The court will review your petition. 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, time, and location 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.
- ⑦ If you qualify to have your juvenile records sealed, the court will make an order to seal the eligible records listed on your petition.  
**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.**
- ⑧ 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 section 707(b) offense committed when you were 14 or older, the court will not order those records destroyed.
- ⑨ 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 my records are sealed, do I 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 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).

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

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

If the court 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 **How to Ask the Court to Seal Your Records (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 offense such as murder, rape, or kidnapping, and some offenses involving drugs or weapons) when you were 14 or older unless it was dismissed or reduced to a misdemeanor or a lesser offense not listed in 707(b). Unless you were found to have committed one or more of 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 Justice).

### **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 misdemeanor 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 must still be paid.**

Even if your records are sealed, you must still pay your restitution and court-ordered 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 my 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, the child welfare agency 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 are not allowed to have a gun because of your offense, the Department of Justice can look at your records to make sure you do not buy or own a gun.
- If a prosecutor thinks something in your record would be helpful to someone who is charged with a crime in another case, the prosecutor can ask the court to provide that information. If this request is made, the court will let you know. You and your attorney may object.





- If a new petition is filed against you and the issue of your competency to participate in your new case is raised, the probation department, prosecutor, your attorney, and the court can look at your prior competency-related records to assess your current ability to understand and participate in the juvenile court proceedings.
- If a judge or prosecutor needs to determine if a victim of certain offenses was helpful in the investigation or prosecution of the offense when the victim is seeking certification in connection with an immigration matter, they may access your records to make this determination.
- 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 I 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 my 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 about what an employer can ask.

<b>PROBATION DEPARTMENT NOTICE ON SEALING OF RECORDS AFTER DIVERSION PROGRAM (Welf. &amp; Inst. Code, § 786.5)</b>	Probation Dept., County of:  <b>DRAFT Not approved by the Judicial Council</b>
YOUTH'S NAME:	

1. Name of subject youth: \_\_\_\_\_ Date of birth: \_\_\_\_\_
2. a. Date of completion of diversion program: \_\_\_\_\_ or date diversion program was not satisfactorily completed:  
 b.  Probation officer (name): \_\_\_\_\_

**3. RECORDS ARE SEALED**

The subject youth has successfully completed a program of diversion or supervision after referral by the probation officer or prosecutor instead of the filing of a petition to adjudge the youth a ward of the juvenile court. All records in the department's custody relating to the arrest or referral and participation in the program for an alleged violation of \_\_\_\_\_ (specify offense(s)): \_\_\_\_\_ (date of offense): \_\_\_\_\_ 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 Welfare and Institutions Code section 654.3(e).

The probation department hereby notifies the law enforcement agency that arrested the youth that it must seal any records in its custody relating to the juvenile's arrest no later than 60 days from the date of this notification, and notify the probation department that the records have been sealed:

(Specify agency): \_\_\_\_\_  
 (Specify agency report or reference number(s)): \_\_\_\_\_

The probation department hereby notifies the following public or private agencies operating the diversion program to which the youth was referred that it must promptly seal any records in its custody relating to the youth's arrest or referral or participation in the program no later than 60 days from the date of this notification, and notify the probation department that the records have been sealed:

(Specify agency): \_\_\_\_\_  
 (Specify agency report or reference number(s)): \_\_\_\_\_

**4. RECORDS ARE NOT SEALED**

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

YOUTH'S NAME:	Probation Dept., County of:
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5. If the records are to be sealed, the probation department must send a copy of this notice to the youth, the youth's attorney, and the agencies and officials listed in item 3 within 60 days of the completion of the program, and a copy of the acknowledgment that the records have been sealed within 30 days of receipt of the acknowledgement.
6. If the records are not sealed, the probation department must send a copy of this notice to the youth and the youth's attorney within 60 days of completion of the program or within 60 days of determining that the program has not been completed.

Date:

  
 (SIGNATURE OF PROBATION OFFICER)

## SPR21-11

**Juvenile Law: Sealing of Records** (Amend Cal. Rules of Court, rule 5.850; approve forms JV-581, JV-582, and JV-589; revise forms JV-595-INFO, JV-596-INFO, and JV-597)

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Joint Rules Subcommittee (JRS) of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee	A	The JRS notes that the proposal is required to conform to a change of law.	No response required.
2.	Orange County Bar Association by Larisa M. Dinsmoor, President	A	Does the proposal appropriately address the stated purpose? <b>Yes.</b>  Is the new optional probation form (form JV-589) useful to probation departments? <b>Yes.</b>  Will the new optional law enforcement forms (forms JV-581 and JV-582) assist law enforcement in implementing section 827.95? <b>Yes.</b>	No response required.  No response required.  No response required.
3.	Sonoma County by Jennifer Moore, Deputy Probation Officer IV	A	No specific comment.	No response required.
4.	Superior Court of California, County of Los Angeles by Bryan Borys Director of Research and Data Management	A	Does the proposal appropriately address the stated purpose? Yes  Is the new optional probation form (form JV-589) useful to probation departments: The court does not have enough information to determine the value of the proposed step to the probation department.  Will the new optional law enforcement forms (forms JV-581 and JV-582) assist law enforcement in implementing section 827.95?	No response required.  No response required.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

**SPR21-11**

**Juvenile Law: Sealing of Records** (Amend Cal. Rules of Court, rule 5.850; approve forms JV-581, JV-582, and JV-589; revise forms JV-595-INFO, JV-596-INFO, and JV-597)

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	Commenter	Position	Comment	Committee Response
			<p>Yes. This process will reduce the number of arrest-only (WJ) sealings currently filed with the court.</p> <p>Would the proposal provide cost savings? If so, please quantify. No cost savings expected. There will be some costs in incurred in the reproduction of new forms.</p> <p>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? Clerical staff will need to be trained in the new process and to provide the appropriate information/forms to the public. The sealing procedures currently in place will have to be updated to include this information. It is expected that clerical training will take up to 12 hours to complete. No changes are required for the computer management system.</p> <p>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes</p>	<p>The committee appreciates this feedback and has noted it in the report to the council, that these forms may alleviate workload for the courts.</p> <p>The committee has noted the possible costs for printing of forms.</p> <p>The committee has noted this impact in the report to the council, and notes that it is a result of implementing the statutory mandate.</p> <p>No response required.</p>
5.	Superior Court of California, County of Riverside	A	- Does the proposal appropriately address the stated purpose?	

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	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
	by Susan Ryan, Managing Attorney		<p>Yes. The purpose of these changes is to implement new duties of law enforcement to seal pre-arrest diversion records, reflect the new access to records provisions dealing with immigration relief and to acknowledge the sealing of records.</p> <p>- Is the new optional probation form (form JV-589) useful to probation departments? Presumably, yes. The JV-589 will provide a simple way for agencies to confirm with probation departments that records have been sealed.</p> <p>- Will the new optional law enforcement forms (forms JV-581 and JV-582) assist law enforcement in implementing section 827.95? Yes, the JV-581 and JV-582 provide a simple way for law enforcement to give notice of the sealing of diversion records or a way for a person to petition to have a decision to not seal be reconsidered. It is recommended that it state clearly on both of these forms that they are not to be filed with the juvenile court.</p> <p>- Would the proposal provide cost savings? If so, please quantify. Most of the revisions are for probation and law enforcement purposes and will not affect the courts. These changes would likely not provide any cost savings to the court.</p>	<p>No response required.</p> <p>No response required</p> <p>The committee has added this instruction to form JV-582, which is completed by the youth, but opted to leave it off the form for law enforcement use as they are expected to understand how to use the forms.</p> <p>No response required.</p>

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	Commenter	Position	Comment	Committee Response
			<p>- 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 practices?</p> <p>There would be minimal implementation requirements for the courts. Staff would need to be made aware of the updates to the mandatory INFO forms and be prepared to provide copies of the updated forms to parties when appropriate. Judicial officers would also need to be made aware of the changes.</p> <p>- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes</p> <p>- How well would this proposal work in courts of different sizes? Requirements on courts are minimal for this proposal. It is likely that this proposal would work well for courts of any size.</p>	<p>The committee has noted these modest implementation impacts on the courts in its report to the council.</p> <p>No response required.</p> <p>No response required.</p>
6.	Superior Court of California, County of San Diego by Mike Roddy Executive Officer	AM	<ul style="list-style-type: none"> <li>Does the proposal appropriately address the stated purpose?</li> </ul> <p><b>Yes.</b></p>	No response required.

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	Commenter	Position	Comment	Committee Response
			<ul style="list-style-type: none"> <li>• Would the proposal provide cost savings? If so, please quantify.</li> </ul> <p><b>No. It is necessary, however, to comply with the recent updates in the law.</b></p> <ul style="list-style-type: none"> <li>• 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?</li> </ul> <p><b>There should be minimal impact because this proposal deals primarily with a process that does not involve the court. Judicial officers and court staff would need to be informed of the changes.</b></p> <ul style="list-style-type: none"> <li>• Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</li> </ul> <p><b>Yes.</b></p> <ul style="list-style-type: none"> <li>• How well would this proposal work in courts of different sizes?</li> </ul>	<p>No response required.</p> <p>The committee has noted these minimal impacts in the report to the council.</p> <p>No response required.</p>

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**Juvenile Law: Sealing of Records** (Amend Cal. Rules of Court, rule 5.850; approve forms JV-581, JV-582, and JV-589; revise forms JV-595-INFO, JV-596-INFO, and JV-597)

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	Commenter	Position	Comment	Committee Response
			<p><b>There should be not disparate impact between courts of different sizes.</b></p> <p><b>General Comments</b>  <b>Rule 5.850:</b> It might make more sense to address successful completion in subdivision (b), review of unsatisfactory completion in subdivision (c), sealing in subdivision (d), and notice to the participant that the record has been sealed in a new subdivision (e). As written, subdivision (c) may be confusing because it tries to address two entirely different matters.</p> <p><b>JV-581:</b> It is recommended that, if possible, this form be consolidated into one page.</p> <p><b>JV-582:</b> It is recommended that the top of this form be formatting like a petition. The instructions say to "Put your name and contact information in the box at the top of the form[,]" but there is no place at the top of the form to put contact information. In addition, items 3 and 4 are missing.</p> <p><b>JV-589:</b> It is recommended that the first paragraph be modified as follows:            TO THE PROBATION DEPARTMENT: I certify that the records required to be sealed pursuant to the notification from the probation department have been sealed and a copy of this acknowledgment of record sealed has been sent to the probation department advising the court</p>	<p>No response required.</p> <p>The committee has revised the proposal to reorganize rule 5.850 as suggested for clarity.</p> <p>The committee has made the form one page as suggested.</p> <p>The committee has left the formatting as it was circulated so that the form will not appear to be a court form, but has added spaces for petitioner to provide phone and email contact information to assist the law enforcement agencies who will use the form.</p> <p>The committee has incorporated the changed language into this form as suggested.</p>

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	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			of compliance with the probation department notice.  <b>JV-595-INFO:</b> To be consistent with the other bullets, may want to consider making the new bullet a complete sentence.  <b>JV-596-INFO:</b> To be consistent with the other bullets, may want to consider making the new bullet about immigration a complete sentence.	The committee has reworded this bullet to be a complete sentence.  The committee has reworded this bullet to be a complete sentence.

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