



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on April 14–15, 2016

Title	Agenda Item Type
Juvenile Law: Sealing of Records	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Adopt Cal. Rules of Court, rule 5.840; amend rule 5.830; approve forms JV-591, JV-595, and JV-596; adopt forms JV-595-INFO and JV-596-INFO; revise forms JV-590 and JV-600	July 1, 2016
Recommended by	Date of Report
Family and Juvenile Law Advisory Committee	March 22, 2016
Hon. Jerilyn L. Borack, Cochair	Contact
Hon. Mark A. Juhas, Cochair	Tracy Kenny, 916-263-2838 tracy.kenny@jud.ca.gov

Executive Summary

The Family and Juvenile Law Advisory Committee recommends adopting new and amended rules and forms to implement the provisions of five recently enacted statutes concerning juvenile record sealing. Assembly Bill 1006 directed the Judicial Council to develop informational materials and a form to enable a person with a juvenile record to seal that record. After the council circulated a proposal for comment to implement these requirements, new legislation (Sen. Bill 1038) was enacted that requires the court to automatically dismiss and seal the records for many juvenile wards. While a proposal was being developed and circulated to incorporate that legislation, three additional sealing bills were introduced and enacted to clarify the changes made by SB 1038, including a requirement that the council adopt rules and forms to implement its provisions and to eliminate fees for sealing for petitioners under 26 years of age. The recommended new and amended rules and forms fulfill the council's statutory obligations.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective July 1, 2016:

1. Amend rule 5.830 on sealing of juvenile court records under Welfare and Institutions Code section 781 to incorporate the requirements to provide information to minors on the process for sealing their records and to clarify the process for petitioning the court;
2. Adopt rule 5.840 to state the procedures to be followed by the court when sealing records under Welfare and Institutions Code section 786 when the court determines that probation has been satisfactorily completed;
3. Revise *Order to Seal Juvenile Records* (form JV-590) to make it an optional form so that courts are free to create their own order forms, add a statutory reference to section 781 to the title, and add space for the court to specify the time frame for sealed records to be destroyed;
4. Approve *Acknowledgment of Juvenile Record Sealed* (form JV-591) to provide a mechanism for agencies ordered to seal juvenile records to notify the court that they have complied with the court's order;
5. Approve *Request to Seal Juvenile Records* (form JV-595) as an optional form to be used to petition the court to seal juvenile records under section 781;
6. Adopt *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) as mandatory information forms to be provided to wards at the end of a case in compliance with the requirements of section 781(h);
7. Approve *Dismissal and Sealing of Records—Welfare and Institutions Code Section 786* (form JV-596) for courts to use to order records sealed for satisfactory completion of probation under section 781; and
8. Revise *Juvenile Wardship Petition* (form JV-600) to add language alerting all those subject to a petition that they may have their records sealed in the future.

The proposed text of the new and amended rules is attached at pages 13–16. The proposed new and revised forms are attached at pages 17–27.

Previous Council Action

Rule 5.830 was originally adopted by the council effective January 1, 1991, as rule 1499. It was renumbered as rule 5.830 effective January 1, 2007.

The council adopted form JV-590 effective January 1, 1991, and revised the form effective January 1, 2007, to reflect the renumbered rules of court.

The council adopted form JV-600 effective January 1, 1993, and it has been revised numerous times, most recently effective January 1, 2012, to clarify issues pertaining to the Indian Child Welfare Act.

Rationale for Recommendation

Background

The Legislature has taken repeated action to ensure that all people with juvenile records who are eligible to have them sealed can have the opportunity to do so with as few barriers as possible. Before the enactment of this legislation, most sealing was ordered under Welfare and Institutions Codes section 781, which enables eligible individuals to petition the juvenile court to have juvenile records sealed under certain circumstances specified within the code. The records eligible for sealing include contacts with the juvenile justice system, law enforcement, the Department of Motor Vehicles, and other agencies. These contacts include juvenile court records resulting from formal adjudications under section 602 of the code and informal contacts with probation and law enforcement under sections 601 and 626 of the code. To qualify for sealing, among other requirements, the records must not fall within section 707(b) of the code if committed by an individual 14 years of age or older, the offense must not have led to a conviction in adult court under section 707.1, and the petitioner must not have been convicted of a felony or misdemeanor involving moral turpitude as an adult. In addition, the court must find that the petitioner has been satisfactorily rehabilitated.

In 2013, the Legislature took action to (1) ensure that all juveniles who come before the court or a probation officer receive information about the process required to request sealing of records, and (2) require the adoption of a Judicial Council form that can be used to petition the court for sealing under section 781 (Assem. Bill 1006 [Yamada]; Stats. 2013, ch. 269). In 2014, the Legislature went a step further by enacting section 786, requiring courts to seal records without requiring a petition for any child 14 or older who was not a serious or violent (707(b)) offender and who satisfactorily completed probation (Sen. Bill 1038 [Leno]; Stats. 2014, ch. 249). That legislation, however, spurred many questions and concerns within the juvenile justice system, and as a result, legislation was enacted in 2015 to clarify the scope and impacts of section 786. Assembly Bill 666 (Stone; Stats. 2015, ch. 368) and Assembly Bill. 989 (Cooper; Stats. 2015, ch. 375) both sought to clarify section 786 and remedy the ambiguities and concerns raised by stakeholders about the original legislation.

Section 786 now requires that when a child satisfactorily completes a term of informal or formal probation for any offense that is not a 707(b) offense committed when the child was 14 or over, the court must dismiss that petition and seal the records pertaining to that arrest and offense. The statute now provides that the records to be sealed must include records in the custody of the court, law enforcement agencies, the probation department, and the Department of Justice. It also allows the child to request that additional records be sealed and allows the court to grant that

sealing request if it finds that sealing the additional record will “promote the successful reentry and rehabilitation of the child (Welf. & Inst. Code, § 786(e)(2)).” The court is also authorized to seal records pertaining to prior petitions if the court finds that the sealing criteria in section 786 have been met.

To address the many concerns that were raised by stakeholders as the prior version of section 786 was being implemented, the new statute includes many provisions allowing access to a previously sealed record to ensure that the courts and their juvenile justice system partners can carry out their other statutory obligations.

In addition to the changes to section 786, the Legislature also enacted Senate Bill 504 (Lara; Stats. 2015, ch. 388), amending section 781, which authorizes sealing of a delinquency record by petition to the court, as well as section 903.3, which provides for the imposition of a \$150 fee to recover the costs for probation or the court to research and prepare a sealing order. The amendments to section 781 provide that an unfulfilled order of restitution is not a bar to sealing under section 781 and that outstanding restitution fines and court-ordered fees are not to be considered when the court assesses the satisfactory rehabilitation of the petitioner. They also clarify the court’s authority to continue enforcing restitution, fees, and fines after a record has been sealed. The amendments to section 903.3 limit the cases in which a fee for sealing can be charged to those in which the sealing petitioner is 26 years of age or older.

New and revised forms needed to ensure compliance with the court’s duty to inform regarding sealing of records

Previously, no statutory directives mandated that the court and probation “shall ensure” that eligible individuals are informed of available record-sealing options. The newly revised section 781 directs that the council must develop informational materials and a form petition for sealing of records, and that these materials and petition must be provided by the court or probation to eligible individuals when jurisdiction is terminated or the case is dismissed. Proposed new mandatory *How to Ask the Court to Seal Your Records* (form JV-595-INFO) includes information on the benefits and limitations of record sealing and includes the new provisions of SB 504 relating to restitution, fines and fees, and the fees for record sealing.

Because many minors with juvenile records will now have their cases dismissed and records sealed by the court as a matter of law if they satisfactorily complete their probation, the form also provides brief information about this type of sealing and refers them to proposed form *Sealing of Records for Satisfactory Completion of Probation* (form JV-596-INFO) for more information so that people who do not need to petition the court for sealing of records will be informed.

Proposed new optional *Request to Seal Juvenile Records* (form JV-595) is needed to comply with the council’s statutory duty under subdivision (h) of section 781 to create a form petition for sealing. This form is intended to provide the petitioner with a simple but optional method to request sealing and has been drafted in plain language to make it accessible to all petitioners.

In addition, the committee proposes amending the *Juvenile Wardship Petition* (form JV-600) to alert people subject to delinquency petitions that they may be able to have their records sealed at a later date. This change would provide some information on sealing to a broader audience of youth than are covered by the amended rule of court 5.830 discussed below.

New forms needed to implement recently enacted section 786

To provide the courts with a means to accomplish its new responsibility to seal records after dismissing a petition, as required by section 786, this proposal recommends approval of a new optional order form for this purpose. This form is very similar to the order form used to seal the records of minors who successfully complete a section 790 deferred entry of judgment program. It provides for the court to seal records in the custody of law enforcement, probation, and the Department of Justice in every case dismissed under section 786 and provides courts with the option to seal additional agency records as provided in subdivision (e). It further provides space for the court to specify the date by which the records must be destroyed, as required by section 786.

Because the enactment of section 786 has significantly changed the procedural landscape on sealing of juvenile records, the committee determined that it was necessary to create an additional mandatory informational form to explain the new sealing process and requirements and to alert people with juvenile delinquency records to the probability that their records will be sealed by the court without the filing of a petition. New *Sealing of Records for Satisfactory Completion of Probation* (form JV-596-INFO) explains how the new sealing provisions will work, which records will be sealed, and who will have access to those records and refers those whose records are not sealed to form JV-595-INFO for information on petitioning the court. Form JV-596-INFO also satisfies the requirement in section 786 that the court provide notice to people whose records are sealed that they need not disclose those offenses or records with a section explaining what it means that the arrests are deemed not to have occurred. This form would be provided to all youth whose records are sealed under section 786 in lieu of JV-595-INFO to avoid confusion and the filing of unnecessary sealing petitions.

Finally, the committee proposes that the council adopt a new optional form, *Acknowledgment of Juvenile Record Sealed* (form JV-591), to allow public agencies whose records are ordered sealed by the court under section 781 or 786 to inform the court that this sealing has occurred. This form will provide a means for agencies ordered to seal records to comply with the requirement in section 786 that they advise the court that they are sealing the record.

Form JV-590 revised to make it an optional form

Order to Seal Juvenile Records (form JV-590) is currently a mandatory form. To provide courts with maximum flexibility to issue record-sealing orders that reflect the individual court's needs, practices, and local agencies, the committee proposes that form JV-590 be revised from mandatory to optional. This change would provide flexibility from county to county, with the optional form available if needed. In addition, the committee proposes adding room on the form for the court to specify the date that these records should be destroyed and to allow those whose

records are sealed to advise the court that sealing has been accomplished. In addition, the committee proposes changing the title of the form to include a reference to section 781 to distinguish it from the other sealing order forms.

Rule 5.830 amended to clarify the process for sealing of records under section 781

The proposed amendments to rule 5.830 incorporate references to forms JV-595-INFO, JV-595, and JV-590 and define the roles of the court and probation department in ensuring that the forms are provided as required. The proposed amendments also direct probation to assemble a list of contact and agency addresses to be attached to the petition so that all records will be sealed.

As circulated for comment, the proposed amendments to this rule would have limited the authority of a juvenile court to seal the records of a juvenile court in another county to those cases in which the underlying petition was transferred from the other court. This would have required petitioners with non-transfer records in more than one court to seek sealing of their records via two or more petitions. As discussed in the comments section below, there was much concern that this approach would be overly burdensome on petitioners and cause delays in accomplishing record sealing. In response to those comments, the committee has revised its proposal to specifically provide that a court has the authority to seal records in other courts but has clarified that the court is not required to determine if the records should be sealed unless the case was transferred. In addition, the rule requires the court to inform the petitioner if the court declines to seal the records of another court and to direct the petitioner to file a petition in that county.

The proposed amendments also broaden the circumstances in which probation must prepare and forward a sealing petition to the court. Currently, the rule directs probation to prepare the petition and a recommendation to the court only when probation determines that the petitioner is eligible to petition for sealing under section 781. Because of concerns that this provision might inappropriately deny petitioners the opportunity for judicial review, the proposed amendments would make probation's preparation and filing of the petition contingent only on meeting the requirement that the petitioner be at least age 18 or that five years have elapsed since his or her last contact with the juvenile justice system.

The proposed amendments add an advisory comment that provides general context on the purpose of record sealing and addresses the scope and overall specifications of the act of record sealing to clarify that record sealing can be accomplished in a variety of manners as long as they accomplish the intent of the statute.

New rule 5.840 would establish procedures for sealing under section 786

Section 786 requires that the council adopt rules and forms for the standardized implementation of that statute. Proposed rule 5.840 would fulfill this statutory requirement. It requires the sealing of all records in the custody of law enforcement, probation, and the Department of Justice in every case dismissed under section 786 and sets out the standard for sealing the records of additional agencies upon request as authorized in section 786(e). It further directs the clerk of

the court to distribute the sealing order to all named agencies, the subject of order, and his or her attorney. It also includes the access exceptions allowed by sections 786 and 787.

Section 786 requires the court to set a date for when sealed records will be destroyed under that provision but offers no guidance as to what that time frame should be. As noted above, section 786 also directed the Judicial Council to adopt rules of court for the “standardized implementation of this section by the juvenile courts.” Reading those two directives together, the committee has proposed that new rule 5.840 include parameters to be used by the judge when setting the date for destruction of the records based upon the age of the subject of the order, and the time frame in existing law for destroying sealed juvenile court records under section 781(d). For court records the proposal provides that the date for destruction could be no earlier than the date the subject of the order is 21 years of age and no later than the date the subject is 38 years of age as set forth in section 781(d). The committee selected age 21 as the earliest date for destruction because the juvenile court retains jurisdiction under section 303 until age 21 and may need to access a file to determine eligibility to be a nonminor dependent. Similarly, because section 786 allows agencies to access sealed records for specific purposes in subsequent juvenile court proceedings, the proposal would provide that no noncourt records could be destroyed prior to the date the subject of the order is 18 years of age and no later than five years from the date of the sealing order, which is the date for destruction provided in section 781(d) for noncourt records.

Comments, Alternatives Considered, and Policy Implications

Comments

This proposal circulated for comment as part of the winter 2016 invitation-to-comment cycle, from December 11, 2015, to January 22, 2016, to the standard mailing list for family and juvenile law proposals. Included on the list were appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, judges, court administrators and clerks, attorneys, social workers, probation officers, and other juvenile law professionals. Thirteen organizations and the Joint Rules Subcommittee of the Trial Court Presiding Judges and Court Executives Advisory Committees provided comment: four agreed with the proposal, four agreed with the proposal if modified, and six did not indicate a position but provided comments. A chart with the full text of the comments received and the committee’s responses is attached at pages 28–75.

Sealing of records in other county jurisdictions. The committee’s proposal as circulated for public comment would have amended rule 5.830 to require that unless the out-of-county records were for a case that was transferred, petitioners would need to seek record sealing in each county in which jurisdiction was terminated, rather than asking the last court of jurisdiction to seal all records from all counties. The committee proposed this revision in light of concerns that courts and probation agencies were unable to identify the full range of out-of-county records, and thus the rule was providing false assurance to petitioners that all of their records were being sealed. Moreover, the committee noted that section 781 neither requires nor suggests sealing of multiple-

county records. In addition, the committee was concerned that some judges might not be willing to seal the records of a sister court in a case in which they had never had any jurisdiction. Because this change would have imposed a greater burden on petitioners, the committee sought specific comment on whether this change would improve or hinder the current record-sealing process. Although one commentator expressly indicated that it would improve the process and one suggested only a minor change, seven other commentators raised concerns about this change, including that it would place undue burdens and delays on young people seeking to seal their records in order to move on in their careers and education.

Although the committee remains concerned that probation departments and courts will be unable to identify all out-of-county records, the committee revised its proposal to specifically provide that a court has the authority to seal the records of other courts in all cases and must determine if sealing is appropriate in transfer cases. The revised proposal also requires a court that declines to seal the record of another court to advise the petitioner of this determination and direct the petitioner to file a sealing petition in the other court. To ensure that the court and probation have as much information as possible about the petitioner's cases and contacts, the record-sealing application and information form have been revised to alert the petitioner that the court can seal only those records identified on the petition.

Time frame for record destruction. When this proposal circulated for comment, proposed new rule 5.840 would have set a standardized time frame for destruction of records under section 786 by cross-referencing to the timeframe for destruction of records set by section 781, with the caveat that no records be destroyed before the subject of the order was 18. The committee sought specific comment on this issue, and one commentator disagreed with this approach. This commentator suggested that the courts should have full discretion to set this time frame individually in each case and that the time frame in section 781 was irrelevant because it applies only to orders under that section.

The committee engaged in a vigorous discussion of this issue, ultimately weighing the advantages of setting a standard bright line rule for record destruction consistent with existing law against the value of providing judges with the discretion to set an earlier destruction date to ensure that sealed records do not create a barrier to employment or other opportunities for a youth who has successfully completed juvenile probation. As described above, the committee determined that the rule should provide the court with discretion within some parameters based on the age of the subject of the order and the time frame in section 781(d).

Information forms. The committee proposed two information forms on record sealing in light of the fact that the adoption of section 786 will result in the sealing of many records as a matter of law by the court, making information on that process more relevant to people whose records are sealed than information on petitioning the court for sealing at a later date. The committee sought specific comment on whether having one information form was preferable to having two, and the commentators were split. Some preferred the simplicity of one form; others proposed that two forms would be preferable but that they should be tailored to their specific audience. The

committee adopted the latter approach and has retained two forms, one for people whose records are sealed under section 786 and one for people whose records are not sealed. The forms are specifically addressed to their target audiences and refer people who want more information to the other form.

Optional form to advise the court that records have been sealed. The committee proposed a new optional form to allow agencies to advise the court that its order was being followed and sought specific comment on whether this form would be of value to the courts. A number of courts agreed that it would be helpful, and specific suggestions to make the form more useful (including adding instructions) were adopted by the committee.

Clarifying the role of probation in the sealing process. A number of commentators raised concerns about the fact that rule 5.830 currently requires that applicants seeking record sealing under section 781 must initiate their applications with the probation department, which then investigates and prepares the petition for the court if the applicant is eligible under section 781. The proposal that circulated for comment did not include any changes to this provision, but a number of commentators were concerned that this provision makes probation a gatekeeper for sealing petitions and that some petitions might be inappropriately denied. These commentators suggested that the rule be amended to allow filing directly with the court and/or that probation be required to forward all applications to the court even if probation deems them ineligible.

The committee declined to recommend changing the rule to allow direct filing with the court because the court would be turning the application over to probation for investigation and a report anyway. However, the committee did revise its proposal to include proposed amendments to the rule to require that probation prepare petitions and reports for any case that meets the objective statutory timing criteria that the petitioner be at least 18 or that at least five years have passed since probation was terminated.

Providing information on federal recognition of sealing orders. Although California statute is clear that any arrest for which a record has been sealed shall be deemed never to have occurred and need not be reported on employment applications, the federal government does not afford this same status to state sealing orders, such that an applicant who has sealed records and applies to enlist in the military or obtain federal employment may be in a difficult situation when asked about his or her juvenile justice history. The committee sought to provide some warning on the information forms about this dilemma so that the information would not be misleading, but a number of commentators opined that the committee had made assertions that were overstated and might also be harmful to those seeking to enlist or obtain federal employment. In response, the committee has revised this language on the information forms to simply alert petitioners to the fact that the federal government may not recognize the state sealing order and to advise them to seek legal advice on how to proceed.

Sealing of child's attorney records. A number of commentators were concerned that the proposed *Dismissal and Sealing of Records—Welfare and Institutions Code Section 786* (form

JV-596) that circulated for comment included a check box for the court to seal the child's attorney's records if the child requested it. The commentators suggested that there was no reason to seal defense counsel records because of attorney-client confidentiality rules and that to do so would be inappropriate because it would interfere with the ability of counsel to advise the client in the future. In light of these concerns, the committee removed this check box and line from the form.

Advisory Committee Comment on procedures to manage sealed records. The committee is recommending a new Advisory Committee Comment for rule 5.830 to clarify the means a court can use to seal a record. The comment discusses means of sealing records, suggests some permissible means to accomplish the objectives of the sealing rule and statute, and includes a discussion of sealing electronic records. Two commentators raised concerns about the language, one suggesting that it be strengthened and the other suggesting that it inappropriately proposed sealing methods other than physical sealing. The committee reviewed the language and concluded that it was clear and consistent with the intent of the rule but did opt to clarify the comment to provide that access controls be in place to ensure that sealed records are not accessed inappropriately.

Delaying implementation by four months from council approval

The Joint Rules Subcommittee of the Trial Court Presiding Judges and Court Executives Advisory Committees submitted a comment agreeing with the proposal but suggesting that additional time would be needed for courts to implement the proposed changes. The committee appreciates these concerns but determined that because the proposal is needed to implement statutory changes that became effective on January 1, 2015, further delay would not be of benefit to the juvenile courts, which need the forms to comply with the statutory mandate.

The committee also received a number of suggestions to clarify and correct provisions in the proposed rules and forms, many of which were adopted in this revised proposal.

Alternatives

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

The committee also considered whether to recommend that other sealing forms be mandatory or optional. *Request to Seal Juvenile Records* (form JV-595), was created as required by the Legislature but is proposed as an optional form to allow petitioners to submit a request to seal in whatever manner they prefer. Although the form provides a convenient method of petitioning the court, mandating its use may delay applications and run contrary to the intent of Assembly Bill 1006. Similarly, revising form JV-590, *Order to Seal Juvenile Records—Welfare and Institutions Code Section 781*, from a mandatory form to an optional form will lead to more flexibility in implementation for the courts.

When considering how to implement the provisions of section 786, the committee considered modifying existing rules and forms, but given that this section 786's automatic method of sealing will likely become the most common sealing procedure and given its sufficient distinctions from existing sealing-by-petition processes, the committee concluded that new forms would ultimately be more useful to the courts.

The committee also considered a number of alternative proposals for setting the destruction date for sealed records under section 786. The committee initially concluded that a bright line rule based upon the time frame for destruction of records under section 781 was the optimal choice, but after extensive discussion opted to modify that rule to provide the court with discretion within a set of parameters. When determining what those parameters should be, the committee debated using age 21 which is the end of the court's jurisdiction under section 303 for wards and dependents, and age 24 which would maintain records just beyond the court's jurisdiction over a ward committed to the Division of Juvenile Justice (DJJ). Because wards committed to DJJ would not have the records pertaining to their commitment to DJJ sealed under section 786, the committee determined that age 21 was the more appropriate limit on the date the court could order destruction of its records.

As discussed above, the committee considered proposing only one informational form on sealing but determined that two forms would cause less confusion in the long run given the different situations of people whose records are sealed as a matter of law by the court under section 786 and those whose records are not.

Consideration was also given to whether rule 5.830 needed to be revised. Ensuring consistency and clarifying the new requirements are the clear benefits of revising the rule as proposed. Although a prior version required probation to develop a list of cases and contacts to be handed out at the termination of each case, with the enactment of section 786 and the increasing frequency of sealing as a matter of law, it seemed less burdensome on probation to have the contact list created at the time the petition is filed so that this work occurs only when needed.

Implementation Requirements, Costs, and Operational Impacts

Courts will be required to produce paper copies of the information form and petition as required by AB 1006. Some courts may incur programming charges if electronic systems are used for the court order. Implementation of section 786 will require courts to generate and disseminate many new sealing orders, as required by the legislation. The optional order form will assist courts in carrying out this function, and the rule will clarify the basic procedures required to accomplish the new requirements. In addition, the optional acknowledgment form will provide a means for courts to obtain the required advisement that records have been sealed. The proposed modifications to rule 5.830 may result in preparation of more sealing petitions by probation, but those increases will be more than offset by the reduction in petitions overall because many records will be sealed by the court at the end of the probation term under section 786.

Relevant Strategic Plan Goals and Operational Plan Objectives

Because this proposal amends, revises, and creates rules and forms to allow courts to implement statutory requirements, it supports Goal III, Modernization of Management and Administration (Goal III.A).

Attachments and Links

1. Cal. Rules of Court, rules 5.530 and 5.40, at pages 13–17
2. Forms JV-590, JV-591, JV-595, JV-595-INFO, JV-596, JV-596-INFO, and JV-600, at pages 18–28
3. Chart of comments, at pages 29–76
4. Link A: Assembly Bill 1006
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1006
5. Link B: Senate Bill 1038
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB1038
7. Link C: Senate Bill 504
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB504
6. Link D: Assembly Bill 666
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB666
6. Link E: Assembly Bill 989
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB989

Rule 5.830 of the California Rules of Court is amended and rule 5.840 adopted, effective January 1, 2016, to read:

1 **Rule 5.830. Sealing records (§ 781)**

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

4
5 (1) A former ward of the court may apply to petition the court to order juvenile
6 records sealed. Determinations under section 781 ~~must~~ may be made by the
7 court in any ~~the~~ county in which wardship was ~~last~~ terminated. A court may
8 seal the records of another court when it determines that it is appropriate to
9 do so, and must make a determination on sealing those records if the case has
10 been transferred to its jurisdiction under rules 5.610 and 5.612.

11
12 (2) At the time jurisdiction is terminated or the case is dismissed, the court must
13 provide or instruct the probation department to provide form JV-595-INFO,
14 How to Ask the Court to Seal Your Records, and form JV-595, Request to
15 Seal Juvenile Records, to the ward if the court does not seal the ward’s
16 records under section 786. If the court does seal the ward’s records under
17 section 786, the court must provide or instruct the probation department to
18 provide form JV-596-INFO, Sealing of Records for Satisfactory Completion
19 of Probation, and a copy of the sealing order as provided in rule 5.840.

20
21 ~~(1)~~(3) Application—submission

22
23 (A) The application for a petition to seal records must be submitted to the
24 probation department in the county in which wardship was ~~last~~
25 terminated.

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

30
31 ~~(2)~~(4) Investigation

32
33 If the applicant is at least 18 years of age, or if it has been at least five years
34 since the applicant’s probation was last terminated or since the applicant was
35 cited to appear before a probation officer or was taken before a probation
36 officer under section 626 or before any officer of a law enforcement agency,
37 the probation officer determines that under section 781 the former ward is
38 eligible to petition for sealing, the probation officer must do all of the
39 following:

40
41 (A) Prepare the petition;

1 (B) Conduct an investigation under section 781 and compile a list of cases
2 and contact addresses of every agency or person that the probation
3 department knows has a record of the ward's case—including the date
4 of each offense, case number(s), and date when the case was closed—
5 to be attached to the sealing petition;
6

7 (C) Prepare a report to the court with a recommendation supporting or
8 opposing the requested sealing; and
9

10 (D) Within 90 days from receipt of the application if only the records of
11 the investigating county are to be reviewed, or within 180 days from
12 receipt of the application if records of other counties are to be
13 reviewed:
14

15 (i) File the petition;

16 (ii) Set the matter for a hearing, which may be nonappearance; and
17

18 (iii) Notify the prosecuting attorney of the hearing.
19
20

21 ~~(3)~~(5) * * *

22
23 ~~(4)~~(6) If the petition is granted, the court must order the sealing of all records
24 described in section 781 using form JV-590, *Order to Seal Juvenile*
25 *Records—Welfare and Institutions Code Section 781*, or a similar form. The
26 order must apply in the county of the court hearing the petition and in all
27 other counties in which there are juvenile records concerning the petitioner. If
28 the court determines that sealing the records of another court for a petition
29 that has not been transferred is inappropriate, it must inform the petitioner
30 that a petition to seal those records can be filed in the county where the other
31 court is located.
32

33 (b) **Sealing—nonwards**
34

35 (1) For all other persons described in section 781, application may be submitted
36 to the probation department in any county in which there is a juvenile record
37 concerning the petitioner, and the procedures of (a) must be followed.
38

39 (2) When jurisdiction is terminated or the case is closed, the probation
40 department must provide the following forms to individuals described under
41 section 781(h)(1)(A) and (B):
42

- 1 (A) If the individual’s records have not been sealed under section 786, form
2 JV-595-INFO, *How to Ask the Court to Seal Your Records*, and form
3 JV-595, *Request to Seal Juvenile Records*; or
4 (B) If the individual’s records have been sealed under section 786, form
5 JV-596-INFO, *Sealing of Records for Satisfactory Completion of*
6 *Probation*, and a copy of the sealing order.

7
8 (c) – (e) * * *

9
10
11 **Advisory Committee Comment**

12
13 This rule is intended to describe the legal process by which a person may apply to petition the
14 juvenile court to order the sealing—that is, the prohibition of access and inspection—of the
15 records related to specified cases in the custody of the juvenile court, the probation department,
16 and other agencies and public officials. This rule establishes minimum legal standards but does
17 not prescribe procedures for managing physical or electronic records or methods for preventing
18 public inspection of the records at issue. These procedures remain subject to local discretion.
19 Procedures may, but are not required to, include the actual sealing of physical records or files.
20 Other permissible methods of sealing physical records pending their destruction under section
21 781(d) include, but are not limited to, storing sealed records separately from publicly accessible
22 records, placing sealed records in a folder or sleeve of a color different from that in which
23 publicly accessible records are kept, assigning a distinctive file number extension to sealed
24 records, or designating them with a special stamp. Procedures for sealing electronic records must
25 accomplish the same objectives as the procedures used to seal physical records, and appropriate
26 access controls must be established to ensure that only authorized persons may access the sealed
27 records.

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

30
31 **(a) Applicability**

32
33 This rule states the procedures to dismiss and seal the records of minors who are
34 subject to section 786.

35
36 **(b) Dismissal of petition**

37
38 If the court finds that a minor subject to this rule has satisfactorily completed his or
39 her informal or formal probation supervision, the court must order the petition
40 dismissed. The court must not dismiss a petition if it was sustained based on the
41 commission of an offense listed in subdivision (b) of section 707 when the minor
42 was 14 or older unless the finding on that offense has been dismissed or was
43 reduced to an offense not listed in subdivision (b) of section 707. The court may

1 also dismiss prior petitions filed or sustained against the minor if they appear to the
2 satisfaction of the court to meet the sealing and dismissal criteria in section 786.
3 An unfulfilled order, condition, or restitution or an unpaid restitution fee must not
4 be deemed to constitute unsatisfactory completion of probation supervision. The
5 court may not extend the period of supervision or probation solely for the purpose
6 of deferring or delaying eligibility for dismissal and sealing under section 786.
7

8 **(c) Sealing of records**
9

10 For any petition dismissed by the court under section 786, the court must also
11 order sealed all records in the custody of the court, law enforcement agencies, the
12 probation department, and the Department of Justice pertaining to those dismissed
13 petition(s) using form JV-596, *Dismissal and Sealing of Records—Welfare and*
14 *Institutions Code Section 786*, or a similar form. The court may also seal records
15 pertaining to these cases in the custody of other public agencies upon a request by
16 an individual who is eligible to have records sealed under section 786, if the court
17 determines that sealing the additional record(s) will promote the successful reentry
18 and rehabilitation of the individual. The prosecuting attorney, probation officer,
19 and court must have access to these records as specifically provided in section 786.
20 Access to the records for research purposes must be provided as required in section
21 787.
22

23 **(d) Destruction of records**
24

25 The court must specify in its order the date by which all sealed records must be
26 destroyed. For court records this date may be no earlier than the date the subject of
27 the order attains age 21 and no later than the end of the time frame set forth in
28 section 781(d). For all other records, the date may be no earlier than the date the
29 subject of the order attains age 18, and no later than the time frame set forth in
30 section 781(d) unless that time frame expires prior to the date the subject attains 18
31 years of age.
32

33 **(e) Distribution of order**
34

35 The clerk of the issuing court must send a copy of the order to each agency and
36 official listed in the order and provide a copy of the order to the individual whose
37 records have been sealed and his or her attorney. The court shall also provide or
38 instruct the probation department to provide the individual with form JV-596-
39 INFO, *Sealing of Records for Satisfactory Completion of Probation*.
40
41
42

1 **(f) Deadline for sealing**

2

3 Each agency, individual, and official notified must immediately seal all records as
4 ordered and advise the court that its sealing order has been completed using form
5 JV-591, *Acknowledgment of Juvenile Record Sealed*, or another means.

6

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
CASE NAME: _____	
ORDER TO SEAL JUVENILE RECORDS— WELFARE AND INSTITUTIONS CODE SECTION 781	CASE NUMBER: _____

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

THE COURT ORDERS

5. a. The sealing of petitioner's juvenile records in the custody of this court and the courts, agencies, and officials named below (*designate county*):

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

Date: _____ _____
 JUDICIAL OFFICER OF THE SUPERIOR COURT

[SEAL]

CLERK'S CERTIFICATE

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

Date: _____ Clerk, by _____, Deputy

AGENCY: NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS:	FOR COURT USE ONLY DRAFT - NOT APPROVED BY THE JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	CLERK'S USE ONLY
CASE NAME:	CASE NUMBER:

INSTRUCTIONS: Under Welfare and Institutions Code sections 781 and 786, agencies must advise the court of their compliance with the court's sealing order. Please return this completed *Acknowledgment of Juvenile Record Sealed* to the court upon sealing of the records.

1. **TO THE CLERK OF THE COURT:** I certify that the records ordered to be sealed by the court have been sealed and a copy of this acknowledgment of record sealed has been sent to the court advising the court of compliance with its order.


2. Date of Court Order:

3. Child's Name:

4. Agency Name:

Date:

By: _____
 (TYPE OR PRINT YOUR NAME)



 (SIGNATURE)

Probation stamps date here when form is received.

**DRAFT
NOT APPROVED
BY THE JUDICIAL
COUNCIL**

This form can be used to petition the juvenile court to seal your juvenile records. More information about sealing is available on form JV-595-INFO, *How to Ask the Court to Seal Your Records*.

Submit this form to the probation department in the last county where you were on juvenile probation or, if you were not on probation, in any county where you had contact with law enforcement or probation that did not result in a court case. Once the probation department receives the completed form, it will have 90 days to file a record-sealing petition with the court for you, or 180 days if you include agencies outside of this county.

Fill in court name and street address:

Superior Court of California, County of

Fill in your name:

Name:

Fill in case number, if known:

Case Number:

- ① My information:
 - a. Name: _____
 - b. AKA (nickname or other family name): _____
 - c. Address: _____
 - d. City, state, zip: _____
 - e. Area code and telephone number: _____
 - f. Date of birth: _____
 - g. E-mail address: _____

- ② I had a case(s) that went to court.
Case file number(s) (if known): _____
The date probation was terminated (if known): _____
- I don't remember my case number and/or date.
- See attached. (If you need more space, you may attach a separate page.)

- ③ I had contact with law enforcement but did not go to court.
- Date(s) I had contact with law enforcement: _____
- Name(s) of law enforcement or other agency(ies): _____
- See attached. (If you need more space, you may attach a separate page.)

④ I understand that the probation department is responsible for requesting the juvenile court to seal the records of only those agencies in its records and those listed on page 2 of this form. I understand that after I file this document and pay any fees that are required (fees are required only for petitioners 26 years of age and older and may be waived), the probation department will have 90 days to conduct an investigation and file a record-sealing petition for me with the juvenile court. I also understand that some records may not be eligible for sealing. I am aware that form JV-595-INFO, *How to Ask the Court to Seal Your Records*, provides more information on this process.



Your name: _____

Case Number: _____

Note: When you file this form with the probation department, it will research your case history and attach a list of contacts and addresses of all agencies that it knows have records of the case(s) and contacts(s) you listed on page 1. If you have had contacts with law enforcement or another agency with a record of your offense and that entity may not have been reported to the probation department, please list it below, or that record may not be sealed. If your case was transferred from one county to another, your records in both counties will be sealed. If you have a probation record in more than one county and that record was not transferred, you may ask the court to seal that record as well. If the court does not seal that record, it will inform you that you need to file this form in that county. Contacts not included on this form may not be sealed. The court may seal only those records listed on the petition.


5 Include all contacts (with addresses) you had, before your 18th birthday, with the agencies below that might not be part of your probation records:

- Court: _____
- Probation Department: _____
- Sheriff's Department: _____
- Police Department: _____
- California Highway Patrol: _____
- Department of Motor Vehicles: _____
- Law Enforcement: _____
- School(s): _____
- Homeland Security: _____
- Other: _____
- See attached. *(If you need more space, you may attach a separate page or pages listing the contacts.)*

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

Date: _____

Type or print your name

 _____
Sign your name

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

If you were arrested or subject to a court proceeding or had contact with the juvenile justice system when you were under 18, there may be records kept by courts, police, schools, or other public agencies about what you did. If you make those records **private** (sealed), it could be easier for you to:

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

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

There are now two ways that records may be sealed in California. As of January 1, 2015, courts are required to seal records in certain cases when the court finds that probation (formal or informal) is satisfactorily completed. 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 termination of probation, see Form **JV-596-INFO**.

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

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

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

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

What if you owe restitution or fines?

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

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

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

- If you were convicted as an adult of an offense involving moral turpitude, such as:
 - A sex or serious drug crime;
 - Murder or other violent crime; or
 - Forgery, welfare fraud, or other crime of dishonesty.
- If, when you were 14 or older and the court found that you committed a serious offense listed in Welfare and Institutions Code section 707(b), such as murder, arson, rape, or other violent crime, as well as some offenses involving drugs or weapons, unless the court has dismissed that petition.

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

Who can see your sealed records?

- DMV can see your vehicle and traffic records and share them with insurance companies.
- The court may see your records if you are a witness or involved in a defamation case.
- If you apply for benefits as a nonminor dependent, the court may see your records.
- You can request the court to unseal your records if you want to have access to them or allow someone else to inspect them.

How do you ask to have your records sealed?

- ① You must fill out a court form. Form JV-595, *Request to Seal Juvenile Records*, at www.courts.ca.gov/forms.htm, can be used, or your court may have a local form.



- ② When you file your petition, the probation department will compile a list of every law enforcement agency, entity, or person the probation department knows has a record of your case, as well as a list of any prior contacts with law enforcement, or probation and attach it to your petition.
- ③ If you think there are agencies that might have records on you that were never sent to probation, you need to include them, or the court will not know to seal them.

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

- ④ Take your completed form to the probation department where you were on probation. (If you were not on probation, take your form to any county probation office where you have a juvenile record.) Note: A small number of counties require you to take your form to the court. More information on each county's specific requirements is available at www.courts.ca.gov/28120.htm.
- ⑤ If you are currently 26 years of age or older, you may have to pay a fee. If you cannot afford the fee, ask the probation department or the court about a fee waiver.
- ⑥ Probation will review your form and submit it to the court within 90 days, or 180 days if you have records in two or more counties.
- ⑦ The court will review your application. The court may decide right away to seal your juvenile records. Or the court may order a hearing. If there is a hearing, you will receive a notice in the mail with the date and time of the hearing. If the notice says your hearing is "unopposed" (meaning there is no disagreement with your request), you may choose not to go.

- ⑧ If you qualify to have your juvenile records sealed, the court will make an order to seal the eligible records listed on your application.
Important! The court can seal only records it knows about. Make sure you list *all* records from *all* counties where you have any records. The court will tell you if it does not seal records from another court that were listed on your petition, and you will need to file a petition in that county to seal those records.
- ⑨ If the court grants your request, it will order each agency, entity, or person on your list to seal your records. The court will also order the records destroyed by a certain date.
- ⑩ The court will provide you with a copy of its order. Be sure to keep it in a safe place.

What about sex offender registration? (Penal Code, § 290)

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

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

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

Questions?

If you are not sure if you qualify to seal your records or if you have other questions, talk to a lawyer. The court is not allowed to give you legal advice. More information about sealing your records can be found at www.courts.ca.gov/28120.htm.

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

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

THE COURT MAKES THE FOLLOWING FINDINGS AND ORDERS:

4. The child has satisfactorily completed a program of informal supervision, probation under section 725, or a term of probation.
5. The petition(s) filed on (date(s)): _____ is/are dismissed.

6. The child's juvenile records related to the arrest(s) on (date(s)): _____ regarding an alleged violation of (specify offense(s)): _____ in the custody of this court and of the courts, agencies, and officials listed below are ordered sealed:

- Probation Dept. (specify county): _____
- California Dept. of Justice
- Law enforcement agency (specify all): _____
 Law enforcement case number(s): _____

7. The court finds that sealing the following additional public agency records will promote the successful reentry and rehabilitation of the subject child and orders the records in their custody relating to petitions and arrests listed in 5. and 6. sealed:

- District Attorney (specify county): _____
- School: _____
- Department of Motor Vehicles: _____
- Other (specify): _____
- Attachment

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

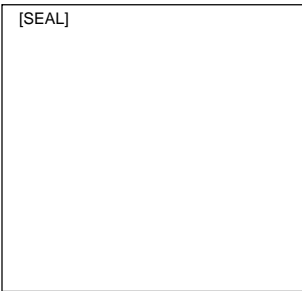
8. All records pertaining to the dismissed petition are to be destroyed on the dates set forth in this item, and the arrest is deemed never to have occurred except that the prosecuting attorney, probation officer, and court may access these records for the specific purposes stated in Welfare and Institutions Code section 786.

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

9. The clerk shall send a certified copy to the clerk in each county in which a record is ordered sealed and a copy to the child, the child's attorney, and each agency and official listed above.

Date:


 JUDICIAL OFFICER OF THE SUPERIOR COURT



CLERK'S CERTIFICATE

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

Date: _____ Clerk, by _____, Deputy

JV-596-INFO Sealing of Records for Satisfactory Completion of Probation

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

If your case is dismissed by the juvenile court after January 1, 2015, because you satisfactorily completed your probation (formal or informal), in many cases the court will have 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 that you have not satisfactorily completed your probation, it will not dismiss your case and will not seal your records at termination. If you want to have your records sealed in this situation, you will need to ask the court to seal your records at a later date (see **Form JV-595-INFO** for more information about asking the court to seal your records).

The court will not seal your records if you were found to have committed an offense listed in Welfare and Institutions Code section 707 (b) (these are violent offenses such as killing, raping, or kidnapping, and also some offenses involving drugs or weapons) when you were 14 or older and it was not dismissed or reduced to a lesser offense not listed in 707 (b).

How will the court determine if probation is satisfactorily completed?

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

Restitution and court fines and fees must still be paid.

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

Which records will be sealed?

The court will order your court, probation, Department of Justice, and law enforcement agency records sealed for the case the court is closing and prior 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) if it finds that doing so would help you to be rehabilitated.

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

Who can see your sealed records?

- If your records were sealed by the court at dismissal, 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 have participated in but cannot use that information to keep you in juvenile hall or to punish you.
- If you have been found to have committed a felony by the juvenile court, your sealed records can be viewed to determine 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 determine if transfer is appropriate.
- You can request the court to unseal your records if you want to have access to them or allow someone else to inspect them.

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

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

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

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT - NOT APPROVED BY THE JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
CASE NAME: _____	
JUVENILE WARDSHIP PETITION <input type="checkbox"/> § 601(a) <input type="checkbox"/> § 601(b) <input type="checkbox"/> § 602(a)	CASE NUMBER: _____

1. Petitioner on information and belief alleges the following:

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

(See important notices on page 2.)

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

- 2. Petitioner requests that the court find these allegations to be true.
- 3. Petitioner requests a hearing to determine whether the child is a fit and proper subject under juvenile court law under Welfare and Institutions Code section 707(a)(1) 707(a)(2) 707(c).

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER)

Indian Child Inquiry Attachment (form ICWA-010(A)) is completed and attached.

Number of pages attached: _____

TO PARENTS OR OTHERS LEGALLY RESPONSIBLE FOR THE SUPPORT OF THE CHILD

You and the estate of your child may be jointly and severally liable for the cost of the care, support, and maintenance of your child in any placement or detention facility, the cost of legal services for your child or you by a public defender or other attorney, the cost of supervision of your child by order of the juvenile court, and the cost of any restitution owed to the victim.

RECORD SEALING

The court may seal your records at the conclusion of your case or you may request sealing at a later date. Please see form JV-595-INFO, *How to Ask the Court to Seal Your Records*, and form JV-596-INFO, *Sealing of Records for Satisfactory Completion of Probation*, available through your attorney or www.courts.ca.gov/forms.htm, for more information about record sealing.

W16-07

Juvenile law: sealing of records (Adopt Cal. Rules of Court, rule 5.840; amend rule 5.830; adopt forms JV-591, JV-595, JV-595-INFO, JV-596, and JV-596-INFO; revise forms JV-590 and JV-600)

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

	Commentator	Position	Comment	Committee Response
1.	Alternate Public Defender's Office of Los Angeles Maureen Pacheco	NI	<p>First, we would like to thank the Family and Juvenile Law Advisory committee members for the extensive work in proposing these informational forms, new and amended rules, and optional judicial forms. Given the rapid and significant changes we have seen in sealing provisions in recent legislative sessions, the proposals are thorough and make great progress in simplifying and clarifying the new laws. Globally, the</p> <p>1. Proposed amended Rule 5.830 Although it is intended to ensure that all juvenile records are sealed, we are troubled that the default position in the new rule will now place the burden on the youth to file in each of the juvenile courts unless the case has been formally transferred. It is not only a burden on the youth; it also seems a costly duplication of efforts to have each probation department and court involved in handling separate petitions when one global sealing could achieve the same results. From the comments attached to the rule, it appears the only barrier to this process is the lack of information about those records. Because we will be seeing less of the petitions under 781 going forward, it seems that the burden of gathering the information would be more easily borne by the probation department in the last court of jurisdiction. It appears that this is the duty of the probation investigation anyway under (a)(4)(B).</p>	<p>No response required.</p> <p>In response to a number of comments raising concerns about the burden on the petitioners, the committee has revised the rule to allow courts to seal out of county records and to require them to consider doing so when the records are for a case that has been transferred. Because some courts may not be comfortable sealing the records of other courts in cases that have never been under their jurisdiction, the rule has been clarified to require the court to inform the petitioner if it declines to seal the records of another court or county and to direct them to file a petition in that county. Because there is no statewide database with information on all juvenile contacts with law enforcement or the courts, the JV-595 and JV-595-INFO forms have been revised to make it clear that the court can only seal those records that it can identify.</p>

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

	Commentator	Position	Comment	Committee Response
			<p>With respect to the application and investigation, we believe the rule should clarify that the petition may be filed in the court or with probation, and more importantly, that probation must submit the applications/petitions to the court rather than having probation unilaterally determine whether a petitioner is eligible or not. While (a)(4)(D) provides that probation must file the petition, we are aware anecdotally of cases in which probation is tasked as a gatekeeper and given authority to deny petitions.</p> <p>Rule 5.830 allows the order to seal records under 781 to be an optional order (Form JV 590). WE believe this is good policy, allowing flexibility among counties that may, e.g., want to add additional provisions such as preemptively listing the courts/agencies etc. whose records shall be sealed.</p> <p>.</p> <p>Last, the commentary of the Advisory Committee should be strengthened in terms of its language re the storage of sealed records. The goal and purpose of record sealing is to ensure that only the very limited access allowed by the law is countenanced. For that reason, the language should be strengthened to reflect that it is not acceptable to maintain sealed records in a manner that allows for any undermining of the laws intent to foreclose access to these records.</p>	<p>The committee can see no benefit in allowing the petition to be filed in the court because the court will simply refer it to the probation department to investigate and prepare the petition. However, the committee has clarified the rule to require probation to submit the petition in any case in which the timing requirements in section 781 have been met (i.e. the petitioner is at least 18 or it has been at least 5 years since probation was terminated or there was a contact with law enforcement) so that there can be no concern that probation is making judicial determinations on sealing matters.</p> <p>No response required.</p> <p>The committee has reviewed the proposed comment to the rule and concluded that it is clear that any method used to seal records must ensure that they are protected from unauthorized access or disclosure but has added language regarding electronic records to ensure that access controls are in place for sealed records.</p>

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	Commentator	Position	Comment	Committee Response
			<p>2. Proposed new rule 5.840</p> <ul style="list-style-type: none"> • Deadline for sealing: should the court be setting a follow-up date to ensure compliance? • Subsection (b) should contain the explicit requirement of the statute that unpaid fees or unfulfilled restitution conditions shall not be a bar, nor shall the court extend probation on that basis if the youth otherwise qualifies. <p>3. JV 595-INFO and JV 596-INFO</p> <ul style="list-style-type: none"> • These forms are confusing, and we wonder if perhaps they can be reworked to more clearly accomplish their purpose in providing user friendly information. It might be that three separate info forms would be better; as written they overlap in ways confusing to the person who will not really understand what the two different ways of sealing involve. However, we will attempt to give comments on the forms as they are proposed • From the comments, JV 595 is the form that the courts and probation are to provide at the conclusion of a case. Why not provide separate forms—one for those whose probation was terminated and the records were sealed, and one for those who will need to proceed under 781? 	<p>Because this issue was not raised in the original invitation to comment and would impose a significant workload burden on the courts the committee cannot make this change without recirculating the proposal, but will consider it if future modifications are required and there is evidence that there is a problem with compliance.</p> <p>The committee has adopted this recommendation and amended the proposed rule to include this requirement.</p> <p>The committee has determined that two forms are preferable so that they can be tailored based on whether files were sealed under section 786 and has revised the forms to more specifically address the two situations.</p> <p>The committee has proposed two forms and the rules of court do specifically require the provision of different forms depending on whether records were sealed under section 786.</p>

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	Commentator	Position	Comment	Committee Response
			<ul style="list-style-type: none"> • Why confuse the matter by saying “how to make your juvenile records private?” • Language is oversimplistic: Eliminate/rewrite the first paragraph. • In response to the legislative gap identified last year in <i>In re. G.Y.</i> (234 Cal.App.4th 1196), the legislation also specifies that the courts now have the ability to seal the records of youth whose 707(b) offenses were subsequently reduced to misdemeanors. The paragraph that indicates there is no sealing unless the court has dismissed the 707(b) offense is inaccurate. • Under who qualifies to ask the court, “Your last contact with probation” is not clear. • Under who can see your sealed records: the military does not have automatic access to sealed records. A more accurate statement would be that if the youth wishes to obtain a waiver for enlistment, he or she may have to move to unseal the records and provide access to the military. • Under if your records are sealed, do you have to report the offenses: this is a very nuanced area, as the <i>Collateral Consequences for Juvenile Offenders</i> makes clear. The form 	<p>The committee has struggled with reconciling its desire to be legally accurate with the hope of making the form accessible to young people. Based on this comment and others below the committee has revised the information forms to make them more precise.</p> <p>The committee has clarified this language to also include when a 707(b) offense is reduced to a lesser offense on the JV-596-INFO</p> <p>The committee included this language to try and cover a non-wardship case in plain language. Rather than trying to clarify the specific requirements from section 781 the committee has opted to delete this clause.</p> <p>The committee has deleted the reference to the federal government and tried to clarify this issue later in the information form.</p> <p>The committee has rewritten this language with regard to federal access, but has left it clear that under California law sealing results in the underlying arrest being deemed never to have</p>

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	Commentator	Position	Comment	Committee Response
			<p>should avoid giving any hard and fast advice in terms of revealing information about sealed records. This section should be rewritten in light of those concerns.</p> <ul style="list-style-type: none"> • From 596-info: eliminate the provision under which records will be sealed for the court to order the defense attorney’s records to be sealed. We do not believe such an order would be appropriate. <p>4. JV 596</p> <ul style="list-style-type: none"> • Eliminate the provision in paragraph 7 allowing for the sealing of child’s attorney’s records. Because of the duty of attorney client confidentiality, we believe no purpose is served in ordering the child’s attorney to seal his or her records. <p>5. JV 600: we approve of the added paragraph advising the youth and parent/guardian of the right to seal records.</p>	<p>happened. The information form also directs those with questions or concerns to seek legal advice.</p> <p>The committee has deleted this language from the form as it seems that such sealing would be unusual.</p> <p>The committee has deleted the line specifically designating the child’s attorney’s records as those that the court should consider sealing at its discretion.</p> <p>No response required.</p>
2.	California Public Defenders Association Michael Ogul Deputy Public Defender	NI	<p>The California Public Defender's Association (CPDA) submits the following comments to the Judicial Council of California regarding the proposed changes to the Rules of Court and court forms regarding the record sealing process (W16-07).</p> <p>Statement of Interest of CPDA</p> <p>CPDA is the largest organization of criminal defense attorneys in the State of California. Our membership includes almost 4,000 attorneys</p>	No response required.

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	Commentator	Position	Comment	Committee Response
			<p>who are employed as public defenders or are in private practice. CPDA has been a leader in continuing legal education for defense attorneys for over 30 years and is recognized by the California State Bar as an approved provider of Mandatory Continuing Legal Education. We regularly provide continuing legal education in all areas of criminal practice, including the representation of juveniles in dependency and delinquency matters.</p> <p>CPDA has been granted leave to appear in over 50 California cases that have resulted in published opinions. (See e.g., <i>People v. Mosley</i> (2015) 60 Cal.4th 1044; <i>People v. Beltran</i> (2013) 56 Cal.4th 935; <i>Maldonado v. Superior Court</i> (2012) 53 Cal.4th 1112; <i>Galindo v. Superior Court</i> (2010) 50 Cal.4th 1; <i>People v. Nguyen</i> (2009) 46 Cal.4th 1007; <i>Chambers v. Superior Court</i> (2007) 42 Cal.4th 673; <i>People v. Warner</i> (2006) 39 Cal.4th 548; <i>San Francisco v. Cobra Solutions Inc.</i>, (2006) 38 Cal.4th 839.) CPDA has also served as amicus curiae in the United States Supreme Court and other federal courts. (See, e.g., <i>Monge v. California</i> (1998) 524 U.S. 721; <i>Vasquez v. Rackauckas</i> (9111 Cir. 2013) 734 F.3d 1035.)</p> <p>Members of the CPDA Legislative Committee and CPDA's legislative advocate attend Senate and Assembly committee meetings on a weekly</p>	

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	Commentator	Position	Comment	Committee Response
			<p>basis, and take positions on hundreds of bills in a constant effort to ensure that our criminal and juvenile justice procedures, and rules of evidence, remain fair and balanced. In sum, CPDA and its legal representatives have the necessary experience, collective wisdom, and interest in matters of justice and procedure to serve the Judicial Council. Of particular note is the fact that CPDA was the source of SB 1038 in 2013 and a supporter of AB 666 in 2015, both of which created the changes to the sealing process the Judicial Council is addressing at this time.</p> <p>Rule 5.83</p> <p>The primary concern regarding the amendments to rule 5.830 are the statements in the Advisory Comment leaving the method of sealing to discretion of those entities being ordered to seal the records. The Advisory Comment proposes a number of permissible methods of sealing that do not require the actual physical sealing of the record: "Other permissible methods of sealing physical records pending their destruction under section 781 (d) include, but are not limited to, storing sealed records separately from publically accessible records, placing sealed records in a folder or sleeve of a color different from that in which publically accessible records are kept, assigning a distinctive file number extension to sealed records, or designating them with a special stamp." The problem is that none of the</p>	<p>The committee has reviewed the proposed comment to the rule and concluded that it is clear that any method used to seal records must ensure that they are protected from unauthorized access or disclosure but has added language regarding electronic records to ensure that access controls are in place for sealed records.</p>

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			<p>alternatives to physical sealing actually seal the records and leave the records vulnerable to inspection by ineligible individuals. An order to seal should be treated as an order to physically seal the records, as it is in other legal contexts. (See, for example, Cal. Rule of Court, rule 2.551(d).) Case law also suggests that the records should be "physically sealed." (Loder v. Municipal Court (1976) 17 Cal.3d 859, 871.)</p> <p>Rule 5.840</p> <p>Subdivision (c), concerning the sealing of records, states in part that "The prosecuting attorney, probation officer and court must have access to these records as specifically provided in section 786." While this is a correct statement of law, the language of section 786, subdivision (f), and to a lesser extent subdivision (g), clearly delineate the limited circumstances under which access is permitted. Rule 5.840 should similarly indicate that access is limited to the situations described in subdivisions (f) and (g). A reference to these subdivisions would be sufficient.</p> <p>Subdivision (d) addresses the destruction of records and indicates, "All records must be destroyed according to section 781(d), except that no records shall be destroyed before the subject has attained 18 years of age." Section 781, subdivision (d), in turn, requires destruction of records five years from the</p>	<p>The committee prefers using the broader statutory reference in this situation as it is possible that section 786 may be amended in the future and include access under yet to be drafted subdivisions and the committee would then have to amend the rule. The committee finds nothing inaccurate or misleading in citing the entire statute.</p> <p>While it is accurate that section 786 does not specify a timeframe for the destruction of records, it does require the Judicial Council to adopt rules of court and forms for the standardized implementation of the section by the juvenile courts. Given this directive the committee has incorporated judicial discretion in setting the</p>

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			<p>sealing date if the person was "alleged to be a person described in section 601", or 38 years of age if the person was "alleged or adjudged to be a person described in section 602." By its terms, subdivision (d) of section 781 applies only to "records that are ordered sealed pursuant to this section." Conversely, this rule, 5.840, addresses the destruction of records pursuant to section 786, which states regarding destruction: "The court shall send a copy of the order to each agency and official named in the order, direct the agency or official to seal its records, and specify a date by which the sealed records shall be destroyed." The statute does not specify a wait period before destruction may be ordered, and had the Legislature intended to limit the court's authority regarding destruction to those periods outlined in subdivision of section 781 or section 826, the Legislature would have done so. Accordingly, the trial court should be able to order destruction at any time, limited only by the outermost limits described by sections 826 and 389.</p> <p>JV-595-INFO</p> <p>The form contains a section on the first page indicating that sealing is automatic for those individuals who satisfactorily completed probation for a non-Welfare and Institutions Code section 707(b) offense and for those who were granted deferred entry of judgment under "Welfare and Institutions Code section 790 to</p>	<p>destruction date, but has provided some parameters based upon the age of the subject of the order and the existing time frames for destruction of analogous juvenile court records in section 781(d). Thus court records could not be destroyed before the subject of the order is 21 or after age 38 as provided in section 781(d). For noncourt records, age 18 would be the earliest date for destruction and five years after the date of the order would be the upper limit for the court to order. Because section 786 provides for access to these records for various purposes after they are sealed, it is clear that immediate destruction was not contemplated by section 786, and the timeframes in the proposed rule allow for the minimum period of time needed to allow for that access to sealed records while giving the court discretion to order destruction beyond those dates as provided in section 781(d).</p> <p>The committee has sought to clarify this provision by adding a parenthetical modifier that explains that it is informal or formal probation. The committee has not added statutory references for fear that doing so would not make the form more accessible to its intended audience.</p>

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	Commentator	Position	Comment	Committee Response
			<p>795" While a true statement of law, it fails to inform the reader that sealing is also automatic if the case was dismissed because the minor completed an informal program of supervision under Welfare and Institutions Code section 654.2 or non-wardship probation under section 725, as outlined in subdivision (a) of Welfare and Institutions Code section 786.</p> <p>The form also indicates that individuals who committed an offense listed or in section 707, subdivision (b) when they were 14 years or older or were convicted as an adult of an offense involving moral turpitude do not qualify to have their records sealed. This is a correct statement of law and is reflected in section 781, subdivision (a). However, the form gives examples of moral turpitude and includes "serious drug crime" as a disqualifier. The concern is that individuals will interpret that language as including possession of "hard" street drugs such as cocaine, cocaine base, heroin or methamphetamine, although simple possession of any controlled substance is not a crime of moral turpitude. (See People v. Castro (1985) 38 Cal.3d 301.)</p> <p>JV-596-INFO</p> <p>As with JV-595-INFO, this form outlines situations in which the court will automatically seal your juvenile record. However, the same problem outlined above exists in that the form</p>	<p>To address any ambiguity in a somewhat complex area of law, the committee has added a bullet to this section to advise consultation with an attorney if the petitioner is unsure regarding eligibility.</p> <p>As noted above, the committee has clarified this provision to specify formal or informal probation.</p>

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	Commentator	Position	Comment	Committee Response
			<p>fails to inform the reader that sealing is automatic in cases involving successful completion of an informal program of supervision under Welfare and Institutions Code section 654.2 or non-wardship probation under section 725, as outlined in subdivision (a) of Welfare and Institutions Code section 786.</p> <p>Request for Specific Comments</p> <p>Is the timeframe for destruction of records sealed under section 786 proposed by the committee an appropriate standard given the statute is silent?</p> <p>No. Rule 5.840(d) addresses the destruction of records and indicates, "All records must be destroyed according to section 781(d), except that no records shall be destroyed before the subject has attained 18 years of age." Section 781, subdivision (d), in turn, requires destruction of records five years from the sealing date if the person was "alleged to be a person described in section 601" or 38 years of age if the person was "alleged or adjudged to be a person described in section 602." By its terms, subdivision (d) of section 781 applies only to "records that are ordered sealed pursuant to this section." Conversely, rule 5.840 addresses the destruction of records pursuant to section 786, which states regarding destruction: "The court shall send a copy of the order to each agency and official named in the order, direct</p>	<p>See committee response on this issue to this commentator on pp. 36-37 above.</p>

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			<p>the agency or official to seal its records, and specify a date by which the sealed records shall be destroyed." The statute does not specify a wait period before destruction may be ordered and had the Legislature intended to limit the court's authority regarding destruction to those periods outlined in subdivision of section 781 or section 826, the Legislature would have done so. Accordingly, the trial court should be able to order destruction at any time, limited only by the outermost limits described by sections 826 and 389.</p> <p>Will the proposed change in the rule to require petitions to be filed in each county in which a petitioner has non-transfer records improve or hinder the current record-sealing process?</p> <p>The proposed amendment to rule 5.83 which deletes the provision in the existing rule specifying the sealing order "must apply in the count of the court hearing the petition and in all other counties in which there are juvenile records concerning the petitioner" will require individuals seeking to seal their juvenile records to file petitions to seal in different counties if their records are held in more than one county. Unquestionably, this will create a burden on individuals seeking to seal their records. The court should strive to make it easier for individuals to seal their records and move away from the stigma of being involved with the criminal justice system. This makes it more</p>	<p>See response on this issue to commentator one on page 30 above.</p>

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			<p>difficult and is a step in the wrong direction.</p> <p>Is it preferable to provide information on sealing to youth on two information forms to distinguish between sealing under section 786 and section 781 or would one form be preferable?</p> <p>It is CPDA's opinion that a single form is preferable.</p> <p>Will the optional Acknowledgement of Juvenile Record Sealed assist court in ensuring compliance with their orders?</p> <p>Yes. The adoption of this form will help confirm compliance with the court orders.</p>	<p>As noted above the committee has determined that two forms are preferable to provide information as required under section 781(h) that is tailored to whether records were sealed under section 786.</p> <p>No response required.</p>
3.	Commonweal Juvenile Justice Program David Steinhart, Director	NI	<p>We submit these comments to the Committee and to the Judicial Council on behalf of the Commonweal Juvenile Justice Program. Commonweal was the primary sponsor of Assembly Bill 666 (Stone, Stats. of 2015, Chapter 368), which includes a provision requiring the Judicial Council to adopt these forms and rules. Commonweal also served as a key advisor to the legislative author of the 2014 bill that created the juvenile records auto-sealing process in California, adding Section 786 to the Welfare and Institutions Code (SB 1038, Leno, Stats. of 2014, Chapter 249).</p> <p>Overall, we applaud the effort made by the Committee to assemble these proposed rules</p>	No response required.

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			<p>and forms into a coherent package that incorporates complex changes in sealing laws added by no less than five legislative bills over the last two years. The comments below identify some areas where we believe the rules and forms as proposed could be even further improved to guide successful implementation by the Courts and to advise affected children and youth.</p> <p>Rule 5.830 (amended)— Sealing records (Section 781)</p> <ul style="list-style-type: none"> • Probation as “gatekeeper” of the petition to seal under Section 781. Rule 5.830 requires a petitioner to initiate a request to seal the record through the probation department in each county in which probation has been terminated. Under Section (a) (4) of the rule, the probation department is then required to determine whether the individual is eligible for sealing under Section 781. Applications that pass this probation test are forwarded to the court for hearing and review. However, applications that do not pass this test do not proceed. In our reading of the law, Section 781 provides that an individual may “petition the court” for the relief provided. It does not establish a “stop” or gateway at probation before the petition can get to the Court. We would encourage an amendment to this rule that would require the probation department to forward all applications to the court and to 	<p>See response on this issue to commentator one on page 30.</p>

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			<p>ensure that it is the Court— not the probation department— that finally determines whether the individual is eligible for the sealing under Section 781. Alternatively the rule could or should provide that an individual whose petition is rejected by probation can refile it directly with the Court. These changes, while affecting the current status of Rule 5.830, are necessary to ensure the petitioner’s access to the Court as intended and provided in Section 781.</p> <ul style="list-style-type: none">• Inter-county sealing petitions and orders. Rule 5.830 is changed to require that the petition process be initiated by the petitioner in each county where probation has terminated. This can be construed to impose an undue burden on youthful petitioners to be able to navigate jurisdictional labyrinths that even lawyers may find troubling. Juveniles with inter-county records or histories of residence in different counties will no doubt be confused by this requirement. One untoward result may be that a sealing and dismissal achieved in one county will fail to provide the individual with protection from a parallel case record that remains unsealed in another county. Such a result could expose the minor to tangible risks when completing job, education and military service applications—i.e., to the appearance of lying on an application where he or she answers no to questions about criminal history based on his or her understanding of the sealing and dismissal process.	<p>See response on this issue to commentator one on page 29 above.</p>

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	Commentator	Position	Comment	Committee Response
			<p>We understand the rationale for this requirement (petitioning in multiple counties), including the Committee’s statement that:</p> <p>...it has become clear that unless a case has been formally transferred from one court to another, many courts do not have information about these records, and as a result many courts do not seal the non-transfer records of other courts in practice. Given this context, the committee proposes deleting the requirement that courts seal the records of other juvenile courts unless the case has been transferred. While this practice may be somewhat more burdensome for those seeking to seal their records, it is also designed to ensure that all eligible records are in fact sealed and the full benefits of sealing are achieved by the petitioners</p> <p>Still, we suggest that the rule be amended to require the probation department, in the course of its court-delegated investigation, to make some specified effort to determine whether parallel (same or similar case) delinquency records remain unsealed in another county and to notify the petitioner accordingly. For example, when a petition is filed under Section 781, the probation department might be required to query the state juvenile justice data bases for information that would be useful to the court in determining the inter-county status of the</p>	

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			<p>petitioner’s request.</p> <ul style="list-style-type: none">Reach of sealing orders. The rule could more clearly state the obligation of the Court approving a petition to seal the record under Section 781 to order covered agencies in other counties, as known or revealed in the probation investigation or court file, to seal their records pertaining to the individual and the case. <p>Rule 5.840 (new)- Dismissal of petition and sealing of records (Sec. 786).</p> <ul style="list-style-type: none">Deferred or delayed sealing. We suggest that the rule include reference to the requirement of WIC 786, as recently amended, to the effect that “The period of supervision or probation shall not be extended solely for the purpose of deferring or delaying eligibility for dismissal of the petition and sealing of the records under this section” (WIC 786 (c) (1)). This has come up as an issue of some concern in discussion with judges and other stakeholders, particularly as to its application in cases where restitution orders remain unfulfilled.Notices to agencies or courts in other counties. As with the comments above on inter-county issues related to Rule 5.830, we think Rule 5.840 should be explicit in stating that the order and distribution of the order for records sealed under Section 786 should include orders	<p>The committee has added this language to subdivision (b) of the rule.</p> <p>See response on this issue to commentator one on page 29 above.</p>

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			<p>to agencies or courts in other counties that have known records that are required to be auto-sealed under Section 786. The new rule should not be open to the interpretation that only records held by agencies located in the county of the Court making the order would be subject to the sealing order and distribution practice of that Court.</p> <ul style="list-style-type: none"> Conforming form JV596INFO. If the title and contents of Form JV596INFO are changed as suggested the reference here to that form will also need to change. <p>Form JV 590. No comment.</p> <p>Form JV 591. No comment.</p> <p>Form JV 595- REQUEST TO SEAL JUVENLE RECORDS</p> <ul style="list-style-type: none"> Language in the opening line. The opening line should be modified to eliminate the implication that the request can be filed only “if you meet the requirements of (WIC) Section 781”. It is up to the Court to make the determination about meeting the requirements of Section 781—not up to the individual seeking relief. Suggest simply delete this “if” clause and open the form with the statement that this form may be used to petition the court to seal your records under the applicable law. 	<p>The committee has changed titles of the forms and revised the rules accordingly</p> <p>No response required.</p> <p>No response required.</p> <p>The committee has deleted the reference to statutory eligibility so that the form simply informs petitioners that it can be used to seal juvenile records and then directs them to the information form.</p>

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			<ul style="list-style-type: none"> <li data-bbox="793 321 1375 1117"> <p>• Section 4. Federal agencies. The reference to federal agency acceptance of sealing orders made by California courts, appearing as the last sentence in this section, deserves further review. Based on our investigation, in practice military recruiters and federal agencies handle state-sealed juvenile records in different ways. While it is true that federal regulations do not recognize state-sealed juvenile records, military services can waive offense-record barriers to enlistment in individual cases. Defense counsel have reported cases in which a military service has requested that the court seal the record in order to gain entry to the military branch in question. A warning about the possible federal non-recognition of state sealing orders is certainly appropriate for inclusion on Form JF595. Still, the Committee may wish to give this issue a more thorough review. At a minimum, we would suggest changing the last sentence of Section 4 to state that "...the federal government may not recognize sealing of records", rather than "will not".</p> <li data-bbox="793 1157 1375 1417"> <p>• Section 5- requirement to list all contacts that might not be a part of your probation record. This requirement, while certainly intended to help locate all relevant records, is stated in a way that may discourage eligible individuals from petitioning the court. It should be softened to ask applicants to state the contacts if known and perhaps to state that</p> 	<p data-bbox="1392 321 1992 410">The committee has deleted the language about federal recognition from this form and opted to address it on the JV-595-INFO.</p> <p data-bbox="1392 1157 1992 1255">The language has been revised to be clear that the court cannot seal records that are not identified on the petition.</p>

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			<p>this information will help ensure that the sealing investigation and resulting court order are as complete as possible.</p> <p>Form JV 595 INFO – HOW TO MAKE YOUR JUVENILE RECORDS PRIVATE</p> <ul style="list-style-type: none"> Combine with JV596INFO? In answer to your general query on this point, we suggest that you continue to provide two different information forms. As we see it, the information forms serve overlapping but essentially different purposes. In short, we see Form JV595INFO as mainly supplying instructions for compliance with the elective process for petition sealing under Section 781, with relevant reference to post-sealing matters including agency access to sealed records, restitution and disclosures to employers and others. Alternatively, since the WIC 786 process is self-initiating or automatic, form JV 596INFO should mainly address what auto-sealing means for the juvenile whose record has in fact been sealed under Section 786; accordingly, some changes in the title and contents of that form are suggested later below. <p>Specific Form JV595INFO suggestions.</p> <ul style="list-style-type: none"> Opening line... “If you did something wrong”. This “talking down” opener on the form may be designed to make the form more familiar in some way or to avoid “legalese”, but it is too vague, broad and misleading in our 	<p>The committee is maintaining the two forms and has revised them to make them more tailored to whether the recipient had his or her records sealed under section 786 while making them relevant to the public overall who might use the forms for information about the sealing process.</p> <p>As noted above, the Committee is trying to balance its desire to make this information as accessible as possible to the public with the need to be accurate. The committee has revised this section to make it less broad and more precise.</p>

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			<p>view. Probably most people “did something wrong” when they were under 18. This line could even cause concern for minors who never had sealable records generated. A more appropriate approach would be to say something like, “If you were ever arrested or subject to a court proceeding or had other contact with the justice system, there may be records of your involvement kept by courts, police, schools or other public agencies.</p> <ul style="list-style-type: none"> • Second paragraph. We recognize that it is difficult to describe both auto-sealing and petition-sealing to juveniles in a lay context that is swiftly and easily understood. Even so, we believe you could do a better job in this form of explaining how the two sealing methods work under California law. As suggestion, you might start the second paragraph by highlighting the fact that “There are two ways to have your juvenile records sealed under California law. The first way happens automatically by order of the court when your probation term or diversion period ends, and it does not require you to take any action. However, if your record is not automatically sealed by the court, you will need to ask the court to seal your record by submitting a request or petition for sealing. This information sheet explains how both record sealing procedures work and whether you must petition the court in order to have your record sealed. It also explains what sealing and dismissal of the charges can mean for your 	<p>The committee has tried to make this less confusing by revising this form so that it is focused more on sealing pursuant to 781 with references to the JV-596-INFO for information on sealing pursuant to section 786. Since the rule of court directs that different forms are provided depending upon whether the court did or did not seal the records, this should ensure that information is appropriately targeted.</p>

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			<p>future.”</p> <ul style="list-style-type: none"> o Suggest then explain auto sealing in one paragraph. o Suggest then a separate paragraph entitled “When do you have to ask the court to seal your juvenile record and what do you have to do?” <ul style="list-style-type: none"> • Page two, section 8. Other county records. Consistent with the suggestion made earlier, if Rule 5.830 is amended to require the probation department to assist with locating other-county records, this form should tell the individual that they can seek assistance from the probation department in that regard. • Page two, “If your records are sealed, do you have to report...” and federal law reference. We suggest adding a bit more clarity here regarding disclosure protection for those whose records are sealed. For example: “No. Once your records are sealed, the law treats those offenses as if they did not occur and you do not have to report those offenses on job, school or other applications.” Additionally, we reiterate the request for further review of how the federal non-recognition of state sealing orders is characterized (see final comment above under Form JV595). <p>Form JV 596 – DISMISSAL AND SEALING NOTICE UNDER SECTION 786</p>	<p>The form is clear that probation will identify the records that it can find, but that the petitioner needs to provide information on records that might not be known to probation.</p> <p>The committee has revised this language to make it clearer as suggested and has directed those confronting the issue to seek legal advice.</p>

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		<ul style="list-style-type: none">Implied court option to seal the records of minor’s counsel. Also in Section 7 of this form, there is a checkbox for the court to indicate that its order applies to the “Child’s Attorney” and to require the minor’s attorney to seal his or her case records. This simply goes too far. First of all, it is the minor’s counsel who serves as the primary source of advice to the minor on compliance with the sealing laws and procedures, so that shutting down counsel’s own record could effectively block key information the minor needs for a range of purposes including future attempts to access or open the record under one of the exceptions in subdivision (f). Secondly, an order to seal the minor’s counsel records may well encroach upon an area of attorney-client privilege and confidentiality. Third, the check box as labeled is over-broad as it would appear to cover private as well as public agency counsel. Fourth, it is dysfunctional in the sense that the request to seal an additional public agency record is initiated by the minor, and the court’s power is limited to granting the request—so when will minor’s and their counsel ever ask the Court to seal their own records? <p>Form JV 596 INFO – SEALING OF RECORDS AT TERMINATION AND DISMISSAL</p> <ul style="list-style-type: none">Title and purpose of the form. As noted above, in our view the main purpose and	<p>As noted above, the committee has deleted the checkbox for the child’s attorney on this form.</p> <p>The committee has revised the title to read “Sealing of Records for Satisfactory Completion of Probation.” The committee has not used the</p>

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			<p>function served by JV596INFO should be to inform the juvenile regarding the consequences of auto-sealing action taken by the Court under Section 786. The presently proposed version of this form goes in that direction, but it could be laid out and stated more clearly. For starters we would recommend that the title be changed to “Automatic Court Sealing of Juvenile Records: How does it happen and how does it affect you?” or something along those lines. The present tile is perhaps more attuned to lawyers than to clients, and a change like this will help make the form more relevant and useful for juveniles whose records are auto-sealed under Section 786.</p> <ul style="list-style-type: none"> Opening paragraph. Heading clarification. Suggest: When will the Court automatically seal your record? The first sentence should be simplified (it is too long and complex). It should start with a more simplified statement such as “Your records may be sealed automatically by the Court, without your having to take further action, if you meet certain conditions for automatic sealing.” Then, list the conditions that are now packed into the wordy first sentence, perhaps using bullets. The second half of this paragraph, beginning with if the court seals your record “you should have received a notice he rest of the paragraph, beginning with “You should have received a copy of the order”, is good. 	<p>term “automatic” because the sealing is not automatic, but rather requires a determination by the court that probation was satisfactorily completed.</p> <p>The committee has revised this paragraph to make it clearer, but as described above has refrained from using the term “automatic” in this context of section 786.</p>

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			<ul style="list-style-type: none"> • Which records will be sealed? Here, we reinforce our concerns about stating that the court can order the minor’s own counsel records to be sealed under Section 786. See the final bullet (comment) under “Form JV596” immediately above. • Consequences of sealing: “If your records are sealed do you have to report the offenses in the sealed records on job, school or other applications?” For this INFO form as well, we restate the request to further amplify the minor’s right of nondisclosure of the offense once the record is sealed under Section 786, as follows: <ul style="list-style-type: none"> o We suggest adding a bit more clarity here regarding disclosure protection for those whose records are sealed. For example: “No. Once your records are sealed, the law treats those offenses as if they did not occur and you do not have to report those offenses on job, school or other applications.” • Federal law impact. Additionally, we reiterate the request for further review of how the federal non-recognition of state sealing orders is characterized here (see final comment above under Form JV595). <p>Form JV 600 - JUVENILE WARDSHIP PETITION</p> <ul style="list-style-type: none"> • Recommended additional sentence. In 	<p>The committee has deleted the reference to the child’s attorney’s records on this form.</p> <p>The committee has revised this section to try and clarify the consequences of sealing.</p> <p>See response to commentator one on pp. 32-33.</p> <p>Because the two information forms that are</p>

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			<p>order to have the reference to record sealing be more meaningful to juveniles who take the trouble and have the comprehension to digest all of JV 600, we would request that a second sentence be added to the final text box on sealing, to follow the sentence stating that “The Court may seal your records at the conclusion of your case or you may request sealing at a later date.”. The added sentence would say in essence: Sealing of the record may help you when it comes to applying for a job or school or for some other opportunity.</p>	<p>referenced here provide significant information about the benefits of sealing, the committee prefers not to add additional language on the JV-600 which comes much earlier in the process.</p>
4.	East Bay Children’s Law Offices Roger Chan, Executive Director	NI	<p>These comments are submitted on behalf of East Bay Children’s Law Offices with respect to W16-07 (Sealing of Records). East Bay Children’s Law Offices (EBCLO), a nonprofit law firm in Oakland, California, is court-appointed to represent children and youth in their delinquency, dependency, or probate guardianship proceedings in Alameda County. Our office represents more than 2,000 youth every year.</p> <ul style="list-style-type: none"> Does the proposal appropriate address the stated purpose? <p>One of the stated purposes is to give eligible people with juvenile records the opportunity to seal those records with as few barriers as possible.</p> <p>Rule 5.830(a)(3) creates a barrier by only allowing an application to be submitted to the</p>	<p>As noted above the rule directs filing of the application with the probation department because they need to investigate the application and prepare the petition for the court. The committee has revised the rule to be clear that probation must prepare a petition for any case in which the age or 5 year limit in section 781 have been met.</p>

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			<p>probation department. Applicants should also be allowed to apply for record sealing directly to the court, which can then direct the probation department to conduct the required investigation.</p> <p>Recommendation: Amend 5.830(a)(3)(A) to state: “The application for a petition to seal records must be submitted to the probation department or the court in each county in which wardship was terminated.”</p> <p>In addition, requiring an applicant to file a 781 petition in each county in which wardship was terminated can create barriers because the person may not know which counties are involved and whether the case was transferred. Instead, the person should only be required to make one application. If the probation investigation reveals that some petitions have not been transferred from other counties, then the probation department should be required to submit a record sealing petition to that county. Alternatively, please consider whether the court where the application was made should have authority to seal all eligible records, even if the records are of another court and were not transferred.</p> <p>The 90 day time frame for the probation department to file a petition in 5.830(a)(4)(D) is too long. Many applicants for record sealing do so for the purpose of obtaining employment or</p>	<p>See response on this issue to commentator one on page 29 above.</p> <p>The committee notes that the 90-day timeframe has always been the standard in the rule and is necessary to give probation the time to research and prepare the petition and thus has declined to</p>

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			<p>joining the military and they need an urgent response. The time frame should be reduced to 30 days. The Rule should also provide guidance for when the hearing should occur following the filing of the petition.</p>	<p>shorten this timeframe. Similarly, given limited judicial resources, the committee declines to set a timeframe for the petition hearing as local courts need the flexibility to determine when these matters can be calendared in the context of other pressing statutory deadlines for hearings. In addition the committee has restored the 180 day time period for petitions that include more than one county consistent with the changes made to allow courts to seal records in multiple counties.</p>
5.	<p>East Bay Community Law Center Youth Defender Clinic Kate Weisburd, Supervising Attorney</p>	AM	<p>The proposed rules, info forms and orders are a great first step. It is obvious that the Judicial Council is trying to make the juvenile record sealing process as straight forward and streamlined as possible, which is admirable.</p> <p>With that said, I have some suggestions based on my experience representing numerous youth in record sealing procedures. If any of my comments are not clear, or if you have questions, please feel free to contact me:</p> <p>My comments are as follows:</p> <p>1. Rule 5.830 re Sect. 781 (pg. 10 of PDF):</p> <p>-Confusing process when applicant has been on probation and/or had separate cases in several different counties as a minor. (see proposed rule 5.830 (a)(1)). Many adults won't know if their juvenile case was officially transferred or if they picked up a new case in another county. Nothing in the law says that an applicant must</p>	<p>No response required.</p> <p>See response on this issue to commentator one on page 29 above.</p>

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			<p>petition in every county where they had a case. A more streamlined approach would be to require the applicant to apply for sealing in the last county where they had a juvenile case and where probation was terminated. Seems overly burdensome to require applicants to apply in each county, especially because most applicants won't know if they had separate cases or if the case was transferred.</p> <p>-Probation should not be gatekeeper of all record sealing. (see proposed rule 5.830 (a)(3)-(4). There is nothing in the law that requires sealing applications go through probation. There are two problems with mandating that applications should go through probation: (1) what if the county is small and/or doesn't want probation to do this? Why not give counties option of having the application processed through probation OR filed with court clerk? And (2) In some counties, probation incorrectly determines that someone is not eligible and then the petition never makes it onto the sealing calendar and before a judge. A better policy is that probation does an evaluation; but that all record sealing applications get calendared and only judge decide eligibility. Under no circumstance should probation make determinations that result in applicants being turned away before they are able to appear before the judge.</p> <p>-90 days seems like a long time to give</p>	<p>See response on this issue to commentator one on page 30.</p> <p>See response on this issue to commentator 4 on</p>

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			<p>probation to review record sealing apps. See rule 5.830(a)(4)(C). Why not 30 days? Or 40?</p> <p>-The rules regarding 781 should make clear that there is no fee. The rule should state that anyone under 26 can't be charged. And over 26 they can be charged, but must also be provided with info about fee waivers.</p> <p>2. JV-595 – Request to Seal Juvenile Records under 781 (pg. 16 of PDF)</p> <p>-The text at the top of the form should be more encouraging. It currently says that the form should be used “if you meet the requirements of 781...” But many applicants won't be able to determine if they meet those requirements. Given that there is no fee for anyone under 26 there is really no downside in filing an application. Young people should be encouraged to file. There shouldn't be a preamble that could inadvertently result in applicants thinking they are not eligible when they may be. How about a preamble that says: “This form should be used if you want to seal your juvenile record. Please complete the form and turn it into X. The court will then determine whether you are eligible for record</p>	<p>pp. 55-56</p> <p>The rule of court has never contained information about fees for sealing, and because those fees are collected administratively by probation and not by the court, the committee has elected not to add them to the rule, although the information forms clearly explain to petitioners that there is no fee and that a waiver can be requested.</p> <p>As described above this sentence has been revised to eliminate the conditional clause and to be more neutral.</p>

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			<p>sealing.”</p> <p>-Many applicants won’t know details or dates about contact with law enforcement. (See questions #3 & #5). Many applicants won’t know the dates of law enforcement contact or even the names of all the agencies they had contact with. Can probation/courts look this info up through a state-wide database? If applicants don’t know this info they may think they can’t apply for sealing. These two questions should either be eliminated or made optional (assuming that probation/courts have ways of checking this info on their own).</p> <p>3. JV-595-INFO re Sealing under 781 (pg. 18)</p> <p>-Title is confusing because it’s so similar to title of the JV-596-INFO (which is about 786). The audience for this form is applicants who either were not eligible for sealing under 786 or whose cases were dismissed before the passage of 786. Presumably, everyone who is eligible for sealing under 786 will have their record sealed at dismissal, so they won’t need an info sheet on how to seal their record. (see comments below about the 786 info sheet)</p> <p>-First paragraph reads “if you did something wrong.” This seems unnecessarily judgmental. 781 also covers arrest records in cases where no petition was ever filed. How about just “If you have a juvenile court record or arrest record</p>	<p>The committee notes that in these cases in which there is no court record the petitioner is the person best situated to provide the information on what records are being requested to be sealed. This information may not be in state criminal history databases and thus the applicant is the key source of the information.</p> <p>The committee has revised the title of this form to “How to Ask the Court to Seal Your Records” and tried to clarify the two types of record sealing currently available.</p> <p>The committee has revised this sentence to be more legally precise.</p>

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			<p>from when you were under 18...”</p> <p>-Topics are confusing. Per my first comment about this form, I think this form should be geared to people 18 years and older who either (a) didn’t get record sealed under 786 b/c they didn’t complete probation satisfactorily; or (b) they got off probation before 786 passed, so pre-2015.</p> <p>-Applicants should be encouraged to check with public defender office to see if their record has been sealed and/or if they have a 707(b) offense.</p> <p>-The section entitled “when do you not qualify to seal” is a little confusing. Not clear what ‘moral turpitude’ means and it often is interpreted to mean a wide range of things. Applicants may count themselves out and not apply. Could a third bullet point be added that says: “If you are not sure you qualify, either speak with your local public defender’s office or apply and wait for the judge to decide your eligibility.” Or something like that?</p> <p>-What about adding a section with a general description of what “rehabilitated to the satisfaction of the court” means and how to prove it? Ie: letters of support, letter to court explaining accomplishments, life plans, etc?</p>	<p>As noted above the committee has tried to refine the focus of this form for those whose records were not sealed pursuant to section 786.</p> <p>This advice is contained on the form as circulated for comment.</p> <p>The committee has added a bullet point directing applicants to contact their attorney for more information.</p> <p>Because each court has different conventions for how this issue is handled the committee has declined to be more specific for fear of deterring applicants from seeking record sealing. Probation agencies can provide county specific information on what the court may be considering.</p>

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			<p>-Applicants won't know history of contact with police. On the second page, step 2 asks for a list of all agencies that the applicant had contact with. Per my earlier comment, I don't think applicants often know this info.</p> <p>-Step 8 also seems unrealistic. Per my earlier comment, applying in everyone county seems unnecessary and not required by law.</p> <p>4. JV 596-INFO re sealing under 786 (pg. 22)</p> <p>-Title confusing. Per earlier comment, the title of this info sheet is confusing because it sounds so much like the title of the JV 595. It's also not clear when in the process the info on this info sheet would be helpful. It would be great to have an info sheet for youth who've just gotten their record sealed under 786 and what that means. Maybe the info sheet could be called: "What it Means Once the Court Has Sealed Your Record." And topics could be: (1) Unpaid fees, fines and restitution; (2) Which records were sealed; (3) Who can still see sealed records? (4) How to see your sealed record.</p> <p>-Prior petitions also included. Under the current section entitled "which records will be sealed" it only talking about current case. It should clarify</p>	<p>The form instructs applicants that probation will compile the information it has and only directs the applicant to add information if he or she believes it is not available to probation and only to ensure full sealing, thus the form is clear that this section is not required to be filled out. In addition, the information form directs applicants how to seek their criminal history information if they are uncertain as to what records may be out there.</p> <p>See response on this issue to commentator one on page 29 above.</p> <p>The committee has revised the title of the form and tried to tailor it to those whose records are sealed pursuant to section 786, however, the court is required by statute to provide information to all minors about how to seal your records at case termination and thus must include some information on that topic on this form.</p> <p>That section of the form as circulated specifically states that prior cases may be sealed if the court finds them eligible thus the committee finds that</p>

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	Commentator	Position	Comment	Committee Response
			that 786 covers prior petitions as well.	no change is required.
6.	Orange County Bar Association Todd G. Friedland, President	A	<ul style="list-style-type: none"> • Does the proposal appropriately address the stated purpose? Yes. • Is the time frame for destruction of records sealed under section 786 proposed by the committee an appropriate standard given that the statute is silent? Yes. • Will the proposed change in the rule to require petitions to be filed in each county in which a petitioner has non-transfer records improve or hinder the current record-sealing process? Improve. • Is it preferable to provide information on sealing to youth on two information forms to distinguish between sealing under section 786 and section 781 or would one form be preferable? One form.\ • Will the optional Acknowledgment of Juvenile Record Sealed assist courts in ensuring compliance with their orders? No comment. 	<p>No response required.</p> <p>The committee has maintained the time frame as an outer limit but provided the court with discretion to set a date within the limits of section 781(d).</p> <p>See response on this issue to commentator one on page 29 above.</p> <p>As noted above the committee has determined that two forms are preferable to provide information as required under section 781(h) that is tailored to whether records were sealed under section 786.</p> <p>No response required.</p>
7.	Orange County Probation Christina Ronald, Assistant Division Director	NI	<p>Below are the questions the Orange County Probation Department has in reference to the Invitation to Comment on Juvenile Law: Sealing of Records:</p> <p>1. Proposed Rule 5.830 Sealing records (a) (4) Investigation (B) requires that probation compile a list of cases and contact addresses of every agency or person that the probation department knows has a record of the ward’s case-including the date of each offense, case number (s), and date when the case was closed-</p>	<p>This requirement while new to the rule is consistent with the current practice that probation will research and prepare sealing petitions. A form for this purpose has not been developed and would need to be considered in a future cycle based upon requests from probation agencies or the courts for such a form.</p>

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			<p>to be attached to the sealing petition. Will a standard form be created for this information?</p> <p>2. Specific to outstanding financial obligation (WIC 786 (g)(1) and (2) indicates that sealing does not prohibit court from enforcing a civil judgment for outstanding restitution. Nor does a sealing relieve a minor from the obligation to pay victim restitution, restitution fines, and court-ordered fines and fees. Further, it notes that victims or local collection programs may continue to enforce victim restitution orders, restitution fines, and court-ordered fines and fees after a record is sealed. With that in mind, if a minor is not relieved of the responsibility to pay outstanding financial obligations, does this also carry over to the minor’s parent(s)/guardian(s) parental obligations, which are not courts ordered (institutional and legal fees)?</p> <p>3. Section 831 of the Welfare and Institutions Code prohibits release of any juvenile case information to any federal official absent a court order of the judge of the juvenile court upon filing a petition pursuant to 827(a)(1)(p). We understand that this pertains to releasing information to Immigration and Customs Enforcement (ICE); however, does it also apply when making Consulate notifications.</p> <p>Additionally, in the juvenile arena, we have</p>	<p>This is a legal question outside the scope of this proposal.</p> <p>The committee has tried to clarify issues on federal treatment of sealed records in this proposal. The new requirements of section 831 are outside the scope of this proposal, but it does appear that under that section court records may not be provided to a federal entity without a court order issued under section 827</p>

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			<p>often utilized Juvenile Court Administrative Order No. 12/003-903 which allows for information to be furnished to military recruiters upon presentation of the minor’s written consent. Based upon WIC 831, is it correct to assume that this aspect of the Court Order is no longer valid and that we would now also require military recruiters to file an WIC 827 petition with the court to have access to any juvenile case information? There seems to be confusion on how best to handle this as in addition to above, Section 4 of JV-595 indicates, “I also understand that the federal government will not recognize sealing of records and that juvenile records must be reported, even though sealed, if I apply for enlistment in the armed services or other federal employment requiring disclosure of juvenile records.”</p> <p>4. What is considered a “reasonable time” in which to seal a record once it has been ordered by the court?</p>	<p>The committee expects that any agency receiving a court order to seal its records will comply without delay and the rule provides that records are to be sealed immediately.</p>
8.	<p>State Bar of California, Standing Committee on the Delivery of Legal Services Phong S. Wong, Chair</p>	AM	<p>Does the proposal appropriately address the stated purpose?</p> <p>Yes. The mandatory information form provides helpful instructional information about the sealing of juvenile records and will be beneficial to low-income and moderate-income self-represented litigants. However, please see below for comments regarding the optional petition form.</p>	<p>No response required.</p>

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			<p>Is the time frame for destruction of records sealed under section 786 proposed by the committee an appropriate standard given that the statute is silent?</p> <p>Yes.</p> <p>Will the proposed change in the rule to require petitions to be filed in each county in which a petitioner has non-transfer records improve or hinder the current record-sealing process?</p> <p>It will hinder the process. The petitioner should be able to file one petition which lists all of the courts in which he or she is requesting a sealing of records. The petition should allow for information such as case number, arresting agency, and date of arrest. Requiring a petition to be filed in each county is cumbersome and could act as a barrier for low and moderate-income petitioners who are eligible to have their juvenile records sealed but who lack transportation and/or financial resources.</p> <p>Is it preferable to provide information on sealing to youth on two information forms to distinguish between sealing under section 786 and section 781 or would one form be preferable?</p> <p>One form is preferable. Two forms might confuse the issue for a juvenile. Less is best.</p>	<p>The committee has maintained the time frame as an outer limit but provided the court with discretion to set a date within the limits of section 781(d).</p> <p>See response on this issue to commentator one on page 29 above.</p> <p>As noted above the committee has determined that two forms are preferable to provide information as required under section 781(h) that is tailored to whether records were sealed under section 786.</p>

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			<p>Will the optional Acknowledgment of Juvenile Record Sealed assist courts in ensuring compliance with their orders?</p> <p>Yes. The optional form will help ensure that agencies ordered to seal records will advise the court that the sealing order has been followed and remove potential confusion for the petitioner as to whether or not the records have been sealed.</p>	No response required.
9.	Superior Court of Los Angeles County	A	No specific comment.	No response required.
10.	Superior Court of Orange County, Family Law and Juvenile Court Operations Blanca Escobedo, Principal Administrative Analyst	AM	<ul style="list-style-type: none"> The proposal appropriately addresses the stated purpose. However, clarification is requested on the treatment of transferred cases. The proposed CRC 5.830 language states, “A court may seal the records of another court when a case has been transferred...” This could be interpreted as though the consideration of transferred cases is optional. I believe the intention is to require the courts to consider the sealing of other jurisdiction’s records. In this same sentence, we recommend substituting the word court with jurisdiction since the court may also seal other agencies records (e.g., probation, law enforcement, etc.). JV-590, we recommend revising item 5(a) to list agencies, similar to the JV-596. This helps ensure all agencies are included in the order. Also, expand the case number field for minors who have multiple cases. 	<p>The rule has been clarified to require that the court determine if the other county records should be sealed in a transfer case and to allow such sealing in non-transfer cases.</p> <p>Because JV-590 is a sealing order under section 781 which provides for much broader sealing than section 786, the committee prefers to keep this section open and allow for attachments.</p>

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			<ul style="list-style-type: none"> • JV-591, we recommend changing the header because agencies will be filing this form (not attorneys). We recommend expanding the case number field for minors who have multiple cases. • JV-595, we recommend the following changes. <ul style="list-style-type: none"> ○ Clarify the completion of items 2 and/or 3 (it will not always be both). ○ The information sheet provides information regarding fee waivers, yet it's not mentioned under item #4 (we recommend adding this information). Lastly, expand the case number field for minors who have multiple cases. ○ Item #5, under the court selection we recommend adding a district option for cases filed in larger courts (e.g., Los Angeles, Riverside, San Bernardino, etc.). • The JV-595-INFO and JV-506-INFO forms address scenarios where the dismissal occurred after 1/1/15. However, it provides little to no direction for cases prior to that date. We recommend expanding on the introduction to provide guidance on this scenario. • What vehicle will the courts use to terminate PC 290 registration requirements? I don't believe there is a DOJ form to be used for 	<p>The committee has adopted these suggested revisions to the form.</p> <p>A check box has been added to 3 to make clear it only applies when checked.</p> <p>The committee has added waiver information to this section.</p> <p>The field has been expanded as suggested.</p> <p>The committee has not added this option for fear of adding to the confusion of applicants who are not likely to have this information.</p> <p>The committee has revised both forms to be more tailored to their intended audiences.</p> <p>The JV-590 order form (item 6) terminates PC 290 registration requirements and directs DOJ to destroy its registration information. If courts are</p>

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			this purpose.	using other forms they should also contain this provision.
11.	Superior Court of Riverside County Marita Ford, Senior Management Analyst	A	<p>Recommend on the JV-590 that the check box next to Number 7 be removed as it appears that the clerk is required to send the order; it is not an option.</p> <p>On the JV-591, would recommend in the caption that ‘Attorney’ be removed and substitute ‘Agency’. We would recommend that instructions to the agencies be added to the JV-591 form; suggested language:</p> <p>INSTRUCTIONS: Pursuant to WIC §§ 781 & 786, agencies shall advise the court of its compliance with the sealing order. Please return the completed Acknowledgement of Juvenile Record Sealed form to the court.</p> <p>Recommend that one of the judicial signatures lines be removed on the second page of the JV-596.</p>	<p>The committee has removed the check box as suggested.</p> <p>The committee has revised the caption and added the suggested instructions.</p> <p>The committee has revised the form to remove the unnecessary signature line.</p>
12.	Superior Court of San Diego County Michael M. Roddy, Executive Officer	AM	<p>General comments: Overall, this is a much better proposal than SPR15-20 was, partly because the law on sealing has been clarified by new legislation. It is a good idea to separate out the orders and info sheets for the two types of sealing.</p> <p>Rule 5.840(a) or (b): The rule should specify that a petition that includes a WIC 707(b) offense is not to be dismissed or sealed.</p> <p>Rule 5.840(e): the probation department (not</p>	<p>No response required.</p> <p>The committee has added the statutory language to the rule in subdivision (b).</p> <p>The committee has revised this rule as suggested.</p>

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			<p>just probation)</p> <p>JV-590: the reference to WIC 389(c) is not necessary</p> <p>JV-591: Be consistent with spelling: either acknowledgement or acknowledgment</p> <p>JV-595: Be consistent with punctuation: comma after “if you need more space” or no comma; agencies that it knows <u>have</u> records (top of page 2)</p> <p>JV-595-INFO: you will need to ask the court to seal your records; In the second bullet of the when you do not qualify section, maybe the form should read: “If, when you were 14 or older, the court found . . .”</p> <p>JV-596-INFO: A letter is missing in the sentence after the heading: Restitution and court fines and fees must still be paid. The next sentence should read in pertinent part: “...you are still required to pay your restitution and court-ordered fees and fines.”</p>	<p>The committee has removed this statutory reference from the form</p> <p>The committee has revised the form to ensure consistent spelling.</p> <p>The committee has added a comma to item 3 for consistency and corrected the error at the top of page 2.</p> <p>The committee has revised this form as suggested.</p> <p>The committee has corrected this typographical error.</p>
13.	Trial Court Presiding Judges and Court Executives Advisory Committees Joint Rules Subcommittee Claudia Ortega	A	<p>Regarding the Acknowledgment of Juvenile Record Sealed form: The JRS supports this form being made optional.</p> <p>Regarding additional training and increases to court staff’s workload: The trial courts will need some time to train staff and ensure that case management systems allow a case to be</p>	<p>While the committee appreciates the concerns about the short time for implementation, only two of the proposed new forms are mandatory and need to be provided beginning July 1, 2016. Those are the information forms to implement the requirements of section 781(h) which were supposed to be in place by January 1, 2015. The committee delayed taking action on these forms</p>

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			<p>deemed sealed. Also, it will take court and justice partner staff time to actually do the sealing, but it is necessary.</p> <p>The proposed date for implementation is not feasible or is problematic: The JRS concluded that the courts will need more than two months to implement this proposal. Accordingly, the JRS requests that the effective date of this proposal be extended to four months (120 days) from Judicial Council approval.</p>	<p>because of the major changes in the law that became effective on January 1, 2015 and the further modifications effective on January 1, 2016, but further delay beyond July 1 is problematic for courts seeking to comply with the statutory mandate.</p>
14.	Youth Law Center Cat McCulloch, Legal Fellow	NI	<p>These comments are submitted on behalf of the Youth Law Center pursuant to Invitation to Comment W16-07. The proposed rules and forms submitted for comment will implement the provisions of AB 1006 (Yamada), SB 1083 (Leno), AB 666 (Stone), and AB 989 (Cooper) that deal with the process and requirements for sealing juvenile records.</p> <p>The Youth Law Center is a non-profit public interest law firm that works on behalf of children and youth in the child welfare and juvenile justice systems. We became acutely aware of the need to make record sealing more accessible in the course of producing <i>Collateral Consequences of Juvenile Delinquency Proceedings in California: A Handbook for Juvenile Law Professionals</i> (2011). In the course of researching that book, we learned that an unsealed juvenile record can create very real barriers for young people seeking to turn their lives around, and that streamlining the process</p>	No response required.

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			<p>for sealing a juvenile record helps to remove barriers to young peoples' reintegration into society and reduce the likelihood of reoffending.</p> <p>The Youth Law Center appreciates the work and thought that have gone into the Council's proposed rules and forms. We offer several recommendations to refine the proposed rules and forms.</p> <p>Recommendation 1: Remove Change Requiring Petitions to Be Filed in Each County</p> <p>The committee has requested comments as to whether the proposed change in the rule to require young people to file petitions in every county in which they have non-transfer records will improve or hinder the current record-sealing process. The Youth Law Center strongly urges the committee not to require young people to file multiple petitions to seal their juvenile records. This proposed new requirement is not mandated by any change in the law, will not result in significant time or cost savings, and, most importantly, will create an unnecessary new barrier for young people working for a clean slate.</p> <p>As the committee notes in its background materials, the existing rule that sealing orders apply in all counties in which there are juvenile records concerning the petition has been in place for a number of years. Nothing in the recent legislative changes regarding sealing has</p>	<p>See response on this issue to commentator one on page 29 above.</p>

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			<p>mandated a change to this rule. Indeed, such a change is directly contrary to the spirit of this recent legislation, which has sought to make the record sealing process easier for young people to navigate.</p> <p>The change is likewise not necessary to ensure that courts are making correct decisions on record sealing petitions. Courts are able to access sufficient information to determine whether out-of-county adjudications meet the statutory requirements for sealing through by reviewing RAP sheets. A court reviewing a petition will also, necessarily, have the facts available to it to determine whether a petitioner has demonstrated rehabilitation to the satisfaction of the court. Situations in which a court lacks the information necessary to decide an out-of-county petition should be quite rare; these isolated instances do not provide sufficient justification for the significantly increased hardship to petitioners that the proposed new rule creates.</p> <p>Nor will the proposed change in the rules increase efficiency for courts or probation departments. Indeed, the proposed rule may well increase the burden on courts and probation departments, as the proposed rule will require individuals to file petitions in multiple counties -petitions that those counties' probation departments will be required to investigate and courts will be required to adjudicate.</p>	

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			<p>Moreover, requiring young people to file petitions in multiple counties will increase the burden on young people seeking a clean slate. The process to seal a record is time-consuming one. The sealing process can take many months to complete, during which time the unsealed record continues to create difficulties in the young person's search for a job and housing. Increasing the number of petitions that must be filed stretches this process out even longer and places an unnecessary barrier in front of young people.</p> <p>For these reasons, the Youth Law Center strongly recommends that the proposed rule changes limiting courts' ability to seal non-transfer records be deleted, and that proposed forms JV-595, JV-595-INFO be revised to reflect the fact that courts may seal out-of-county records.</p> <p>The committee notes that many courts do not, in practice, seal the records of non-transfer courts because they lack the necessary information to do so. The Youth Law Center does not believe that this fact requires that the rule be revised to strip courts' power to seal the records of other counties in all cases. However, we appreciate the committee's concern that as the rule currently stands, some petitioners may not be receiving the full benefits of record sealing. Although we do not believe that the benefits of</p>	

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			<p>changing the rule outweighs the harm to young people, if the council believes it necessary to revise the rule, the Youth Law Center proposes that the rule be revised to permit courts to seal out-of-county records and to require courts that do not seal non-transfer records due to a lack of information regarding eligibility to seal such records to state their reasons for the failure to seal on the record and on the order.</p> <p>Recommendation 2: Require Courts to Seal Records of Transferring Courts</p> <p>In the event that the proposed change requiring young people to file petitions in every county in which they have non-transfer records is approved, the Youth Law Center proposes that Rule 5.830(a)(6) be revised to require that a court, when a sealing petition is granted, seal the records of the court from which jurisdiction has been transferred pursuant to rules 5.610 or 5.612. As the proposed rule is presently written, a court may, but is not required to seal such records. The Youth Law Center anticipates that the present language may result in some courts failing or refusing to seal the records of a transferring court even where a petitioner has met the requirements to seal and the court has sealed other records.</p> <p>Explicitly requiring courts to seal the records of transferring courts is especially important given that proposed forms JV-595 and JV-595-INFO</p>	<p>As noted in the response on page 29, the committee has clarified that the court must determine if the records of the other court should be sealed in a transfer case.</p>

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			<p>inform petitioners that "If your case was transferred from one county to another, your records in both counties will be sealed" (JV-595) (emphasis added) and that petitioners need to file petitions in every court that has their records unless their case was transferred (JV-595-INFO). These forms indicate to petitioners that they need not file petitions in a transferring court. If the transferee court then fails to seal transferring court records -perhaps at a hearing at which the petitioner was not present -the petitioner would likely nevertheless believe that the records had been sealed based on the information contained in the forms.</p> <p>The Youth Law Center strongly recommends that Rule 5.830(a)(6) be revised along the following lines: "If the petition is granted, the court must order the sealing of all records described in section 781 using form JV-590, Order to Seal Juvenile Records-Welfare and Institutions Code Section 781, or a similar form. Where a case has been transferred to a court's jurisdiction under rules 5.610 and 5.612, the court shall order the sealing of all records described in section 781 in the transferring county, including the records of the transferring court."</p> <p>Recommendation 3: Delete Reference to Automatically Sealed Records in Rule 5.830</p> <p>The committee has proposed revising Rule</p>	<p>Because the court is required to provide information on record sealing to all wards at their end of their case by section 781(h) the committee has opted to retain this in the rule pertaining to</p>

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			<p>5.830 to title it "Rule 5.830. Sealing Records (§ 781). Proposed new subrule 5.830(a)(2) states that:</p> <p>At the time jurisdiction is terminated or the case is dismissed, the court must provide or instruct the probation department to provide form JV-595-INFO, How to Make Your Juvenile Records Private, and form JV-595, Request to Seal Juvenile Records, to the ward if the court does not seal the ward's records under section 786. <i>If the court does seal the ward's records under section 786, the court must provide or instruct the probation department to provide form JV-596-INFO, Sealing of Records at Termination and Dismissal, and a copy of the sealing order as provided in rule 5.840.</i></p> <p>(emphasis added).</p> <p>The Youth Law Center believes that reference to the procedure that a court should follow if it seals a ward's records under section 786 may be unnecessarily confusing if placed in a rule that refers specifically to the procedure to be followed if an individual must petition to have his or her records sealed under section 781.</p>	<p>section 781 because even those youth whose records are sealed under section 786 are required to get information under section 781(h).</p>