

CALIFORNIA

In juvenile court, as opposed to adult criminal court, a minor is not convicted, but a petition is sustained. A minor is not placed on probation, but is made a ward of the court. The nature of a juvenile adjudication is essentially identical to a criminal conviction in California, but the different terminology allows the minor the ability to lawfully declare that he has no criminal convictions. See CAL. WELF. & INST. CODE § 203.

Juvenile Record Content

A juvenile's record includes documentation pertaining to the arrest in the person's case, records in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials. This may include "the juvenile court record, minute book entries, and entries on dockets, and any other records relating to the case in the custody of the other agencies and officials [that] are named in the order." CAL. WELF. & INST. CODE § 781(a), Cal. R. Court, 5-552.

Confidentiality of Law Enforcement Records

No distinction is made between law enforcement records and court records.

Confidentiality of Court Records

Law enforcement and court records generally are confidential.

Exceptions: The following parties may review or copy a child's law enforcement or court records (Cal. R. Court, 5-552):

- Probation officers or law enforcement officers who are actively participating in criminal or juvenile proceedings involving the child
- Court personnel
- Child protective agencies and the California Department of Social Services
- The child's parent or guardian
- The child
- Others may be able to view or obtain a copy of the files if they secure a court order from the juvenile court presiding judge or a judicial officer of the juvenile court. Juvenile case files may not be obtained or inspected by civil or criminal subpoena.

Exceptions to Confidentiality

No exceptions to confidentiality.

Availability of Records Online or in Commercial Background Reports

There is no online database for juvenile records.

Consequences for Unlawfully Sharing Confidential Information

No information found.

Sealing or Expungement

Sealing: CAL. WELF. & INST. CODE § 781

Excluded Offenses

The process for sealing records does not apply to most Department of Motor Vehicle records (of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of any such conviction would be a public record under Section 1808 of the Vehicle Code). Although some traffic records may be sealed, California law requires that they still be available to insurance companies in certain contexts. CAL. WELF. & INST. CODE § 781(c).

Juveniles who were 14 or older at the time of the offense, and whose charges may be transferred to adult court under CAL. WELF. & INST. CODE § 707(c) for crimes listed in CAL. WELF. & INST. CODE § 707(b), are also not eligible to have their records sealed.

Automatic (without application)

No. See JUDICIAL BRANCH OF CAL., *Cleaning Your Record*, available at <http://www.courts.ca.gov/1070.htm>.

Eligibility

Youth are eligible to petition to have any juvenile record sealed when they turn 18 years old. Additionally, youth may have their records sealed if they wait at least five years after the jurisdiction of the juvenile court has terminated or, in a case in which no petition was filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 (which governs temporarily taking a child into custody, either for the purpose of providing "shelter care, counseling, or diversion services" or to commence juvenile court jurisdiction, but articulates a preference for the least restrictive alternative that is in the best interest of the juvenile and the community) or was taken before any officer of a law enforcement agency. In any case, the youth—or the county attorney or probation officer—must fill out a form and file it with the juvenile court in the county in which the adjudication occurred. CAL. WELF. & INST. CODE § 781(a).

Notification

As of January 1, 2015, a newly enacted amendment to CAL. WELF. & INST. CODE § 781(G)(1) requires each juvenile court and probation department to provide youth with information on their eligibility for sealing and the procedures to request that their records be sealed. On or before January 1, 2015, the Judicial Council will develop informational materials for this purpose, and will develop a unified form to petition the court for sealing records. The informational materials and the form will be given to all youth at the time that the juvenile court terminates its jurisdiction over them, or when their cases are dismissed. CAL. WELF. & INST. CODE § 781(G)(2).

Petition/Application

Juvenile records are not automatically sealed upon a youth's 18th birthday. Youth must petition the juvenile court to have them sealed. Youth can do this by filling out a form and filing it with the juvenile court in the county where the youth was convicted. Currently, each county has its own form and filing requirements, but as of January 1, 2015, California will use a statewide form (see above). CAL. WELF. & INST. CODE § 781(G)(2).

Hearing

Pursuant to CAL. WELF. & INST. CODE § 781(A), once the juvenile files for the sealing of his or her records, the court notifies the district attorney of the county where the juvenile was adjudicated and the county probation officer, who then may testify at a hearing on the petition (along with "any other person having relevant evidence"). At the hearing, the court will determine whether the juvenile has not been convicted of a felony or of any misdemeanor involving moral turpitude since the termination of the court's jurisdiction (e.g. crimes such as theft and false information to a police officer), and whether "rehabilitation has been attained to the satisfaction of the court." If those conditions are met, the court will order all records in the person's case in the custody of the juvenile court sealed, including the juvenile court record, minute book entries, and entries on dockets, and any other records relating to the case in the custody of the other agencies and officials as are named in the order.

Note that hearings are not required in all counties: in Santa Clara County, for example, the court's website explains to applicants that "[a]fter submitting your application and Petition, you do not need to appear in Court. The process is done by a Probation Officer and submitted to the Judge of the Juvenile Court who then grants or denies the Petition." SANTA CLARA COUNTY PROBATION DEP'T., *Juvenile Record Sealing Application*, [http://www.sccgov.org/sites/probation/Juvenile%20Probation%20Services/Record%20Sealing%20Procedure/Pages/Juvenile-Record-Sealing-Application-\(English\).aspx](http://www.sccgov.org/sites/probation/Juvenile%20Probation%20Services/Record%20Sealing%20Procedure/Pages/Juvenile-Record-Sealing-Application-(English).aspx).

Court Process

See hearing process above. If, at the conclusion of the hearing, the court orders the juvenile's records sealed, the court will send a copy of the order to each agency and official named within it, directing the agency to seal its records and stating the date to destroy the sealed records (5 years later) unless the juvenile committed a violent offense enumerated in Section 602 (e.g. murder, rape) while over the age of 14. CAL. WELF. & INST. CODE §§ 781(a), (d). Each agency and official must then seal the records in its custody and advise the court of its compliance. CAL. WELF. & INST. CODE § 781(a).

Effect

If the young person was subject to sex offender registration requirements as part of the record that is being sealed, that requirement will be lifted as part of the sealing process. Any sealed record will then be completely destroyed 5 years from the date of sealing unless the young person was over 14 and convicted of one of the violent felonies enumerated in Section 602, in which case the record shall not be destroyed. CAL. WELF. & INST. CODE § 781(d).

The person who is the subject of records may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. CAL. WELF. & INST. CODE § 781(a).

Additionally, under CAL. WELF. & INST. CODE § 781(b), which governs any action or proceeding based on defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

Fee

Having a record sealed at or beyond age 18 under CAL. WELF. & INST. CODE § 781 is typically free, but this depends on the jurisdiction.

Consequences for Sharing Sealed/Expunged Information

None found.

Resources

Information for expungement is available on the California Courts website: JUDICIAL BRANCH OF CAL., *Cleaning Your Record*, available at <http://www.courts.ca.gov/1070.htm>.

Some counties have (county-specific) forms on their websites. For example:

■ **Los Angeles County**

Superior Court of Cal., County of Los Angeles Juvenile Court, *Petition to Seal Juvenile Records and Court Order*, available at <http://www.lasuperiorcourt.org/forms/pdf/DLQ003.pdf>.

■ **Fresno**

FRESNO COUNTY PROBATION DEPARTMENT, *Sealing of Juvenile Record Personal Data*, available at http://www.co.fresno.ca.us/uploadedFiles/Departments/Probation/Department_Information/Sealing_of_Juvenile_Record_Document.pdf.

■ **Santa Clara County**

SANTA CLARA COUNTY PROBATION DEP'T., *Juvenile Record Sealing Application*, [http://www.sccgov.org/sites/probation/Juvenile%20Probation%20Services/Record%20Sealing%20Procedure/Pages/Juvenile-Record-Sealing-Application-\(English\).aspx](http://www.sccgov.org/sites/probation/Juvenile%20Probation%20Services/Record%20Sealing%20Procedure/Pages/Juvenile-Record-Sealing-Application-(English).aspx).

■ **San Diego County**

In San Diego, the impetus is on the juvenile to contact the court to get information about sealing their records.

SUPERIOR COURT OF CAL., COUNTY OF SAN DIEGO, *Juvenile Court Records*, available at http://www.sdcourt.ca.gov/portal/page?_pageid=55,1609788&_dad=portal&_schema=PORTAL.

Information and documents to initiate the record sealing process are available from the San Diego Probation Department.

Juvenile Probation Center
Attn: Record Sealing Officer
2901 Meadow Lark Drive
San Diego, CA 92123
(858) 694-4600