

SONOMA COUNTY PROBATION DEPARTMENT			
JUVENILE PROBATION POLICIES & PROCEDURES			
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3.6 SEALING OF JUVENILE RECORDS

POLICY STATEMENT

The Sonoma County Probation Department shall comply with all requirements of the law regarding the sealing of a juvenile record. Disclosure of sealed record information, without specific authorization from the Juvenile Court, to any agency, including law enforcement, constitutes a violation not only of Department policy, but also the law. The legislature’s intent in providing for the sealing of a juvenile record is to ensure that a youth’s experience in the juvenile justice system does not become a barrier of any kind in their future. The juvenile justice system is designed to be rehabilitative; however, there have been some incidents in which a youth’s experience in the delinquency system prevented them from pursuing vocational or educational goals as an adult. The sealing of a juvenile record is intended to reduce that likelihood, and to provide a “fresh start” to a youth who successfully completes their term of probation.

PROCEDURES

781, 786 and 786.5 of the Welfare and Institutions Code articulate the procedures for sealing of juvenile records. Staff involved in these procedures should become familiar with the requirements of the law. This section of the manual will provide the minimum necessary to complete the required functions for sealing a juvenile record.

1. Those situations in which a sealing of a juvenile record falls under 781 WIC are as follows:
 - a. If term of probation for which person is requesting sealing completed prior to January 1, 2015.
 - b. If a term of court-order probation terminate unsuccessfully after January 1, 2015.
 - c. If a youth was adjudicated of an offense listed in 707(b) WIC that was committed after attaining 14 years of age and he or she received a term of probation or commitment to the Department of Juvenile Justice with a period of probation supervision.
2. Requirements for record sealing per 781 WIC:
 - a. Applicant must be 18 years of age or it has been five years or more since the jurisdiction of the Court terminated, or five years after the applicant was cited to appear before the Probation Officer.
 - b. Applicant has not been convicted of a felony or of any misdemeanor involving moral turpitude.

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- c. Rehabilitation has been attained to the satisfaction of the Court. This means the following:
- i. It has been at least six months since the Juvenile Court's jurisdiction terminated for non-violent misdemeanor cases.
 - ii. It has been at least one year since the Juvenile Court's jurisdiction ended for multiple misdemeanors, misdemeanors involving violence or the threat of violence, or any felony.
- NOTE:** An unfulfilled order of restitution that has been converted to a civil judgment pursuant to 730.6 WIC shall not be a bar to sealing a record. Additionally, outstanding restitution fines and court-ordered fees shall not be considered when assessing whether a petitioner's rehabilitation has been attained to the satisfaction of the court and shall not be a bar to sealing a record.
- d. A petition to seal the record or records relating to an offense listed in 707(b) WIC that was committed after attaining 14 years of age may only be filed or considered by the Court pursuant to 781 WIC under the following circumstances:
- i. If an applicant who was committed to the Department of Juvenile Justice (DJJ) attained 21 years of age, and completed his or her period of probation supervision after release from DJJ.
 - ii. If the applicant was not committed to the Department of Juvenile Justice (DJJ), attained 18 years of age, and completed any period of probation supervision related to that offense imposed by the Court.
- e. The Court shall not order the record sealed in the following cases:
- i. When the applicant has been convicted in a criminal court of any petition(s) transferred to adult court for filing and there was a conviction (cases originated in juvenile court but certified to adult court via Transfer Hearing).
 - ii. When an applicant was adjudicated for an offense listed in 707(b) WIC that was committed after attaining 14 years of age for which the person is required to register as a sex offender per 290.008 PC.
 - iii. When the destruction of any above records is prohibited pursuant to 781(d) WIC and 826(a) WIC (Court determines "good cause" records should be retained).
- f. Probation Department staff shall prepare a memo to the Juvenile Court with recommendations regarding the sealing application. The memo shall be reviewed and ruled on ex parte in cases where there was no petition filed in court, but in open court when a petition has been filed.

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NOTE: Once the Court has ordered the person's records sealed, the proceedings in the case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, the records of which are ordered sealed.

3. Requirements for record sealing per 786 WIC:
 - a. If a youth successfully completed any term of court-ordered probation, including an informal program of supervision per 654.2 WIC, for any offense dismissed on or after January 1, 2015.
 - b. A term of probation shall be deemed satisfactorily completed if a youth has no new findings of wardship or conviction for a felony offense or a misdemeanor involving moral turpitude during the period of supervision or probation and if he or she has not failed to substantially comply with the reasonable orders of supervision or probation that are within his or her capacity to perform.
 - c. The Deputy Probation Officers shall articulate the reasoning as to why a youth did, or did not, substantially comply with reasonable orders of supervision. This determination shall be made on an objective basis to the extent possible and shall use the following criteria:
 - i. Demonstration of positive behavior change.
 - ii. Completion of probation case plan goals.
 - iii. No new law or probation violations within three months prior to the date of the case closing.

NOTE: An unfulfilled order or condition of restitution, including a restitution fine that can be converted to a civil judgment under 730.6 WIC or an unpaid restitution fee shall not be deemed to constitute unsatisfactory completion of supervision or probation under this section.

- d. A court shall not seal a record or dismiss a petition pursuant to this section if the petition was sustained based on the commission of an offense listed in 707(b) WIC that was committed when the individual was 14 years of age or older unless the finding on that offense was dismissed or was reduced to a lesser offense that is not listed in 707(b) WIC.
- e. 786(f)(1) WIC allows for records of referrals not included in the actual petition to also be sealed. Although not clearly spelled out in the legislation, the Juvenile Division shall consider this as an option to include other referrals to be sealed in addition to the given petition.
- f. Matters which are sealed under 786 WIC and in which the youth remains under 18 years of age shall remain accessible in order to be able to view records in the event of a subsequent referral. Under no circumstances shall these records be

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utilized for any other purpose other than what is described in 786(g)(1) WIC. A record that has been ordered sealed by the Court under this section may be accessed, inspected, or utilized only under any of the following circumstances:

- i. By the prosecuting attorney, the probation department, or the court for the limited purpose of determining whether the minor is eligible and suitable for deferred entry of judgment pursuant to Section 790 or is ineligible for a program of supervision as defined in Section 654.3.
- ii. By the Court for the limited purpose of verifying the prior jurisdictional status of a ward who is petitioning the court to resume its jurisdiction pursuant to subdivision (e) of Section 388.
- iii. If a new petition has been filed against the minor for a felony offense, by the probation department for the limited purpose of identifying the minor's previous court-ordered programs or placements, and in that event solely to determine the individual's eligibility or suitability for remedial programs or services. The information obtained pursuant to this subparagraph shall not be disseminated to other agencies or individuals, except as necessary to implement a referral to a remedial program or service, and shall not be used to support the imposition of penalties, detention, or other sanctions upon the minor.
- iv. Upon a subsequent adjudication of a minor whose record has been sealed under this section and a finding that the minor is a person described by Section 602 based on the commission of a felony offense, by the probation department, the prosecuting attorney, counsel for the minor, or the court for the limited purpose of determining an appropriate juvenile court disposition. Access, inspection, or use of a sealed record as provided under this subparagraph shall not be construed as a reversal or modification of the court's order dismissing the petition and sealing record in the prior case.
- v. Upon the prosecuting attorney's motion, made in accordance with Section 707, to initiate court proceedings to determine the minor's fitness to be dealt with under the juvenile court law. Access, inspection, or use of a sealed record as provided under this subparagraph shall not be construed as a reversal or modification of the court's order dismissing the petition and sealing the record in the prior case.
- vi. By the person whose record has been sealed, upon his or her request and petition to the court to permit inspection of the records.
- vii. The probation department of any county may access the records for the limited purpose of meeting federal Title IV-B and Title IV-E compliance.

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viii. The child welfare agency of a county responsible for the supervision and placement of a minor or nonminor dependent may access a record that has been ordered sealed by the court under this section for the limited purpose of determining an appropriate placement or service that has been ordered for the minor or nonminor dependent by the court. The information contained in the sealed record and accessed by the child welfare worker or agency under this subparagraph may be shared with the court but shall in all other respects remain confidential and shall not be disseminated to any other person or agency. Access to the sealed record under this subparagraph shall not be construed as a modification of the court's order dismissing the petition and sealing the record in the case.

- g. Administrative staff shall create a system in which records that are sealed under 786 WIC for youth under 18 years of age are removed from the case management system.

NOTE: Once the Court has ordered the person's records sealed, the proceedings in the case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, the records of which are ordered sealed.

4. Requirements for record sealing per 786.5 WIC:

- a. Upon satisfactory completion of a program of diversion or supervision to which a juvenile is referred by the probation officer or the prosecutor in lieu of the filing of a petition, the probation department shall:
- i. Seal the arrest and other records in its custody relating to the juvenile's arrest or referral and participation in the diversion or supervision program.
 - ii. Notify the diversion program to which the juvenile has been referred under these circumstances to seal records relating to the arrest or referral and the participation of the juvenile in the diversion or supervision program. [Successful Diversion-CBO](#)
 - iii. Notify the participant in the supervision or diversion program in writing that his or her record has been sealed pursuant to the provisions of this section based on his or her satisfactory completion of the program. If the record is not sealed, the probation department shall notify the participant in writing of the reason or reasons for not sealing the record. [Successful Diversion-Notification](#) or [Unsuccessful Diversion-Notification](#)
- b. Satisfactory completion of the program of supervision or diversion shall be defined for purposes of this section as substantial compliance by the participant

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with the reasonable terms of program participation that are within the capacity of the participant to perform.

- i. A determination of satisfactory or unsatisfactory completion shall be made by the probation department within 60 days of completion of the program or, if the juvenile does not complete the program, within 60 days of determining that the program has not been completed.
 - ii. An individual who receives notice from the probation department that he or she has not satisfactorily completed the diversion program and that the record has not been sealed may petition the juvenile court for review of the decision. The Court may determine, that he or she has met the satisfactory completion requirement and is eligible for the sealing of the record by the probation department and by the program operator.
 - c. Upon sealing of the records under this section, the arrest or offense giving rise to the person's participation in the program shall be deemed not to have occurred and the individual may respond accordingly to any inquiry, application, or process in which disclosure of this information is requested or sought.
 - d. The probation department may access a record sealed for the sole purpose of determining if a youth is eligible for diversion pursuant to 654.3(e) WIC. The information contained in the sealed record and accessed by the probation department under this subdivision shall in all other respects remain confidential and shall not be disseminated to any other person or agency.
5. Destruction of Sealed Records:
- a. The probation department shall destroy a person's juvenile probation records that are sealed per 781 WIC five years after the record was ordered sealed.
 - b. The Court shall order the destruction of a person's juvenile court records that are sealed per 781 WIC when the person who is the subject of the record reaches 38 years of age.

NOTE: Persons adjudicated of offenses listed in subdivision 707(b) WIC when he or she was 14 years of age or older, shall not have their records destroyed.

- c. The probation department shall destroy all records related to cases sealed per 786 WIC on the date specified by the Court on the JV 586 Form (generally five years after records are sealed).
- d. The probation department shall destroy all records related to cases sealed per 786.5 WIC upon the juvenile attaining 18 years of age.

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New Policy 3/15/18

APPROVED BY:

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