
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: AB 1394 **Hearing Date:** June 11, 2019
Author: Daly
Version: June 3, 2019
Urgency: No **Fiscal:** No
Consultant: SJ

Subject: *Juveniles: Sealing of Records*

HISTORY

Source: California Judges Association

Prior Legislation: SB 312 (Skinner), Ch. 679, Stats. 2017
SB 190 (Mitchell), Ch. 678, Stats. 2017
SB 504 (Lara), Ch. 388, Stats. 2015
AB 666 (Stone), Ch. 368, Stats. 2015
SB 1038 (Leno), Ch. 249, Stats. 2014

Support: Aspiranet; Ella Baker Center for Human Rights; National Association of Social Workers, California Chapter; Pacific Juvenile Defender Center

Opposition: None known

Assembly Floor Vote: 72 - 2

PURPOSE

The purposes of this bill are to repeal the fee associated with petitioning the court to seal the petitioner's juvenile record if the petitioner is over 26 years of age and to specify that a superior court or probation department are prohibited from charging a fee for filing a petition to seal the petitioner's juvenile records.

Existing law provides that any minor who is between 12 years of age and 17 years of age, inclusive, when he or she violates any law of this state or of the United States or any ordinance of any city or county of this state defining crime other than an ordinance establishing a curfew based solely on age, is within the jurisdiction of the juvenile court, which may adjudge the minor to be a ward of the court, except as provided. (Welf. & Inst. Code, § 602, subd. (a).)

Existing law permits a person to petition the juvenile court to have the person's juvenile record sealed, if specified conditions are met. Provides that 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. (Welf. & Inst. Code, § 781, subd. (a).)

Existing law provides that a person who is 26 years of age or older shall, unless indigent, be liable for the cost to the county and court for any investigation related to the sealing and for the sealing of any juvenile court or arrest records pursuant to Section 781 pertaining to that person. (Welf. & Inst. Code, § 903.3, subd. (a).)

Existing law provides that if a petition is filed for an order sealing a record, the person may be required to reimburse the county and court for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors for the county and by the court for the court, not to exceed one hundred fifty dollars (\$150). Provides that an ability to pay determination shall be determined by the court. Provides that the court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services. (Welf. & Inst. Code, § 903.3, subd. (b).)

This bill prohibits a superior court or probation department from charging an applicant a fee for filing a petition to seal records under Section 781.

This bill repeals the statute requiring a person who is 26 years of age or older to pay for the cost to the county and court for any investigation related to the sealing and for the sealing of any juvenile court or arrest records pursuant to Section 781.

COMMENTS

1. Need for This Bill

According to the author:

A juvenile court record creates barriers and limits opportunities for many individuals. When employers and landlords conduct background checks on applicants, a juvenile record can be used as a basis for a denial. Additionally, because payment does not guarantee expungement, the \$150 fee deters some individuals from even filing a petition.

Section 903.3 of the Welfare and Institutions Code allows individuals up to the age of 26 to request sealing of their juvenile records at no cost. By setting an age cap, the resulting law leaves out other vulnerable populations for whom the \$150 fee can be cost prohibitive.

Sealing records is the best way to ensure that past mistakes will not hinder an individual's future opportunities. So long as the fee remains, it is an obstacle to rehabilitation, therefore making record sealing an ineffective tool.

In recent years, the California Legislature has sought to lessen the financial hardships on youth and their families by reducing fines and fees imposed in the juvenile justice system. This bill continues that trend by eliminating the \$150 fee for petitioning the court to seal a juvenile record. AB 1394 adds a new section to Welfare and Institutions Code, Section 781 that states no Superior Court or Probation Department shall charge an applicant for filing a petition to seal their juvenile records.

2. Juvenile Record Sealing and Associated Fees

Existing law provides two mechanisms for an individual to seal his or her juvenile records. (Welf. & Inst. Code §§ 781, 786.) If a minor has been found to have satisfactorily completed an informal program of supervision or probation, the juvenile court will dismiss the petition and order sealed all records. (Welf. & Inst. Code, § 786.) Welfare and Institutions Code section 707(b) offenses are excluded from sealing unless the finding has been dismissed or reduced to a lesser included offense not on the 707(b) list. Juvenile records that are ineligible for automatic record sealing via Welfare and Institutions Code section 786, may be sealed via Welfare and Institutions Code section 781. Under section 781, a person may petition the court to seal records related to a non-707(b) offense if the person is at least 18 years old, or it has been at least 5 years since the case was closed or there person's last contact with probation, and the court finds that the person has been rehabilitated. (Welf. & Inst. Code, § 781, subd. (a)(1)(A).) In the case of sealing records pertaining to a 707(b) offense, the petitioner must either be 21 years of age and have completed supervision by the Division of Juvenile Justice, or 18 years of age and have completed your probation supervision. (Welf. & Inst. Code, § 781, subd. (a)(1)(D).) Records related to a 707(b) offense that was committed after the petitioner attained 14 years of age and for which the person is required to register as a sex offender pursuant to Penal Code section 290.008 are prohibited from being sealed. (Welf. & Inst. Code, § 781, subd. (a)(1)(F).)

While current law allows a person who is under the age of 26 years old to petition for the sealing of their juvenile records at no cost, a person who is 26 years of age or older is required to pay up to a \$150 fee to petition to seal their juvenile records, unless they can establish that they are indigent. (Welf. & Inst. Code, § 903.3.)

This bill extends the provisions of existing law to persons age 26 or older by prohibiting a superior court or probation department from charging a fee to petition the court to seal their juvenile court records under Welfare and Institutions Code section 781. This bill would additionally repeal the provisions of law requiring a person who is 26 years of age or older to pay for the cost to the county and court for any investigation related to the sealing and for the sealing of any juvenile court or arrest records pursuant to Section 781.

Notably, SB 144 (Mitchell) would repeal a number of criminal justice system-related fees, including the filing fee authorized by Welfare & Institutions Code section 903.3. SB 144 was heard in this Committee on April 24, 2019 and is pending referral in the Assembly.

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