

Comparison of the Juvenile Delinquency Sealing Statutes (Rev. 11/7/17)

Issues	Welfare & Institutions Code § 781 CRC 5.830	Welfare & Institutions Code § 786 CRC 5.840	Welfare & Institutions Code § 793
When sealing request is made	At any time after the person has reached 18 years of age OR five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is 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 or was taken before any officer of a law enforcement agency.	Upon satisfactory completion of informal supervision (654.2), probation without wardship (725), or formal probation (602). May also seal if petition dismissed by court, on motion by prosecution or on court's own motion, or if petition not sustained. Includes law enforcement diversion (WIC 786.5). Satisfactory completion = no new findings of wardship or conviction for a felony offense or a misdemeanor involving moral turpitude AND has not failed to substantially comply with the reasonable orders of supervision or probation that are within his or her capacity to perform	At the end of the period of deferred entry of judgment.
What records are sealed	All records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, entities, and public officials as the petitioner alleges, in his or her petition, to have custody of the records.	The court shall order sealed all records pertaining to the dismissed petition in the custody of the juvenile court, and in the custody of law enforcement agencies, the probation department, or the Department of Justice. The court may seal records relating to any prior petition that appears to the satisfaction of the court to meet the sealing criteria. An individual who has a record that is eligible to be sealed under this section may ask the court to order the sealing of a record pertaining to the case that is in the custody of a public agency other than a law enforcement agency, the probation department, or the Department of Justice, and the court may grant the request and order that the public agency record be sealed if the court determines that sealing the additional record will promote the successful reentry and rehabilitation of the individual.	Any records in the possession of the juvenile court.
WIC 707(b) records	The court may consider a petition to seal a 707(b) offense committed after minor attained age 14 if: committed to CDCR (DJJ), is 21, completed DJJ and probation after release; OR was not committed to DJJ, is 18, and completed any period of probation supervision related to the 707(b) offense. If sealed, records may be viewed, accessed, inspected, utilized to determine appropriate charging or sentencing decisions for subsequent felony; to assess for transfer (fitness); for disposition on subsequent felony in juvenile court; to	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 subdivision (b) of Section 707 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 misdemeanor or to a lesser offense that is not listed in subdivision (b) of Section 707.	A person is not eligible for deferred entry of judgment if s/he is charged with a WIC 707(b) offense.

	<p>prove a strike; to meet Brady obligation IF approved by juvenile court. May seal a 707(b) offense committed after attaining 14 years of age if the offense/charge was dismissed or reduced to a misdemeanor by the court. EXCEPTION: Registrable sex offenses.</p>		
<p>Can sealed records be reviewed?</p>	<p>Yes. 1) The person who is the subject of the sealed records may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may order the inspection of the records. 2) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. 3) Sealing does not apply to DMV records. Such records can still be used for insurance purposes. 4) The court may access a sealed file to verify the youth's eligibility for extended foster care. 5) The juvenile court shall have access to sealed records to enforce a civil judgment or restitution order. 6) A victim or collection agency may enforce restitution orders, restitution fines, court ordered fines and fees. The juvenile court has access to the file to enforce these fees, fines and orders. 7) A sealed record may be accessed by a law enforcement agency, probation department, court, the Department of Justice, or other state or local agency that has custody of the sealed record for the limited purpose of complying with data collection or data reporting requirements that are imposed by other provisions of law. (WIC 787) 8) A court may authorize a researcher or research organization to access information contained in sealed records</p>	<p>Yes. A sealed record may be accessed, inspected, or utilized only under any of the following circumstances: 1) By the prosecuting attorney, the probation department, or the court to determine whether the minor is eligible and suitable for deferred entry of judgment or informal supervision. 2) By the court to verify the youth's eligibility for extended foster care. 3) If a new petition has been filed against the minor for a felony offense, by the probation department to identify the minor's previous court-ordered programs or placements, and to determine the individual's eligibility or suitability for remedial programs or services. 4) Upon a subsequent adjudication based on the commission of a felony offense, by the probation department, the prosecuting attorney, counsel for the minor, or the court to determine an appropriate juvenile court disposition. 5) By the probation department, the prosecuting attorney, counsel for the minor, or the court to evaluate and determine whether the case should be transferred to a court of criminal jurisdiction (formerly fitness). 6) By the person whose record has been sealed, upon his or her request and petition to the court to permit inspection of the records. 7) By the probation department of any county and by the State Department of Social Services to meet federal Title IV-B and Title IV-E compliance. 8) By the child welfare agency responsible for the supervision and placement of a minor or nonminor dependent to determine an appropriate placement or service that has been ordered for the minor or nonminor dependent. 9) When a record has been sealed by the court based on a dismissed petition pursuant to subdivision (e), the prosecutor, within six months of the date of dismissal, may petition the court to access, inspect, or utilize the sealed record for the limited purpose of refileing the dismissed petition based on new circumstances, including, but not limited to, new evidence or witness availability. The court shall determine whether the new circumstances alleged by the prosecutor provide sufficient</p>	<p>Yes. The prosecuting attorney and the probation department of any county shall have access to the records after they are sealed for the limited purpose of determining whether the minor is eligible for deferred entry of judgment.</p>

	<p>for the purpose of conducting research on juvenile justice populations, practices, policies, or trends. (WIC 787)</p>	<p>justification for accessing, inspecting, or utilizing the sealed record in order to refile the dismissed petition. NOTE: Access or inspection pursuant to # 1 - 9 is not deemed an unsealing of the record. 10) By the juvenile court to enforce a civil judgment or restitution order. 11) A victim or collection agency may enforce restitution orders, restitution fines, court ordered fines and fees. The juvenile court has access to the file to enforce these fees, fines and orders. 12) By a law enforcement agency, probation department, court, the Department of Justice, or other state or local agency that has custody of the sealed record to comply with data collection or data reporting requirements. (WIC 787) 13) A court may authorize a researcher or research organization to access information contained in sealed records for the purpose of conducting research on juvenile justice populations, practices, policies, or trends. (WIC 787)</p>	
<p>Destruction date</p>	<p>Per WIC 781(d): The juvenile court record in a WIC 602 case may be destroyed when the subject of the record reaches 38 years of age. Any other agency in possession of sealed records may destroy its records five years after the record was ordered sealed. If the subject of the record was found to be a person described in Section 602 because of the commission of an offense listed in subdivision (b) of Section 707 when he or she was 14 years of age or older, the record shall not be destroyed.</p>	<p>Per WIC 786(a) and CRC 5.840(d): The court must specify in its order the date by which all sealed records must be destroyed. For court records this date may be no earlier than the date the subject of the order attains age 21 and no later than the end of the time frame set forth in section 781(d) [age 38]. For all other records, the date may be no earlier than the date the subject of the order attains age 18, and no later than the time frame set forth in section 781(d) [5 years after sealing order] unless that time frame expires prior to the date the subject attains 18 years of age.</p>	<p>Per WIC 826: The juvenile court record may be destroyed when the subject of the record reaches 38 years of age. All other records may be destroyed after five years from the date jurisdiction is terminated.</p>