

July 19, 2018

ALL COUNTY LETTER NO.18-69

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHIEF PROBATION OFFICERS
ALL FOSTER CARE MANAGERS
ALL TITLE IV-E AGREEMENT TRIBES

SUBJECT: SEALING OF RECORDS PERTAINING TO A DISMISSED PETITION
AND THE PERMITTING OF LIMITED ACCESS

REFERENCE: [ASSEMBLY BILL \(AB\) 529 \(STATUTES OF 2017, CHAPTER 685\);
WELFARE AND INSTITUTIONS CODE \(WIC\) 786, AND 786.5](#)

PURPOSE

The purpose of this All County Letter (ACL) is to inform county placing agencies of the provisions of AB 529. This bill authorizes the sealing of records relating to a juvenile's arrest, for youth who have either been alleged to be a ward of the juvenile court and had their petition dismissed or unsustained or been referred to and completed a diversion or supervision program in lieu of a petition being filed to adjudicate them a ward. Once sealed, the court has the authority to determine whether the prosecutor has sufficient justification for accessing, inspecting or utilizing the record for the limited purpose of refile dismissed petitions based on new circumstances.

BACKGROUND

Existing law authorizes the sealing of juvenile court records for youth in wardship proceedings once a petition is dismissed, precluding certain specified serious or violent crimes under the provision of [WIC 707\(b\)](#) offenses. Upon order of dismissal, the arrest and other proceedings in the case must be deemed not to have occurred and the person who is the subject of the petition may reply accordingly to an inquiry by employers, educational institutions, or other persons or entities regarding the arrest and

proceedings in the case¹. The court may dismiss a wards petition under any one of the following circumstances:

- There is a lack of proof the minor committed the offense.
- Upon satisfactory completion of probation and or terms and conditions,
- In the interest of justice.
- When the court determines, a minor committed for an offense, is not in need of rehabilitation, or
- If specified technical reasons are discovered in court.

SUMMARY

AB 529 permits the sealing of a juvenile delinquency record for youth who are referred to a program of diversion or supervision by the probation officer (PO) or prosecutor in lieu of filing a petition to adjudge them a ward of the juvenile court after they complete the designated program. The new provisions for the sealing of records for this group has been added to the Welfare and Institutions Code in Section 786.5. The probation departments shall do the following when a juvenile delinquency record may be eligible to be sealed:

- Make a determination of “satisfactory or unsatisfactory completion” within 60 days of completion or non-completion of the program,
- Seal the arrest and other records in its custody relating to a juvenile’s arrest or referral and participation in the diversion or supervision program,
- Notify the public or private agency operating the juvenile’s diversion program, to seal records in their custody which relate to the arrest or referral,
- Notify the juvenile in writing whether his or her record has been sealed based on his or her completion of the program, and
- 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, and
- Treat the information contained in the sealed record confidential and prohibit its dissemination to any other person or agency.

The new legislation expands the sealing of juvenile records to include records of individuals who have been alleged to be a ward of the juvenile court and had their petition dismissed or not sustained by the court after an adjudication hearing².

¹ WIC section 786, subdivision (b)

² WIC section 786.5, subdivision (C)

Access or inspection of these records can be permitted by the court under limited circumstances but shall not be deemed as an unsealing of the record and shall not require notice to any other agency. This bill however, does not limit the right of child welfare agencies to access sealed records, particularly as it relates to ensuring another children's safety³.

If an individual has not satisfactorily completed the diversion program and therefore not eligible for sealing, this legislation allows an appeal to be submitted to the courts for a review of the probation department decision. The goal of this bill is to reduce recidivism and open doors to jobs and education.

If you have any questions regarding this ACL, please call the Concurrent Planning Policy Unit at (916) 657-1858 or email concurrentplanningpolicyunit@dss.ca.gov.

Sincerely,

Original Document Signed By:

GREGORY E. ROSE
Deputy Director
Children and Family Services Division

³ WIC section 786, subdivision (f), subsection (1), division (H)