

SEALING YOUR JUVENILE RECORDS

Revised and Updated

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SEALING YOUR JUVENILE RECORDS

- California Welfare and Institutions Code § 781 is the statute that gives you the legal right to have your juvenile record sealed.
- The right to seal your record is available in most juvenile cases, with certain exceptions explained below.
- You can seal all court, probation and police records created in relation to each case.
- Sealing the record does not happen automatically. You must ask your probation officer, and petition the juvenile court, to seal your record.
- This pamphlet will explain what it means to seal your juvenile record, who qualifies to have a juvenile record sealed, and how to go about having your record sealed.

WHAT IS A JUVENILE RECORD?

- A juvenile record includes all the papers and court records in your case, and all orders by the judge in your juvenile court file.
- It includes any recorded contact with law enforcement or probation agencies.
- A juvenile record also includes all papers relating to your case which are kept by other agencies, such as the probation department, the district attorney's office, and the police.

WHEN CAN YOU ASK TO HAVE YOUR JUVENILE RECORD SEALED?

- You can ask to have your juvenile record sealed five years or more after juvenile court jurisdiction has ended or after you have reached the age of 18, whichever comes first. (*T.N.G. v. Superior Court* (1971) 4 Cal.3d 767)
- Most juvenile wards would petition to seal their records after they turn 18.

WHO CAN HAVE A JUVENILE RECORD SEALED?

- Minors are entitled to petition the juvenile court to seal their records right after they turn 18. However, some courts require a minimum period of "good behavior" between the end of juvenile probation and the filing of a petition.
- You must not have been convicted, as an adult, of any felony or any misdemeanor involving "moral turpitude". ("Moral Turpitude" is defined as crimes that show baseness, vileness, depravity, or which violate moral sentiment or accepted moral standards of the community, such as crimes involving theft, fraud, sex, or drugs.)
- You must be able to show the court: 1) that you have been "rehabilitated"; 2) that your case started and ended in juvenile court; and 3) that you do not have an open civil suit regarding the actions that caused your juvenile record. (But once the civil suit has ended, your record can be sealed.)
- You must pay in full all previous fines or restitution owed to the court as an adult or juvenile, including any traffic fines.

WHO CANNOT HAVE A JUVENILE RECORD SEALED?

- If you were found to have committed an offense listed in Welfare and Institutions Code § 707(b) after you turned 14 years old, the court will not let you seal your record.
- Examples of offenses under § 707(b) include: murder and attempted murder, voluntary manslaughter, arson, robbery, certain sex offenses, kidnaping, certain types of assault, and any violent felony. (See the Appendix at the end of these materials for a full list of § 707(b) offenses.)

WHAT DOES IT MEAN TO SEAL YOUR RECORDS?

- Sealing your juvenile record means that all records held by the police department, the court, the district attorney, and the probation department will be sealed.
- Sealed court proceedings *are deemed not to have occurred*. You can answer “no” to any questions asking whether you have a criminal record or whether you’ve ever been arrested. You can also answer “no” if you are asked if you have a sealed record. (See *T.N.G. v. Superior Court* (1971) 4 Cal.3d 767)
- Note: Even without having your record sealed, because a juvenile delinquency adjudication is NOT a criminal conviction, you can truthfully answer “no” if you are asked if you were ever “convicted” of a crime.

WHY IS IT IMPORTANT TO HAVE YOUR RECORD SEALED?

- It is important to have your record sealed because when you apply to potential employers, colleges, college financial aid programs, and professional licensing agencies, you might be asked about having a criminal record. If your record is sealed, you can deny having a criminal record on all of these applications.
- Agencies (in addition to local law enforcement and probation departments) may have records about you and your background. These agencies should be contacted about the sealing order. Once given notice by the court, these agencies are required to remove any reference to your juvenile record and to respond that they have no record for you if asked.
- Also, sealing your records also means that you are not required to register as a sex offender under Penal Code Section 290. Welf & IC §781(a)

ARE DEPARTMENT OF MOTOR VEHICLE (DMV) RECORDS INCLUDED?

- The DMV is prohibited from releasing information from sealed juvenile records, and offenses in the sealed records cannot be considered prior convictions in revoking or suspending a driver’s license.
- However, traffic violations and parking violations cannot be sealed.

WHAT IS THE PROCESS FOR SEALING YOUR RECORDS?

1. Contact the juvenile probation department:

- You should start the proceedings by contacting the probation office and asking that they start the sealing procedure. (See the Appendix at the end of these materials for contact information to probation departments.)
- Most probation departments have a procedure for sealing a juvenile record. Make sure that they explain to you what you need to do to complete the sealing process.
- An attorney is not necessary.
- You must go through this process for each county in which you have a record.

2. The probation department will conduct an investigation and issue a report.

- The probation department will probably interview you. *It is important to be truthful at the interview.*
- Questions asked will generally cover any *documented* criminal activity subsequent to the termination of juvenile court jurisdiction and may entail questions regarding all agencies that may have records of your contacts with the juvenile justice system including the police, highway patrol, FBI, etc. This also includes any traffic stops or arrests.
- The probation department will conduct an investigation to determine whether there has been any criminal activity that was not disclosed in the interview.
- Finally, the probation officer will write a report making a recommendation for or against sealing your juvenile record to the juvenile court judge.

3. The juvenile court will hold a hearing and grant or deny your petition.

- You will be notified of the date and time of the hearing.
- The district attorney may present evidence at the hearing and argue against sealing the record. Normally, however, the hearing consists of the reading of the probation report by the probation officer. Then, the court makes its decision.
- A defense attorney is usually not present.
- If the court denies the petition, you may petition again at a later date.

4. If your petition is approved, the law requires the court to seal all juvenile records relating to you.

- The court must send a copy of the order sealing your records to all agencies and persons named in the order instructing them to seal their records.
- The agencies and persons named are supposed to notify the court of compliance. When all agencies report that they have complied with the order, the records are considered sealed.

HOW LONG DOES THE SEALING PROCESS TAKE?

- The sealing process could take several months.
- Wait until you receive confirmation that all of the records are sealed before you treat them as being sealed.

WHAT HAPPENS IF YOU DO NOT REQUEST TO HAVE YOUR RECORD SEALED?

- If you do not take any action to have your juvenile record sealed after you turn 18, the court will generally destroy the record, but not until your 38th birthday (This applies if you were ever declared a ward of the juvenile court pursuant to section 602 of the Welfare and Institutions Code).

ONCE SEALED, CAN THE RECORDS BE UNSEALED AGAIN?

- Inspection of sealed records is permitted only by those named in a petition brought by you --the person who is the subject of the sealed record -- and only if the court so orders. Welf & IC §781(a).
- However, insurance companies are permitted by the DMV to look at your sealed records, but only automobile-related violations should affect your rates.

Appendix: Offenses listed in Welfare and Institutions Code Section 707(b) as of February 2005 (Note: Be sure to check a current edition of the code as offenses may be added or taken off this list)

- (1) Murder.
- (2) Arson, as provided in subdivision (a) or (b) of Section 451 of the Penal Code.
- (3) Robbery.
- (4) Rape with force or violence or threat of great bodily harm.
- (5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.
- (6) Lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.
- (7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.
- (8) Any offense specified in subdivision (a) of Section 289 of the Penal Code.
- (9) Kidnaping for ransom.
- (10) Kidnaping for purpose of robbery.
- (11) Kidnaping with bodily harm.
- (12) Attempted murder.
- (13) Assault with a firearm or destructive device.
- (14) Assault by any means of force likely to produce great bodily injury.
- (15) Discharge of a firearm into an inhabited or occupied building.
- (16) Any offense described in Section 1203.09 of the Penal Code.
- (17) Any offense described in Section 12022.5 or 12022.53 of the Penal Code.
- (18) Any felony offense in which the minor personally used a weapon listed in subdivision (a) of Section 12020 of the Penal Code.
- (19) Any felony offense described in Section 136.1 or 137 of the Penal Code.

(20) Manufacturing, compounding, or selling one-half ounce or more of any salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.

(21) Any violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, which would also constitute a felony violation of subdivision (b) of Section 186.22 of the Penal Code.

(22) Escape, by the use of force or violence, from any county juvenile hall, home, ranch, camp, or forestry camp in violation of subdivision (b) of Section 871 where great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.

(23) Torture as described in Sections 206 and 206.1 of the Penal Code.

(24) Aggravated mayhem, as described in Section 205 of the Penal Code.

(25) Carjacking, as described in Section 215 of the Penal Code, while armed with a dangerous or deadly weapon.

(26) Kidnaping, as punishable in subdivision (d) of Section 208 of the Penal Code.

(27) Kidnaping, as punishable in Section 209.5 of the Penal Code.

(28) The offense described in subdivision (c) of Section 12034 of the Penal Code.

(29) The offense described in Section 12308 of the Penal Code.

(30) Voluntary manslaughter, as described in subdivision (a) of Section 192 of the Penal Code.

**Appendix: Juvenile Probation Department Contact Information and Information
Regarding the Record Sealing Process as of February 2005**

- Note: You must contact each county in which you have a record. The following list is not an exhaustive list of California counties.
- The process for sealing a record varies by county. In addition, counties change their procedures and fees periodically. Call the probation office and request specific information regarding the office's procedure for sealing a juvenile record.
- Also, ask if the probation office provides a fee waiver for those who may need help with the processing fee.

Alameda County

Contact: (510) 618-1918 (Tima Huerta)
Fee: no charge (\$50.00 if requesting sealing of traffic record)
Time: months

Contra Costa County

Contact: (925) 313-4000
Fee: \$100.00
Time: 8 weeks - 12 months

Del Norte County

Contact: (925) 313-4000
Fee: \$50.00
Time: at least 3 months

Humboldt County

Contact: (707) 445-7401
Fee: \$112.00 (may request fee waiver)
Time: 3 - 6 months

Lake County

Contact: (707) 262-4285 (Roxy Smith)
Prefers a written request providing update of how you've been doing since your last contact with probation. Mail requests to:
Attn: Roxy Smith
Lake County Probation Department
201 S. Smith Street
Lakeport, CA 955453-4921
Fee: no charge
Time: varies

Marin County

Contact: (415) 499 6680 (Lynn Estrada)
Fee: \$45.00
Time: 4-10 months

Mendocino County

Contact: (707) 463-5750
Fee: \$100.00
Time: 6-8 weeks

Napa County

Contact: (707) 253-4361 (Chris Butler)
Fee: no charge
Time: 6-8 months

Sacramento County

Contact: (916) 875-5103 (Cathy McCoin)
Fee: no charge
Time: 6-8 months

San Francisco County

Contact: (415) 753-7553 (Gregory Mendiola)
Fee: no charge
Time: about one year

San Mateo County

Contact: (650) 312-8801 (Lance Judd)
Fee: \$100.00
Time: 3-5 months

Santa Clara County

Contact: (408) 278-6093

Fee: \$105.00

Time: 9-12 months

Solano County

Contact: (707) 784-7600

Fee: \$120.00

Time: 4-8 weeks

Sonoma County

Contact: (707) 537-6280

Fee: \$107.00

Time: 6 months