

AB 2425 (Stone): Confidentiality of Youth Police Records

SUMMARY

As recent reforms have expanded diversion programs throughout California¹, the code sections governing the confidentiality of diversion-related records have unfortunately excluded some youth.

AB 2425 will ensure that youth who are diverted from the juvenile justice system when they come into contact with law enforcement or at the referral of a probation department, as well as those who do not fall within the jurisdiction of the juvenile court under state law, are protected from the negative collateral consequences of a police record. This bill would also ensure that diversion service providers maintain the confidentiality of their records.

PROBLEM

Welfare and Institutions Code (WIC) § 827.9 and §786.5 need to be updated to ensure the confidentiality of records for youth who have been diverted.

WIC § 827.9 determines the confidentiality of “juvenile police records,” or any information gathered by law enforcement agencies related to the custody, temporary custody, or detention of a minor. It governs who may access a juvenile police record and specifically allows for other law enforcement agencies, including District Attorneys, to obtain a complete copy of the record without notice or the consent of the youth who is the subject of the record. The code section predated recent juvenile justice reforms that have expanded diversion and prohibited certain children from entering the juvenile justice system². Because WIC § 827.9 has not been updated to reflect these recent reforms, the code section fails to make several distinctions.

WIC § 827.9 fails to distinguish between:

- a record of a youth who is counseled and released; and
- a youth who avoids arrest because they do not fall within the jurisdiction of the juvenile court.

The code section also fails to distinguish between:

- a juvenile police record that documents an arrest and subsequent referral to probation or the district attorney; and
- a juvenile police record that documents a diversion program referral intended to prevent further system involvement.

The protections provided by WIC §786.5 exhibit similar gaps in coverage. When a probation officer or prosecutor refer youth to a diversion program, WIC §786.5 requires their probation records and service provider records to be sealed. However, when law enforcement officers refer youth directly to a diversion program, no such protection exists for the juvenile police record that is created.

There is ample evidence illustrating that even an arrest increases a youth’s chance of further system involvement.³ In addition, a juvenile police record has far-reaching consequences that impact one’s ability to access education, housing, employment and military service.⁴ Without a change to the law, youth who do not fall under the jurisdiction of the juvenile delinquency court and those who were referred to diversion programs by police will continue to suffer the negative collateral consequences of system involvement.

SOLUTION

AB 2425 will address the preceding problems by:

- Ensuring the confidentiality of diversion program service provider records;
- Preventing the dissemination of records maintained by a diverting law enforcement agency for youth who are currently participating in a diversion program, have successfully completed a diversion program, or who do not fall within the jurisdiction of the juvenile court; and
- Ensuring the automatic sealing of police records of youth who have satisfactorily completed diversion programming, youth who have been counseled and released without probation referral within 60 days, and youth who do not fall under the jurisdiction of juvenile court.

SUPPORT

National Center for Youth Law (Co-sponsor)
RYSE (Co-sponsor)
The Children’s Defense Fund - CA (Co-sponsor)
Youth Law Center (Co-sponsor)
Alliance for Boys and Men of Color
ACLU CA
Asian Americans Advancing Justice CA

³ Human Impact Partners (June 2017). *Reducing Youth Arrests Keeps Kids Healthy and Successful*. Available at https://humanimpact.org/wp-content/uploads/2018/10/HIP_MichYouthArrests_2017.06.pdf

⁴ Pacific Juvenile Defender Center (December 2017) *Have a Juvenile Record: Plan for Your Future*. Available at <https://njdc.info/wp-content/uploads/2018/03/CA-CC-Booklet-Final.pdf>

¹ The Youth Reinvestment Grant, AB 1454, 2019 and AB 1812, 2018 and the Fostering Success Fund, AB 1811, 2018

² SB 1322, 2016 and SB 439, 2018

CA Alliance for Youth and Community Justice
CA Attorneys for Criminal Justice
CA Public Defenders Association
Children Now
Children's Law Center of California
Drug Police Alliance
East Bay Community Law Center
Empowering Pacific Islander Communities (EPIC)
Ella Baker Center for Human Rights
Fresno Barrios Unidos
John Burton Advocates for Youth
MILPA (Motivating Individual Leadership for Public
Advancement)
National Institute for Criminal Justice Reform
Pacific Juvenile Defender Center
Public Counsel
Root & Rebound
San Francisco Public Defender
San Jose / Silicon Valley NAACP
Santa Cruz Barrios Unidos Inc.
The W. Haywood Burns Institute
United Friends of the Children
Young Women's Freedom Center
Youth Alliance
Youth Alive!
Youth Forward

FOR MORE INFORMATION

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