



# Expanded Confidentiality and Sealing Provisions for Youth Police Records

Effective January 1, 2022, youth who are diverted from the juvenile justice system after contact with law enforcement will automatically have their police records sealed. The Youth Police Records Act<sup>1</sup> increases confidentiality and record sealing protections for youth who come into contact with law enforcement.

Recognizing that youth of color are disproportionately stopped by police, this law aims to support youth development and ensure that all youth have a chance to be kids, the opportunity to thrive in their neighborhoods, and to not be saddled with life-long consequences resulting from their police contact at a young age.

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<sup>1</sup> AB 2425 (Stone) 2019

## BACKGROUND

Recent reforms in California have helped to reduce youth involvement in the delinquency system by expanding diversion programs and limiting the age at which youth can enter the juvenile justice system.

However, gaps in the law governing the confidentiality of diversion-related records undermined the true promise of the reforms. Prior to the Youth Police Records Act going into effect, sealing protections for youth who were arrested and put on probation were stronger than protections for youth who were diverted from system involvement.

In order to seal their police records, youth who participated in a diversion program, were too young to enter the juvenile justice system, or were counseled and released by law enforcement, had to go through a lengthy court process, completely negating the intent behind diversion efforts to keep kids out of the system and court. The Youth Police Records Act fixes the gaps in the law to create a more fair confidentiality and sealing process for youth.

**This guide includes an overview of the new legal responsibilities for:**

[Law Enforcement](#)

[Probation Departments](#)

[Service Providers](#)

[District Attorneys](#)

# What does the Youth Police Records Act do?

## DEFINES “JUVENILE POLICE RECORD”

“A juvenile police record” refers to **records or information** relating to the taking of a minor into custody, temporary custody, or detention.<sup>2</sup>

# New Requirements for Law Enforcement

## CONFIDENTIALITY<sup>3</sup>

Prohibits the release of juvenile police records (records or information relating to the taking a minor into custody, temporary custody, or detention) to anyone except the youth and their parent/guardian for youth who:

1. Do not fall under the jurisdiction of the juvenile delinquency court pursuant to current state law
2. Are currently participating in or have successfully completed a diversion program
3. Are counseled and released without arrest, citation, or detention and who are not referred to probation within 60 days of release

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<sup>2</sup> WIC § 827.95(d)(1). Other parts of WIC § 827.95 prohibit the release of a “copy of a police record,” this also includes information sharing and not just a physical copy of a record. Please see WIC § 827.95 (d)(1).

<sup>3</sup> WIC § 827.95 creates an exception to the information sharing by law enforcement that is permitted under WIC § 828.

# SEALING

Requires law enforcement agencies to seal certain youth's police records according to the following timelines:



## IMMEDIATELY

### Youth Not Falling Under Juvenile Court Jurisdiction

Law enforcement agencies must seal **upon verification** that a youth does not fall under the jurisdiction of the juvenile delinquency court.



## WITHIN 30 DAYS

### Youth's Satisfactory Completion of Diversion Program

Law enforcement agencies must seal **within 30 days of receiving notice** from a diversion service provider that a youth referred by a law enforcement agency has satisfactorily completed a diversion program.

\*Prior to this time, while the youth is participating in diversion programming the record is confidential and deemed not to exist to anyone outside of the law enforcement agency, service provider, youth, and parent or guardian.



## WITHIN 60 DAYS

### Youth's Satisfactory Completion of Diversion at Referral of Probation Department

Law enforcement agencies must seal **within 60 days of notification** from a probation department that a youth has satisfactorily completed a probation diversion program.

### Youth Counseled and Released

The law enforcement agency has 6 months from the date a youth is counseled and released to verify that that the youth was not referred to probation after their release. Law enforcement agencies must seal **within 60 days of verification** from probation that youth was not referred to probation after they were counseled and released.

# NOTICE OF SEALING BY LAW ENFORCEMENT

Upon the sealing of the youth's police record, the law enforcement agency is required to inform the following parties of the record sealing:

1. **Diversion Service Provider**

→ [Use JV-581 Law Enforcement Notice on Sealing of Records Form](#)

2. **Youth** who is the subject of the police record

→ [Use JV-581 Law Enforcement Notice on Sealing of Records Form](#)

3. **Youth's social worker** (for youth who are dependents of the juvenile court)

→ [Use JV-581 Law Enforcement Notice on Sealing of Records Form](#)

4. **Probation Department** (for youth who satisfactorily complete a probation-run diversion program or probation program of supervision)

→ [Use JV-589 Acknowledgement of Juvenile Diversion Record Sealed Form](#)

# New Requirements for Probation Departments

## RECORD SEALING NOTIFICATION REQUIREMENTS

1. Probation departments must **notify the law enforcement agency** to seal the arrest records of youth who satisfactorily complete a probation-run diversion program.<sup>4</sup> Satisfactory completion is defined as, “substantial compliance by the participant with the reasonable terms of program participation that are within the capacity of the participant to perform” and the determination is made by the Probation department.<sup>5</sup>  
→ Use [JV-597 Probation Department Notice on Sealing of Records After Diversion Program form](#).
2. Probation departments must **notify diversion program providers** to seal the records in their custody relating to the arrest or referral and participation in the diversion program.<sup>6</sup>  
→ Use [JV-597 Probation Department Notice on Sealing of Records After Diversion Program form](#).
3. Probation departments must **notify youth in writing** that their diversion records (both those held by law enforcement and those held by service providers) have been sealed **within 30 days of the Probation department receiving notification** from those agencies that the records have been sealed.  
→ Send youth the following forms: [JV-589 Acknowledgement of Juvenile Diversion Records Sealed form](#) and [JV-597 Probation Department Notice on Sealing of Records After Diversion Program form](#).
4. If the records have not been sealed because the Probation department has determined that the youth has not satisfactorily completed the diversion program, then the Probation department must notify the youth in writing of the reason for not sealing the record.  
→ Use [JV-597 Probation Department Notice on Sealing of Records After Diversion Program form](#).
5. If the youth is notified by the Probation department that their record will not be sealed, the youth may then petition the court for review of the decision.  
→ Probation departments should provide youth with the following forms: [JV-598 Petition to Review Denial of Sealing of Records After Diversion Program form](#) and [JV-595 INFO How to Ask the Court to Seal Your Records form](#).

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<sup>4</sup> Pre-existing law already required probation departments to seal arrest and other records in its custody related to a youth's arrest, referral, and participation in a probation diversion or probation supervision program (WIC §786.5). AB 2425 added the requirement that probation departments inform law enforcement agencies to seal their records as well.

<sup>5</sup> See WIC §786.5(e).

<sup>6</sup> This is a pre-existing legal requirement.

# New Requirements for Diversion Service Providers

## NOTIFICATION TO LAW ENFORCEMENT OF SATISFACTORY COMPLETION

Diversion Service Providers must notify the law enforcement agency that a youth has satisfactorily completed a diversion program within 30 days of completion.

## CONFIDENTIALITY RELATED TO DIVERSION AT THE REFERRAL OF LAW ENFORCEMENT

Diversion Service Providers must maintain confidentiality of youth diversion records according to the following:

1. **While the youth is completing the diversion program**, the records are considered confidential except to the diversion service provider, law enforcement agency that made the referral (police or sheriff), youth, and parent or guardian.
2. **Once a youth satisfactorily completes a diversion program**, any records in the diversion provider's custody relating to the youth's law enforcement contact or referral and participation in the diversion program shall not be inspected by anyone other than the service provider and shall be released only to the youth and their parent or guardian upon receiving signature authorization from the youth or their parent or guardian.

## SEALING RELATED TO DIVERSION AT THE REFERRAL OF PROBATION DEPARTMENT

Diversion Service Providers must seal a youth's arrest, referral, and program participation records within 60 days notice from the Probation department of a youth's satisfactory completion of a diversion program.

The provider must notify the probation department that the records have been sealed.

→ [Use JV-589 Acknowledgement of Juvenile Diversion Record Sealed Form.](#)

# Access, Use, and Destruction of Records by Prosecutors

**Prosecutors' access to sealed police records is limited according to the following:**

1. They may access, inspect, or use a youth's sealed police record in order to meet statutory or constitutional obligations to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecutor has reason to believe that access to the record is necessary to meet the disclosure obligation.
2. Once the criminal case has been closed and is no longer subject to review on appeal, the prosecuting attorney must destroy any records obtained pursuant to WIC § 827.95(b)(6) (A).

Prosecutors do not have access to diversion service provider records.

Diversion records (both those held by law enforcement agencies and those held by service providers) are not considered a part of the juvenile case file and therefore are not governed by WIC § 827.

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## FOR MORE INFO OR TO REQUEST A TRAINING

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