

Assembly Bill No. 2425

Passed the Assembly August 30, 2020

Chief Clerk of the Assembly

Passed the Senate August 29, 2020

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2020, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 786.5, 827, and 828 of, and to add Section 827.95 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2425, Mark Stone. Juvenile police records.

Existing law requires, except as provided, law enforcement agencies in the County of Los Angeles to release, upon request or by court order, either a complete copy or a redacted copy of a juvenile police record, as defined, to certain individuals and entities, including other law enforcement agencies and the attorney representing the juvenile who is the subject of the juvenile police record in a criminal or juvenile proceeding involving the minor. Existing law provides that information received pursuant to these provisions is confidential, prohibits further dissemination, and makes an intentional violation of the confidentiality provisions a misdemeanor. Existing law generally authorizes a law enforcement agency to disclose to another law enforcement agency, or a person or agency that has a legitimate need, information relating to the taking of a minor into custody.

This bill would prohibit a law enforcement agency in any county from releasing a copy of a juvenile police record if the subject of the juvenile police record is (1) a minor who has been diverted by police officers from arrest, citation, detention, or referral to probation or any district attorney and who is currently participating in a diversion program or who has satisfactorily completed a diversion program, (2) a minor who has been counseled and released by police officers without an arrest, citation, detention, or referral to probation or any district attorney, or (3) a minor who does not fall within the jurisdiction of the juvenile delinquency court under current state law, except as specified. The bill would require the law enforcement agency in possession of the juvenile police record to seal the applicable juvenile police records and all other records in its custody relating to the minor's law enforcement contact or referral and participation in a diversion program, as specified. The bill would require the law enforcement agency that

seals a juvenile police record of a diverted minor to notify the applicable diversion service provider immediately upon sealing of the record, and would require records in the diversion service provider's custody relating to the minor's law enforcement contact or referral and participation in the program to be kept confidential, as specified. The bill would require the Judicial Council to develop forms to implement these provisions by January 1, 2022.

Existing law requires a probation department to seal the records of a juvenile upon satisfactory completion of a program of diversion or supervision to which a juvenile is referred by the probation department or prosecutor, and requires a public or private agency operating a diversion program to promptly seal the records in its custody after notice from the probation department to seal the records.

This bill would also require the probation department to notify the arresting law enforcement agency to seal the arrest records in its custody relating to the arrest, and would require the arresting law enforcement agency to seal those records no later than 60 days from the date of notification by the probation department. The bill would instead require the public or private agency operating a diversion program to instead seal the records no later than 60 days from the date of notification by the probation department. The bill would require, upon sealing of records, the arresting law enforcement agency and the public or private agency operating a diversion program to notify the probation department that the records have been sealed.

Notwithstanding those provisions, the bill would authorize a record sealed pursuant to those provisions to be accessed, inspected, or utilized by the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation.

By imposing additional duties on law enforcement agencies and probation departments, the bill would impose a state-mandated local program.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings

demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 786.5 of the Welfare and Institutions Code is amended to read:

786.5. (a) Notwithstanding any other law, the probation department shall seal the arrest and other records in its custody relating to a juvenile's arrest and referral and participation in a diversion or supervision program under both of the following circumstances:

(1) Upon satisfactory completion of a program of diversion or supervision to which a juvenile is referred by the probation officer in lieu of the filing of a petition to adjudge the juvenile a ward of the juvenile court, including a program of informal supervision pursuant to Section 654.

(2) Upon satisfactory completion of a program of diversion or supervision to which a juvenile is referred by the prosecutor in lieu of the filing of a petition to adjudge the juvenile a ward of the juvenile court, including a program of informal supervision pursuant to Section 654.

(b) The probation department shall notify the arresting law enforcement agency to seal the arrest records described in subdivision (a), and the arresting law enforcement agency shall seal the records in its custody relating to the arrest no later than 60 days from the date of notification by the probation department. Upon sealing, the arresting law enforcement agency shall notify the probation department that the records have been sealed. Within 30 days from receipt of notification by the arresting law enforcement agency that the records have been sealed pursuant to

this section, the probation department shall notify the minor in writing that their record has been sealed pursuant to this section. If records have not been sealed pursuant this section, the written notice from the probation department shall inform the minor of their ability to petition the court directly to seal their arrest and other related records.

(c) Upon sealing of the records pursuant to this section, the arrest or offense giving rise to any of the circumstances specified in subdivision (a) shall be deemed not to have occurred and the individual may respond accordingly to any inquiry, application, or process in which disclosure of this information is requested or sought.

(d) (1) For the records relating to the circumstances described in subdivision (a), the probation department shall issue notice as follows:

(A) The probation department shall notify a public or private agency operating a diversion program to which the juvenile has been referred under these circumstances to seal records in the program operator's custody relating to the arrest or referral and the participation of the juvenile in the diversion or supervision program, and the operator of the program shall seal the records in its custody relating to the juvenile's arrest or referral and participation in the program no later than 60 days from the date of notification by the probation department. Upon sealing, the public or private agency operating a diversion program shall notify the probation department that the records have been sealed.

(B) The probation department shall notify the participant in the supervision or diversion program in writing that their record has been sealed pursuant to the provisions of this section based on their satisfactory completion of the program. 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.

(2) An individual who receives notice from the probation department that the individual has not satisfactorily completed the diversion program and that the record has not been sealed pursuant to this section may petition the juvenile court for review of the decision in a hearing in which the program participant may seek to demonstrate, and the court may determine, that the individual has met the satisfactory completion requirement and is eligible for the sealing of the record by the probation department, the arresting

law enforcement agency, and the program operator under the provisions of this section.

(e) Satisfactory completion of the program of supervision or diversion shall be defined for purposes of this section as substantial compliance by the participant with the reasonable terms of program participation that are within the capacity of the participant to perform. A determination of satisfactory or unsatisfactory completion shall be made by the probation department within 60 days of completion of the program by the juvenile, or, if the juvenile does not complete the program, within 60 days of determining that the program has not been completed by the juvenile.

(f) (1) Notwithstanding subdivision (a), the probation department of a county responsible for the supervision of a person may access a record sealed by a probation department pursuant to this section for the sole purpose of complying with subdivision (e) of Section 654.3. The information contained in the sealed record and accessed by the probation department under this paragraph shall in all other respects remain confidential and shall not be disseminated to any other person or agency. Access to, or inspection of, a sealed record authorized by this paragraph shall not be deemed an unsealing of the record and shall not require notice to any other agency.

(2) (A) Any record, that has been sealed pursuant to this section may be accessed, inspected, or utilized by the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation.

(B) (i) A prosecuting attorney shall not use information contained in a record sealed pursuant to this section for any purpose other than those provided in subparagraph (A).

(ii) Once the case referenced in subparagraph (A) has been closed and is no longer subject to review on appeal, the prosecuting attorney shall destroy any records obtained pursuant to this subparagraph.

SEC. 2. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) (1) Except as provided in Section 828, a case file may be inspected only by the following:

- (A) Court personnel.
- (B) The district attorney, a city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law.
- (C) The minor who is the subject of the proceeding.
- (D) The minor's parent or guardian.
- (E) The attorneys for the parties, judges, referees, other hearing officers, probation officers, and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the minor.
- (F) The county counsel, city attorney, or any other attorney representing the petitioning agency in a dependency action.
- (G) The superintendent or designee of the school district where the minor is enrolled or attending school.
- (H) Members of the child protective agencies as described in Section 11165.9 of the Penal Code.
- (I) The State Department of Social Services, to carry out its duties pursuant to Division 9 (commencing with Section 10000) of this code and Part 5 (commencing with Section 7900) of Division 12 of the Family Code to oversee and monitor county child welfare agencies, children in foster care or receiving foster care assistance, and out-of-state placements, Section 10850.4, and paragraph (2).
- (J) (i) Authorized staff who are employed by, or authorized staff of entities who are licensed by, the State Department of Social Services, as necessary to the performance of their duties related to resource family approval, and authorized staff who are employed by the State Department of Social Services as necessary to inspect, approve, or license, and monitor or investigate community care facilities or resource families, and to ensure that the standards of care and services provided in those facilities are adequate and appropriate, and to ascertain compliance with the rules and regulations to which the facilities are subject.
 - (ii) The confidential information shall remain confidential except for purposes of inspection, approval or licensing, or monitoring or investigation pursuant to Chapter 3 (commencing with Section 1500) and Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code and Article 2 (commencing with Section 16519.5) of Chapter 5 of Part 4 of Division 9. The confidential information may also be used by the State Department of Social Services in a criminal, civil, or

administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and may not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Social Services determines that no further action will be taken in the matter. Except as otherwise provided in this subdivision, confidential information shall not contain the name of the minor.

(K) Members of children’s multidisciplinary teams, persons, or agencies providing treatment or supervision of the minor.

(L) A judge, commissioner, or other hearing officer assigned to a family law case with issues concerning custody or visitation, or both, involving the minor, and the following persons, if actively participating in the family law case: a family court mediator assigned to a case involving the minor pursuant to Article 1 (commencing with Section 3160) of Chapter 11 of Part 2 of Division 8 of the Family Code, a court-appointed evaluator or a person conducting a court-connected child custody evaluation, investigation, or assessment pursuant to Section 3111 or 3118 of the Family Code, and counsel appointed for the minor in the family law case pursuant to Section 3150 of the Family Code. Prior to allowing counsel appointed for the minor in the family law case to inspect the file, the court clerk may require counsel to provide a certified copy of the court order appointing the minor’s counsel.

(M) When acting within the scope of investigative duties of an active case, a statutorily authorized or court-appointed investigator who is conducting an investigation pursuant to Section 7663, 7851, or 9001 of the Family Code, or who is actively participating in a guardianship case involving a minor pursuant to Part 2 (commencing with Section 1500) of Division 4 of the Probate Code and acting within the scope of the investigator’s duties in that case.

(N) A local child support agency for the purpose of establishing paternity and establishing and enforcing child support orders.

(O) Juvenile justice commissions as established under Section 225. The confidentiality provisions of Section 10850 shall apply to a juvenile justice commission and its members.

(P) The Department of Justice, to carry out its duties pursuant to Sections 290.008 and 290.08 of the Penal Code as the repository for sex offender registration and notification in California.

(Q) Any other person who may be designated by court order of the judge of the juvenile court upon filing a petition.

(R) A probation officer who is preparing a report pursuant to Section 1178 on behalf of a person who was in the custody of the Department of Corrections and Rehabilitation, Division of Juvenile Justice and who has petitioned the Board of Juvenile Hearings for an honorable discharge.

(2) (A) Notwithstanding any other law and subject to subparagraph (A) of paragraph (3), juvenile case files, except those relating to matters within the jurisdiction of the court pursuant to Section 601 or 602, that pertain to a deceased child who was within the jurisdiction of the juvenile court pursuant to Section 300, shall be released to the public pursuant to an order by the juvenile court after a petition has been filed and interested parties have been afforded an opportunity to file an objection. Any information relating to another child or that could identify another child, except for information about the deceased, shall be redacted from the juvenile case file prior to release, unless a specific order is made by the juvenile court to the contrary. Except as provided in this paragraph, the presiding judge of the juvenile court may issue an order prohibiting or limiting access to the juvenile case file, or any portion thereof, of a deceased child only upon a showing by a preponderance of evidence that release of the juvenile case file or any portion thereof is detrimental to the safety, protection, or physical or emotional well-being of another child who is directly or indirectly connected to the juvenile case that is the subject of the petition.

(B) This paragraph represents a presumption in favor of the release of documents when a child is deceased unless the statutory reasons for confidentiality are shown to exist.

(C) If a child whose records are sought has died, and documents are sought pursuant to this paragraph, no weighing or balancing of the interests of those other than a child is permitted.

(D) A petition filed under this paragraph shall be served on interested parties by the petitioner, if the petitioner is in possession of their identity and address, and on the custodian of records. Upon receiving a petition, the custodian of records shall serve a copy of the request upon all interested parties that have not been served by the petitioner or on the interested parties served by the petitioner if the custodian of records possesses information, such as a more recent address, indicating that the service by the petitioner may have been ineffective.

(E) The custodian of records shall serve the petition within 10 calendar days of receipt. If an interested party, including the custodian of records, objects to the petition, the party shall file and serve the objection on the petitioning party no later than 15 calendar days after service of the petition.

(F) The petitioning party shall have 10 calendar days to file a reply. The juvenile court shall set the matter for hearing no more than 60 calendar days from the date the petition is served on the custodian of records. The court shall render its decision within 30 days of the hearing. The matter shall be decided solely upon the basis of the petition and supporting exhibits and declarations, if any, the objection and any supporting exhibits or declarations, if any, and the reply and any supporting declarations or exhibits thereto, and argument at hearing. The court may, solely upon its own motion, order the appearance of witnesses. If an objection is not filed to the petition, the court shall review the petition and issue its decision within 10 calendar days of the final day for filing the objection. An order of the court shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ.

(3) Access to juvenile case files pertaining to matters within the jurisdiction of the juvenile court pursuant to Section 300 shall be limited as follows:

(A) If a juvenile case file, or any portion thereof, is privileged or confidential pursuant to any other state law or federal law or regulation, the requirements of that state law or federal law or regulation prohibiting or limiting release of the juvenile case file or any portions thereof shall prevail. Unless a person is listed in subparagraphs (A) to (P), inclusive, of paragraph (1) and is entitled to access under the other state law or federal law or regulation without a court order, all those seeking access, pursuant to other

authorization, to portions of, or information relating to the contents of, juvenile case files protected under another state law or federal law or regulation, shall petition the juvenile court. The juvenile court may only release the portion of, or information relating to the contents of, juvenile case files protected by another state law or federal law or regulation if disclosure is not detrimental to the safety, protection, or physical or emotional well-being of a child who is directly or indirectly connected to the juvenile case that is the subject of the petition. This paragraph does not limit the ability of the juvenile court to carry out its duties in conducting juvenile court proceedings.

(B) Prior to the release of the juvenile case file or any portion thereof, the court shall afford due process, including a notice of, and an opportunity to file an objection to, the release of the record or report to all interested parties.

(4) A juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, may not be disseminated by the receiving agencies to a person or agency, other than a person or agency authorized to receive documents pursuant to this section. Further, a juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, may not be made as an attachment to any other documents without the prior approval of the presiding judge of the juvenile court, unless it is used in connection with, and in the course of, a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(5) Individuals listed in subparagraphs (A), (B), (C), (D), (E), (F), (H), (I), (J), and (P) of paragraph (1) may also receive copies of the case file. For authorized staff of entities who are licensed by the State Department of Social Services, the confidential information shall be obtained through a child protective agency, as defined in subparagraph (H) of paragraph (1). In these circumstances, the requirements of paragraph (4) shall continue to apply to the information received.

(6) An individual other than a person described in subparagraphs (A) to (P), inclusive, of paragraph (1) who files a notice of appeal or petition for writ challenging a juvenile court order, or who is a respondent in that appeal or real party in interest in that writ proceeding, may, for purposes of that appeal or writ proceeding, inspect and copy any records in a juvenile case file to which the

individual was previously granted access by the juvenile court pursuant to subparagraph (Q) of paragraph (1), including any records or portions thereof that are made a part of the appellate record. The requirements of paragraph (3) shall continue to apply to any other record, or a portion thereof, in the juvenile case file or made a part of the appellate record. The requirements of paragraph (4) shall continue to apply to files received pursuant to this paragraph. The Judicial Council shall adopt rules to implement this paragraph.

(b) (1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality to promote more effective communication among juvenile courts, family courts, law enforcement agencies, and schools to ensure the rehabilitation of juvenile criminal offenders as well as to lessen the potential for drug use, violence, other forms of delinquency, and child abuse.

(2) (A) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school, kindergarten to grade 12, inclusive, has been found by a court of competent jurisdiction to have committed a felony or misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Section 290 of the Penal Code, assault or battery, larceny, vandalism, or graffiti shall be provided by the court, within seven days, to the superintendent of the school district of attendance. Written notice shall include only the offense found to have been committed by the minor and the disposition of the minor's case. This notice shall be expeditiously transmitted by the district superintendent to the principal at the school of attendance. The principal shall expeditiously disseminate the information to those counselors directly supervising or reporting on the behavior or progress of the minor. In addition, the principal shall disseminate the information to any teacher or administrator directly supervising or reporting on the behavior or progress of the minor whom the principal believes needs the information to work with the pupil in an appropriate fashion to avoid being needlessly vulnerable or to protect other persons from needless vulnerability.

(B) Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the limited purpose of rehabilitating the minor and protecting

students and staff, and shall not be further disseminated by the teacher, counselor, or administrator, except insofar as communication with the juvenile, the juvenile's parents or guardians, law enforcement personnel, and the juvenile's probation officer is necessary to effectuate the juvenile's rehabilitation or to protect students and staff.

(C) An intentional violation of the confidentiality provisions of this paragraph is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500).

(3) If a minor is removed from public school as a result of the court's finding described in subdivision (b), the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district of attendance, who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district, within the county, along with the name and mailing address of each district superintendent.

(d) (1) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: "Unlawful Dissemination Of This Information Is A Misdemeanor." Any information received from the court shall be kept in a separate confidential file at the school of attendance and shall be transferred to the minor's subsequent schools of attendance and maintained until the minor graduates from high school, is released from juvenile court jurisdiction, or reaches 18 years of age, whichever occurs first. After that time the confidential record shall be destroyed. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or the minor's parent or guardian shall have the right to make a written request to the principal of the school that the minor's school records be reviewed to ensure that the record has been destroyed. Upon

completion of the requested review and no later than 30 days after the request for the review was received, the principal or a designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred.

(2) Except as provided in paragraph (2) of subdivision (b), liability shall not attach to a person who transmits or fails to transmit notice or information required under subdivision (b).

(e) For purposes of this section, a “juvenile case file” means a petition filed in a juvenile court proceeding, reports of the probation officer, and all other documents filed in that case or made available to the probation officer in making the probation officer’s report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer.

(f) The persons described in subparagraphs (A), (E), (F), (H), (K), (L), (M), and (N) of paragraph (1) of subdivision (a) include persons serving in a similar capacity for an Indian tribe, reservation, or tribal court when the case file involves a child who is a member of, or who is eligible for membership in, that tribe.

(g) Any portion of a case file that is covered by, or included in, an order of the court sealing a record pursuant to Section 781 or 786, or that is covered by a record sealing requirement pursuant to Section 786.5 or 827.95, may not be inspected, except as specified by those sections.

SEC. 3. Section 827.95 is added to the Welfare and Institutions Code, to read:

827.95. (a) (1) Notwithstanding Section 827.9, a law enforcement agency in this state shall not release a copy of a juvenile police record if the subject of the juvenile police record is any of the following:

(A) A minor who has been diverted by police officers from arrest, citation, detention, or referral to probation or any district attorney, and who is currently participating in a diversion program or has satisfactorily completed a diversion program.

(B) A minor who has been counseled and released by police officers without an arrest, citation, detention, or referral to probation or any district attorney, and for whom no referral to probation has been made within 60 days of the release.

(C) A minor who does not fall within the jurisdiction of the juvenile delinquency court under current state law.

(2) A law enforcement agency shall release, upon request, a copy of a juvenile police record described in paragraph (1) to the minor who is the subject of the juvenile police record and their parent or guardian only if identifying information pertaining to any other juvenile, within the meaning of subdivision (d), has been removed from the record.

(b) (1) The law enforcement agency in possession of the juvenile police record described in subdivision (a) shall seal the applicable juvenile police record and all other records in its custody relating to the minor's law enforcement contact or referral and participation in a diversion program as follows:

(A) Any juvenile police record created following a law enforcement contact with a minor described in subparagraph (A) of paragraph (1) of subdivision (a) shall be considered confidential and deemed not to exist while the minor is completing a diversion program, except to the law enforcement agency, the service provider, the minor who is the subject of the police record, and their parent or guardian. The diversion service provider shall notify the referring law enforcement agency of a minor's satisfactory completion of a diversion program within 30 days of the minor's satisfactory completion. The law enforcement agency shall seal the juvenile police record no later than 30 days from the date of notification by the diversion service provider of the minor's satisfactory completion of a diversion program.

(B) Any juvenile police record created following a law enforcement contact with a minor described in subparagraph (B) of paragraph (1) of subdivision (a) shall be sealed no later than 60 days from the date of verification that the minor has not been referred to probation or any district attorney. Verification shall be completed within six months of the decision to counsel and release the minor.

(C) Any juvenile police record created following a law enforcement contact with a minor described in subparagraph (C) of paragraph (1) of subdivision (a) shall be sealed immediately upon verification that the minor does not fall within the jurisdiction of the juvenile delinquency court under current state law.

(D) Upon sealing of the records under this subdivision, the offense giving rise to the police record shall be deemed to not have

occurred and the individual may respond accordingly to any inquiry, application, or process in which disclosure of this information is requested or sought.

(2) A law enforcement agency that seals a juvenile police record pursuant to subparagraph (A) of paragraph (1) shall notify the applicable diversion service provider immediately upon sealing of the record. Any records in the diversion service provider's custody relating to the minor's law enforcement contact or referral and participation in the program shall not be inspected by anyone other than the service provider, and shall be released only to the minor who is the subject of the record and their parent or guardian, as described in subdivision (c).

(3) If the minor is a dependent of the juvenile court, the law enforcement agency shall notify the minor's social worker that the juvenile police records have been sealed and that any such records in the social worker's custody relating to the minor's law enforcement contact or referral and participation in a diversion program shall also be sealed.

(4) (A) A law enforcement agency shall notify a minor in writing that their police record has been sealed pursuant to paragraph (1). If the law enforcement agency determines that a minor's juvenile police record is not eligible for sealing pursuant to paragraph (1), the law enforcement agency shall notify the minor in writing of its determination.

(B) An individual who receives notice from a law enforcement agency that they are not eligible for sealing under paragraph (1) may request reconsideration of the law enforcement agency's determination by submitting to the law enforcement agency a petition to seal a report of a law enforcement agency and any documentation supporting their eligibility for sealing under paragraph (1). For purposes of this subparagraph, a sworn statement by the petitioner shall qualify as supporting documentation.

(5) Police records sealed under paragraph (1) shall not be considered part of the "juvenile case file," as defined in subdivision (e) of Section 827.

(6) (A) Any police record that has been sealed pursuant to this section may be accessed, inspected, or utilized by the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to

believe that access to the record is necessary to meet the disclosure obligation.

(B) (i) A prosecuting attorney shall not use information contained in a record sealed pursuant to this section for any purpose other than those provided in subparagraph (A).

(ii) Once the case referenced in subparagraph (A) has been closed and is no longer subject to review on appeal, the prosecuting attorney shall destroy any records obtained pursuant to this subparagraph.

(c) (1) Diversion service provider records related to the provision of diversion services to a minor described in subparagraph (A) of paragraph (1) of subdivision (a) shall not be considered part of a “juvenile case file,” as defined in subdivision (e) of Section 827, and shall be kept confidential except to the minor who is the subject of the record or information and their parent or guardian. This section does not require the release of confidential records created, collected, or maintained by diversion service providers in the course of diversion service delivery.

(2) (A) If any other state or federal law or regulation grants access to portions of, or information relating to, the contents of a diversion service provider record related to diversion, the requirements of that state or federal law or regulation governing access to the record or portions thereof shall prevail.

(B) The release of any diversion service provider records related to diversion by any party with access under applicable California state or federal laws shall be governed by those applicable state or federal laws, and shall otherwise be prohibited.

(3) Diversion service providers shall release diversion service provider records to the minor who is the subject of the record, or their parent or guardian, upon receiving a signature authorization by the minor, parent, or guardian and using existing internal confidentiality procedures of the service provider.

(d) For purposes of this section, the following definitions apply:

(1) “Juvenile police record” refers to records or information relating to the taking of a minor into custody, temporary custody, or detention.

(2) With respect to a juvenile police record, “any other juvenile” refers to additional minors who were taken into custody or temporary custody, or detained and who also could be considered a subject of the juvenile police record.

(3) “Diversion” refers to an intervention that redirects youth away from formal processing in the juvenile justice system, including, but not limited to, counsel and release or a referral to a diversion program as defined in Section 1457.

(4) “Diversion service provider” refers to an agency or organization providing diversion services to a minor.

(5) “Diversion service provider record” refers to any records or information collected, created, or maintained by the service provider in connection to providing diversion program services to the minor.

(6) “Satisfactory completion” refers to substantial compliance by the participant with the reasonable terms of program participation that are within the capacity of the participant to perform, as determined by the service provider.

(e) On or before January 1, 2022, the Judicial Council, in consultation with the California Law Enforcement Association of Record Supervisors (CLEARs), shall develop forms for distribution by law enforcement agencies to the public to implement this section. Those forms shall include, but are not limited to, the Petition to Seal Report of Law Enforcement Agency. The material for the public shall include information about the persons who are entitled to a copy of the juvenile police record described in subdivision (a) and the specific procedures for requesting a copy of the record if a petition is necessary.

SEC. 4. Section 828 of the Welfare and Institutions Code is amended to read:

828. (a) (1) Except as provided in Sections 389, 781, 786, 827.9, and 827.95 of this code or Section 1203.45 of the Penal Code, any information gathered by a law enforcement agency, including the Department of Justice, relating to the taking of a minor into custody may be disclosed to another law enforcement agency, including a school district police or security department, or to any person or agency that has a legitimate need for the information for purposes of official disposition of a case. When the disposition of a taking into custody is available, it shall be included with any information disclosed.

(2) A court shall consider any information relating to the taking of a minor into custody, if the information is not contained in a record that has been sealed, for purposes of determining whether adjudications of commission of crimes as a juvenile warrant a

finding that there are circumstances in aggravation pursuant to Section 1170 of the Penal Code or to deny probation.

(b) When a law enforcement agency has been notified pursuant to Section 1155 that a minor has escaped from a secure detention facility, the law enforcement agency shall release the name of, and any descriptive information about, the minor to a person who specifically requests this information. The law enforcement agency may release the information on the minor without a request to do so if it finds that release of the information would be necessary to assist in recapturing the minor or that it would be necessary to protect the public from substantial physical harm.

SEC. 5. The Legislature finds and declares that Section 1 of this act, which amends Section 786.5 of the Welfare and Institutions Code, and Section 3 of this act, which adds Section 827.95 to the Welfare and Institutions Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to preserve the confidential information of (1) a minor who is currently participating in a diversion program or who has satisfactorily completed a diversion program, (2) a minor who has been counseled and released by police officers without an arrest, citation, detention, or referral to probation or any district attorney, and (3) a minor who does not fall within the jurisdiction of the juvenile delinquency court under current state law, it is necessary that juvenile police records remain closed to the public.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2020

Governor