



Plumas County Probation

Sealing of Juvenile Records



Purpose:

The purpose of this manual is to establish and implement policies and procedures for the sealing of juvenile records by the Probation Department.

Definitions:

1. Juvenile: A "juvenile" is a person who has not attained his/her eighteenth birthday. Also a person over eighteen but fewer than twenty-one years of age is also accorded juvenile treatment if the act of juvenile delinquency occurred prior to his/her eighteenth birthday. *See 18 U.S.C. § 5031.*

Policy: This policy supersedes all prior department memos and policies.

WIC 781 Record Sealing – Sealing by petition:

1) Eligibility:

In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward, a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or is taken before any officer of a law enforcement agency, the person or a probation officer may, five years or more after the jurisdiction of the court has terminated, or in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or at any time after the person has reached 18 years of age, petition the for sealing of records, including records of arrest, relating to the person's case. If the Court finds that since his termination from wardship or any action by the probation officer, the person has not been convicted of a felony or a misdemeanor involving moral turpitude and rehabilitation has been attained to the satisfaction of the Court, it **shall** order all juvenile records sealed.

2) Application:

If at all possible, the applicant should come to the Probation Office to make application. This gives the probation officer an opportunity to explain the eligibility and related details. The probation officer should explain it takes 6 to 8 weeks from time of application to actual sealing.



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The probation officer shall check the agencies to be contacted. If the subject was arrested in the County only, the Sheriff's Department may be the only one contacted, however, if the arrest took place in any other county, check both the agency and the Sheriff's Department.

3) Record Check and Notification:

This is in order to alert law enforcement of the subject's intent to seal his records and to obtain a complete list of all offenses the minor was a suspect in or involved in.

To check with C.I.&I. use the State form BCII 8043. Check with the District Attorney and DMV. The subject's inactive files are then pulled.

The Plumas County Treasurer's Office and the Family Support Division of the District Attorney's Office shall be checked to see if all Court ordered penalties, fines, restitution, and Juvenile Hall or camp costs have been paid.

4) Preparing the Petition:

When all of the agencies have been contacted, the information is typed on the Petition for Sealing of Juvenile Records. Care should be taken to be sure all information is correct. Four copies of these forms shall be prepared; making sure all agencies having any record of the subject is shown at the appropriate place.

Petition Routing:

Of the four copies of the petition typed, one is retained in the file while the other three are sent to the petitioner.

When the petitions are signed and returned to the Probation Office, the information from the Family Support Division of the District Attorney's Office and from the Plumas County Collections Agency is placed in the file.

5) The Court Hearing:

The hearing to seal juvenile records is held in the Superior Court, sitting as a Juvenile Court with all Court personnel present. The petitioner (if residing within the county) is called into the Court Room and the probation court officer presents the case.

The petitioner is usually sworn in and testifies to the validity of the petition. If the Court is satisfied the petition is factual and the person has not been convicted of a felony or misdemeanor involving moral turpitude, the Court then orders the record sealed. At this time the court officer presents the Court with the filled out copies of the Order to Seal Record, and they are signed by the Judge.



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6) Post Court:

When the petition is granted, the County Clerk sends a copy of the order along with a cover letter and a certificate of compliance to each agency with any of the petitioner's juvenile record.

Upon receipt of this order, all cards, files and any other information in our possession in regards to the petitioner are placed in an envelope and sealed. The subject's name and date of sealing and date of last contact with probation officer is noted on the upper left corner of the envelope. The packet is then placed in the file room to be destroyed. Wrap file in tape and write "Do not open – record sealed" on file.

7) Sealed records may only be accessed by court order. The only exception where Probation may access the record without court order is for the limited purpose of complying with data collection or data reporting requirements that are imposed by other provisions of law. (WIC 787)

SEE "SEALING OF JUVENILE RECORDS INSTRUCTIONAL PACKET" FOR ADDITIONAL INFORMATION.

WIC 786(a) Record Sealing:

1) Eligibility:

786(a) - If a person who has been alleged or found to be a ward of the juvenile court satisfactorily completes (1) an informal program of supervision pursuant to Section 654.2, (2) probation under Section 725, or (3) a term of probation for any offense, the court shall order the petition dismissed.

The court shall order sealed all records pertaining to the dismissed petition in the custody of the juvenile court, and in the custody of law enforcement agencies, the probation department, or the Department of Justice. The court shall send a copy of the order to each agency and official named in the order, direct the agency or official to seal its records, and specify a date by which the sealed records shall be destroyed.

Each agency and official named in the order shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and, after advising the court, shall seal the copy of the court's order that was received. The court shall also provide notice to the person and the person's counsel that it has ordered the petition dismissed and the records sealed in the case. The notice shall include an advisement of the person's right to nondisclosure of the arrest and proceedings, as specified in



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subdivision (b). Excludes 707(b) offenses when individual was 14 years of age or older unless finding was dismissed or reduced to a misdemeanor or to a lesser offense that is not listed in subdivision (b) of Section 707 (786(d)).

WIC 786(a) Sealing Procedures

1. Upon satisfactory completion (see WIC 786(c)(1)) of supervision, the Juvenile Probation Officer shall submit a report to include an order for sealing of the juvenile's record in the report's recommended findings and orders
2. Form JV-596 shall be attached to the Probation Officer's report. The JV-596 form includes a recommendation for dismissal of petition; however, said recommendation shall also be included in the body of the report.
3. Upon an order sealing all records pertaining to the dismissed petition, the Juvenile Probation Officer or Probation Assistant shall proceed with "Internal Sealing Procedures". (See below)
4. Upon completion of the record sealing process, the Court shall be advised of compliance.

Opening a Sealed Record (WIC 786(g)(1)):

1. A record ordered sealed pursuant to WIC 786(a) may be opened for the following purposes:

786(g)(1)

(A) By the prosecuting attorney, the probation department, or the court for the limited purpose of determining eligibility and suitability for deferred entry of judgment pursuant to Section 790 or is ineligible for program of supervision as defined in Section 654.3.

(B) By the court for the limited purpose of verifying the prior jurisdictional status of a ward who is petitioning the court to resume its jurisdiction pursuant to subdivision (e) of Section 388.

(C) If a new petition has been filed for a felony offense, for the limited purpose of identifying the Minor's previous court-ordered programs or placements, to determine the Minor's eligibility or suitability for remedial programs or services.

(D) Upon subsequent adjudication and a finding that the Minor is a person described by Section 602 based on commission of a felony offense to determine an appropriate juvenile court disposition.



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(E) Upon the prosecuting attorney's motion, made in accordance with Section 707, to initiate court proceedings to determine whether the case should be transferred to a court of criminal jurisdiction, by the probation department, the prosecuting attorney, counsel for the minor, or the court for the limited purpose of evaluation and determining is such a transfer is appropriate.

(F) By the person whose record has been sealed, upon his or her request and petition to the court to permit inspection of the records.

(G) To access records for the limited purpose of meeting federal Title IV-B and Title IV-E compliance.

WIC 786.5 Non-court Diversion Program Record Sealing (WIC 654):

Pursuant to Section 786.5(a) of the Welfare and Institutions Code: *"Notwithstanding any other law, upon satisfactory completion of a program of diversion or supervision to which a juvenile is referred by the probation officer or the prosecutor in lieu of filing a petition to adjudge the juvenile a ward of the juvenile court, including a program of informal supervision pursuant to Section 654, the Probation Department shall seal the arrest and other records in its custody relating to the juvenile's arrest or referral and participation in the diversion or supervision program."*

1) Informal Probation record sealing for WIC 654 cases:

Informal Probation cases that include a referral to a diversion program provided by another agency require the agency providing services be notified and seal records related to the arrest or referral and participation of the juvenile in the diversion or supervision program.

When these services are provided in-house, no such notification is required; however, the department will ensure any arrest and other records in its custody are sealed upon completion of Informal Probation.

The Probation Department shall notify the participant in supervision or diversion program, in writing, that his or her record has been sealed pursuant to the provisions of Section 786.5 of the Welfare and Institutions Code based on his or her satisfactory completion of the program. If the record is not sealed, the Probation Department will notify the participant in writing of the reason or reasons for not sealing the record.

Satisfactory completion of supervision or diversion shall be defined as "substantial compliance" with the reasonable terms of program participation within the capacity of the participant (WIC 786.5(c)).



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A determination of satisfactory or unsatisfactory completion shall be made within 60 days of completion of the program, or if the program is not completed, within 60 days of determining that the program has not been completed by the juvenile.

An individual who receives notice from the Probation Department that he or she has not satisfactorily completed the diversion program and that the record has not been sealed may petition the court for review of the decision.

A sealed record may be accessed by the Probation Department 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 subdivision shall in all other respects remain confidential and shall not be disseminated to any other person or agency (WIC 786.5(e)).

Access to a sealed record as authorized in WIC 786.5(e) shall not be deemed an unsealing of the record and shall not require notice to any other agency. Upon accessing a sealed record, complete "Internal Sealing Procedures". (See below)



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Internal Sealing Procedures

1. Juvenile PO and/or PA ensure case is closed in Caseload Pro.
2. PO/PA ensure case is sealed in Caseload Pro (must have authority – Supervising PO, Senior PO, Chief)
3. Send all digital case information to Supervising Probation Officer and delete from your computer. File will be saved by SPO in the Document Warehouse Administrative File.
4. Upon receipt of order, all cards, files and any other information in our possession in regards to the petitioner are placed in an envelope and sealed. The subject's name and date of sealing and date of last contact with probation officer is noted on the upper left corner of the envelope. The packet is then placed in the file room to be destroyed. Wrap file in tape and write "Do not open – record sealed" on file. Wrap file in tape and write "Do not open – record sealed" on file.
5. Put the file in the "closed" section of files. Destroy after 5 years, including field book sheets.
5. Close case in HAL if applicable.
6. Notify client and applicable agencies of record seal.
7. Notify court of compliance with record sealing order. Not applicable with WIC 786.5 cases.