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SB-462 Juveniles: case files: access. (2017-2018)

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Date Published: 10/04/2017 02:00 PM

Senate Bill No. 462

CHAPTER 462

An act to add Section 827.12 to the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor October 03, 2017. Filed with Secretary of State October 03, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 462, Atkins. Juveniles: case files: access.

Existing law generally makes confidential information regarding a minor in proceedings in the juvenile court and related court proceedings and limits access to juvenile case files. Existing law authorizes only certain individuals to inspect a case file, including, among others, 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.

Existing law authorizes a person who is the subject of a juvenile court record, or the county probation officer, to petition the court for the sealing of the records relating to the person's case, including records in the custody of the juvenile court, the probation officer, or any other agencies, including law enforcement agencies and public officials as the petitioner alleges to have custody of the records. Under existing law, records sealed pursuant to this provision are generally not open to inspection, but may be accessed by a law enforcement agency, probation department, court, the Department of Justice, or other state or local agency that has custody of the sealed record for the limited purpose of complying with data collection or data reporting requirements.

This bill would similarly allow records contained in juvenile delinquency case files to be accessed by a law enforcement agency, probation department, court, the Department of Justice, or other state or local agency that has custody of the case file and juvenile record for the limited purpose of complying with data collection or data reporting requirements. The bill would allow the juvenile court, upon the request of the chief probation officer, to authorize a probation department to access and provide data contained in juvenile delinquency case files for the purpose of sharing data or conducting or facilitating research on juvenile justice populations, as specified.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 827.12 is added to the Welfare and Institutions Code, to read:

827.12. (a) (1) Records contained in a juvenile delinquency case file may be accessed by a law enforcement agency, probation department, court, the Department of Justice, or other state or local agency that has custody of the case file and juvenile record for the limited purpose of complying with data collection or data reporting requirements that are imposed under the terms of a grant or by another state or federal law. However, personally identifying information contained in a juvenile delinquency case file

accessed under this subdivision shall not be released, disseminated, or published by or through an agency, department, court, or individual that has accessed or obtained information from the juvenile delinquency case file.

(2) Upon request of the chief probation officer, the juvenile court may authorize a probation department to access and provide data contained in juvenile delinquency case files and related juvenile records in the possession of the probation department for the purpose of data sharing or conducting or facilitating research on juvenile justice populations, practices, policies, or trends, if both of the following requirements are met:

(A) The court is satisfied that the research, evaluation, or study includes a sound methodology for the appropriate protection of the confidentiality of an individual whose juvenile delinquency case file is accessed pursuant to this subdivision.

(B) Personally identifying information relating to the individual whose juvenile delinquency case file is accessed pursuant to this subdivision is not further released, disseminated, or published by the probation department or by or through a program evaluator, researcher, or research organization that is retained by the department for research or evaluation purposes.

(3) For the purposes of this subdivision, "personally identifying information" has the same meaning as specified in subdivision (b) of Section 1798.79.8 of the Civil Code.

(b) (1) If information from a juvenile delinquency case record is being released for the purposes of human subject research, as defined in Part 46 of Title 45 of the Code of Federal Regulations, the probation department shall, after receiving authorization from the court but prior to the release of any information, enter into a formal agreement with the entity or entities conducting the research or evaluation that specifies what may and may not be done with the information disclosed.

(2) All human subject research governed by Part 46 of Title 45 of the Code of Federal Regulations shall be conducted in compliance with the protections set forth therein.

(c) The probation department shall not disclose any dependency information contained in a juvenile delinquency case record that pertains to a child who is currently receiving, or has previously received, public social services administered by the State Department of Social Services unless it has complied with the requirements for disclosure of that information set forth in Section 10850.