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Juveniles

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Juveniles

Juveniles; juvenile court—open hearings

Welfare and Institutions Code §676 (amended).

AB 5 (Felando); STATS. 1981, Ch 140

Support: Attorney General; California District Attorneys Association; California Peace Officer's Association; Department of the Youth Authority.

Opposition: California Attorneys for Criminal Justice; California Parent Teacher's Association; State Public Defender

In 1980, the law requiring juvenile court wardship hearings¹ to be closed to the public was revised to require admission of the public when the minor was accused of certain violent felonies.² Chapter 140 expands the category of offenses that require a public hearing to include sodomy³ or oral copulation⁴ by force, violence, duress, menace, or threat of great bodily harm⁵ and penetration of genital or anal openings by foreign objects.⁶ Chapter 140, however, allows closed hearings if it is alleged that the minor has committed one of these sex offenses or rape with force, violence, or great bodily harm and the district attorney, upon request by the victim, makes a motion for a closed hearing.⁷ In addition, the hearing must be closed during the victim's testimony if at the time of the offense the victim was under sixteen years of age.⁸ Chapter 140 is consistent with recent case law allowing the judge to close portions of the hearing to the public when there is good cause, including protection of the parties and the victim.⁹

1. See also CAL. WELF. & INST. CODE §602 (any person under 18 years of age that violates state or United States law or a city or county ordinance is within the jurisdiction of the juvenile court and may be adjudged a ward of the court).

2. See *id.* §676. See generally *id.* §707 (murder; arson of an inhabited building; robbery while armed with a dangerous or deadly weapon; rape with force or violence or threat of great bodily harm; kidnapping with bodily harm; assault with intent to murder or attempted murder; assault with a firearm or destructive device; assault by any means of force likely to produce great bodily injury; discharge of a firearm into an inhabited or occupied building; any offense described in Section 1203.09 of the Penal Code, which includes crimes against persons 60 years of age or older, blind persons, paraplegics or quadriplegics); 12 PAC. L.J., REVIEW OF SELECTED 1980 CALIFORNIA LEGISLATION 515 (1981).

3. See CAL. PENAL CODE §286(a) (definition of sodomy).

4. See *id.* §288a(a) (definition of oral copulation).

5. See CAL. WELF. & INST. CODE §676(a)(5), (6).

6. See CAL. PENAL CODE §289; CAL. WELF. & INST. CODE §676(a)(7).

7. See CAL. WELF. & INST. CODE §676(b)(1).

8. See *id.* §676(b)(2).

9. See *In re Jesse McM.*, 105 Cal. App. 3d 187, 191, 164 Cal. Rptr. 199, 201 (1980).

Juveniles; juvenile court records

Welfare and Institutions Code §§781, 826, 826.5, 826.6 (amended).
SB 674 (Sieroty); STATS. 1981, Ch 387

Support: California Peace Officer's Association; Department of Personnel Administration

Existing law permits minors involved in certain juvenile court, probation, or law enforcement agency proceedings¹ to petition the juvenile court to have the records of the proceedings sealed.² Unless the court finds that the petitioner has not been rehabilitated or has been convicted of a felony or misdemeanor involving moral turpitude since the termination of the court's jurisdiction,³ the court will order all records in the case sealed.⁴ A copy of the order is then sent to all agencies and officials named in the records of the case,⁵ together with a date designated for destruction of the information.⁶

Prior law required the destruction of sealed juvenile records, either in the possession of the court or any other agency, when the person reached the age of thirty-eight,⁷ unless good cause was found to retain the information.⁸ Chapter 387 bases the time of the destruction of sealed records on the judicially-determined criminal or non-criminal status of the minor.⁹ The sealed records of persons designated as criminal are not destroyed until the person reaches thirty-eight.¹⁰ The records of minors designated as non-criminal must be destroyed five years after the record was sealed.¹¹

Similarly, the destruction of juvenile records by a probation officer is based on the criminal status of the offender.¹² If the minor was ad-

1. See CAL. WELF. & INST. CODE §781 (specifying cases in which juvenile court proceedings have been commenced to adjudge a person a ward of the court, in which a person is cited to appear or is taken before a probation officer, or when a minor is taken before an officer of the law).

2. See *id.*

3. See *id.* (actions pursuant to §626, referring to minors taken into temporary custody by a peace officer without a warrant, are also included).

4. See *id.*

5. See *id.* §§781(b), 781(c) (special provisions are made for records of the Department of Motor Vehicles and actions or proceedings based on defamation).

6. See *id.* §781(a).

7. See CAL. STATS. 1980, c. 1319, §2, at — (amending CAL. WELF. & INST. CODE §781(d)).

8. See *id.*

9. See CAL. WELF. & INST. CODE §§601, 602, 781(d).

10. See *id.* §§602, 781(d).

11. See *id.* §§601, 781(d).

12. See *id.* §826.6(a).

judged non-criminal, the non-sealed record is destroyed when he or she reaches age twenty-eight.¹³ The records of a minor described as criminal are retained until the age of thirty-eight.¹⁴ These provisions are subject, however, to the court's determination that there is good cause to keep the information.¹⁵ Finally, Chapter 387 removes the requirement that statutory information regarding the destruction of the criminal record of minors be given to minors in the form of written notice when they become the subject of petitions to identify them as dependent children or wards of the court.¹⁶

13. *See id.* §§300, 601, 826.6(a).

14. *See id.* §§602, 826.6(a).

15. *See id.*

16. *Compare id.* §826.6 with CAL. STATS. 1980, c. 1104, §7, at — (enacting CAL. WELF. & INST. CODE §826.6).

