



Berkeley City Council

CONSENT CALENDAR

June 10, 2014

To: Honorable Mayor and Members of the City Council

From: Councilmembers Jesse Arreguin and Max Anderson

Subject: Support of Assembly Bill (AB) 1756: 'Starting Over Strong'

RECOMMENDATION:

Adopt a Resolution in support of Assembly Bill (AB) 1756, the 'Starting Over Strong' bill, introduced by Assemblymember Nancy Skinner. AB 1756 eliminates the fees associated with sealing court records for juveniles age 18 or under at the time of offense, and who have successfully rehabilitated by age 26. Copies of the Resolution are to be sent to Assemblymember Skinner, as well as Governor Jerry Brown, State Senator Loni Hancock, and bill coauthors Assemblymembers Cheryl Brown, Reginald Jones-Sawyer, and Shirley Weber.

BACKGROUND:

Existing law requires that anyone seeking to seal their juvenile court records must reimburse the court, county, and/or city for the costs associated with sealing those records. That cost can run as high as \$210, which is prohibitively expensive for many young people and makes for a serious obstacle in those youth's pursuit of a better life. AB 1756, referred to as the 'Starting Over Strong' bill, reforms existing law so that only persons ages 26 or older are charged these reimbursement fees. Persons under age 26 who wished to seal their court records could do so at no cost.

The importance of sealing juvenile court records is proven in the daily lives of youth whose records haven't been sealed due to financial hardship. According to the San Francisco *Chronicle*, youths with unsealed juvenile records are more often turned down for housing and jobs, are liable to be turned down for driver's licenses, and can be kept from joining the military. Young people with unsealed records can face obstacles in seeking education, and their rates of recidivism can be higher than those who were able to afford to seal their records—very likely because without stable housing or employment, those youth are left with fewer opportunities to leave the criminal justice system behind them.

Requiring reimbursement for sealing juvenile court records for those under age 26 creates an unnecessary barrier to reentry. The fee should be eliminated for young people who seek to seal their records prior to age 26 and allow those youth to focus their attention on making better lives for themselves after their time in the justice system, instead of bogging them down in the mistakes they made at such young ages.

FINANCIAL IMPLICATIONS:

None.

CONTACT PERSON:

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Attachments:

1. Resolution.
2. SFGate article, "Want to seal juvenile record? It'll cost you" (5/21/2014).
3. Copy of AB 1756.

RESOLUTION NO. ##,###-N.S.

SUPPORT ASSEMBLY BILL (AB) 1756, THE 'STARTING OVER STRONG' BILL

WHEREAS, existing law requires that all youths who wish to seal their juvenile court records must reimburse their court, county, and city for all costs associated with sealing their records; and Assembly Bill (AB) 1756 eliminates current reimbursement fees levied by the State of California for youths to seal their juvenile court records; and

WHEREAS, reimbursement costs cost \$150 on average and up to \$210 for this administrative action; and

WHEREAS, many California youth, especially low-income youth who make up a large portion of those youth who have been involved in the justice system, are unable to afford reimbursement and so leave their records unsealed; and

WHEREAS, leaving a young person's records unsealed can open them up to problems with obtaining stable housing and employment, thus creating an obstacle to their reentry into society and making it more likely they will recidivate and reenter the justice system; and

WHEREAS, financial hardship should not be a barrier to youth's reentry into society; and

WHEREAS, Assembly Bill (AB) 1756, the 'Starting Over Strong; bill, eliminates the requirement for youth under age 26 to pay to seal their juvenile court records, and solves many of the aforementioned problems that young people face when their records remain unsealed.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports Assembly Bill 1756.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Jerry Brown, State Senator Loni Hancock, and Assemblymembers Nancy Skinner, Cheryl Brown, Reginald Jones-Sawyer, and Shirley Weber.

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Want to seal juvenile record? It'll cost you

By Henry K. Lee

Published 1:57 pm, Wednesday, May 21, 2014

(05-21) 13:56 PDT OAKLAND --

A fee charged by some counties to seal juvenile records should be eliminated to reduce the burden on young people who turn their lives around, Oakland Mayor Jean Quan and state Assemblywoman Nancy Skinner said Wednesday.

The fee, which runs from \$85 to \$210, is financially onerous for teen offenders who have since paid their debt to society, the two said at a news conference outside Alameda County Superior Court in Oakland while flanked by youth advocates.

Assembly Bill 1756, dubbed "Starting Over Strong," would eliminate the record-sealing fee for those who were 18 years or younger at the time of the offense and who have attained rehabilitation by age 26. The bill faces a key legislative hurdle in the Assembly Appropriations Committee this week.

"We want to 'free the fee,'" said Skinner, a Democrat from Berkeley. "Who amongst us hasn't made a mistake? Young people make mistakes. They have the right to have their records sealed so that they can go on in life without that albatross around their neck."

In Alameda County, teens who want to seal their records have had to pay \$150 since 2010, at which time requests to seal records "dropped precipitously" by 47 percent, Skinner said. Contra Costa, Los Angeles and San Francisco counties have eliminated their fees, she said.

Quan said, "If young people can get this without having to pay the \$150 fee, they will increase their opportunities to get jobs in this economy, and the whole city will be safer because of that."

Youths with unsealed criminal records risk having job, housing and driver's license applications denied, and can be kept from joining the military, advocates said.

The Chief Probation Officers of California oppose the assembly bill. The group said that while people should be able to seal their juvenile records, current law already allows for a fee waiver in cases where a financial need can be demonstrated.

"This places the determination of need on local authorities and enables counties to recover a portion of the costs to administer the sealing of records where the person has the ability to pay," the organization said.

It said the bill "creates a new undue financial burden on probation departments who are actively working to serve those we supervise."

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AMENDED IN ASSEMBLY MAY 1, 2014

AMENDED IN ASSEMBLY MARCH 20, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1756

**Introduced by Assembly Member Skinner
(Coauthors: Assembly Members Brown, Jones-Sawyer, and Weber)**

February 14, 2014

An act to amend Section 1203.45 of the Penal Code, and to amend Sections ~~781~~ and *Section* 903.3 of the Welfare and Institutions Code, relating to court records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1756, as amended, Skinner. Court records: sealing and destruction.

(1) Existing law authorizes a person to petition the court for an order sealing the record of conviction and other official records in a case in which that person was under 18 years of age at the time of commission of a misdemeanor and is eligible for, or has previously received, specified relief. Existing law authorizes that person to be required to reimburse the court, the county, or any city for the actual cost of services rendered, as specified.

This bill would only make persons 26 years of age or older liable to reimburse the court, the county, or any city for the cost of services.

~~(2) Existing law authorizes, except as specified, in a case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in a case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to a specified provision of law, or in a case in which a~~

minor is taken before an officer of a law enforcement agency, the person or the county probation officer to petition the court for the sealing of arrest records and records relating to the person's case in the custody of the juvenile court and the probation officer and any other agencies, including law enforcement agencies and public officials as the petitioner alleges to have custody of the records. Existing law authorizes the petition to be filed 5 years or more after the jurisdiction of the juvenile court has terminated or, if no petition was filed, 5 years or more after the person was cited to appear before a probation officer or was taken before a probation officer or law enforcement officer, or, in any case, at any time after the person reaches 18 years of age. Existing law also requires, except as provided, the court to order the juvenile court records sealed pursuant to these provisions destroyed, as specified, and authorizes other agencies in possession of sealed records to destroy the records 5 years after the record was ordered sealed.

This bill would instead require a court to, at the time the jurisdiction of the juvenile court has terminated as to the person, order all records, papers, and exhibits in the person's case in the custody of the juvenile court and other agencies, entities, and officials sealed and destroyed. This bill would retain the prohibition in existing law prohibiting a court from ordering the person's records sealed in any case in which the person has been found by the juvenile court to have committed any specified offenses when he or she had attained 14 years of age and prohibiting records from being destroyed if the subject of the record is found to be a within the jurisdiction of the juvenile court because of the commission of the same specified offenses when he or she was 14 years of age or older. The bill would, in any case in which a petition is not filed with the court, require the probation department or law enforcement agency to seal all records, as specified, at the time at which the decision was made to not refer the person to the probation department or the district attorney's office, and to destroy those records when the person who is the subject of the record reaches 18 years of age. The bill would also make conforming changes:

Existing

(2) *Existing* law makes a father, mother, spouse, or other person liable for the support of a minor person, the person himself or herself if he or she is an adult, or the estates of those persons, unless indigent, liable for the cost to the county and court for any investigation related to the sealing and for the sealing of any juvenile court or arrest records pursuant to the above-mentioned provisions. Existing law also authorizes

those persons to be required to reimburse the court, county, or a city for the actual cost of services rendered, as specified.

This bill would only require persons 26 years of age or older who petitions for an order sealing his or her record, pursuant to specified provisions, to be liable for the investigative costs and to reimburse the costs of services rendered.

(3) By permitting certain persons to receive services from local agencies free of charge, the bill would increase the level of service provided by those local agencies, thereby imposing a state-mandated local program.

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 these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 1203.45 of the Penal Code is amended
2 to read:

3 1203.45. (a) In a case in which a person was under 18 years
4 of age at the time of commission of a misdemeanor and is eligible
5 for, or has previously received, the relief provided by Section
6 1203.4 or 1203.4a, that person, in a proceeding under Section
7 1203.4 or 1203.4a, or a separate proceeding, may petition the court
8 for an order sealing the record of conviction and other official
9 records in the case, including records of arrests resulting in the
10 criminal proceeding and records relating to other offenses charged
11 in the accusatory pleading, whether the defendant was acquitted
12 or charges were dismissed. If the court finds that the person was
13 under 18 years of age at the time of the commission of the
14 misdemeanor, and is eligible for relief under Section 1203.4 or
15 1203.4a or has previously received that relief, it may issue its order
16 granting the relief prayed for. Thereafter the conviction, arrest, or
17 other proceeding shall be deemed not to have occurred, and the

1 petitioner may answer accordingly any question relating to their
2 occurrence.

3 (b) This section applies to convictions that occurred before, as
4 well as those that occur after, the effective date of this section.

5 (c) This section shall not apply to offenses for which registration
6 is required under Section 290, to violations of Division 10
7 (commencing with Section 11000) of the Health and Safety Code,
8 or to misdemeanor violations of the Vehicle Code relating to
9 operation of a vehicle or of a local ordinance relating to operation,
10 standing, stopping, or parking of a motor vehicle.

11 (d) This section does not apply to a person convicted of more
12 than one offense, whether the second or additional convictions
13 occurred in the same action in which the conviction as to which
14 relief is sought occurred or in another action, except in the
15 following cases:

16 (1) One of the offenses includes the other or others.

17 (2) The other conviction or convictions were for the following:

18 (A) Misdemeanor violations of Chapters 1 (commencing with
19 Section 21000) to 9 (commencing with Section 22500), inclusive,
20 Chapter 12 (commencing with Section 23100), or Chapter 13
21 (commencing with Section 23250) of Division 11 of the Vehicle
22 Code, other than Section 23103, 23104, 23105, 23152, 23153, or
23 23220.

24 (B) Violation of a local ordinance relating to the operation,
25 stopping, standing, or parking of a motor vehicle.

26 (3) The other conviction or convictions consisted of any
27 combination of paragraphs (1) and (2).

28 (e) This section shall apply in a case in which a person was
29 under 21 years of age at the time of the commission of an offense
30 as to which this section is made applicable if that offense was
31 committed prior to March 7, 1973.

32 (f) In an action or proceeding based upon defamation, a court,
33 upon a showing of good cause, may order the records sealed under
34 this section to be opened and admitted into evidence. The records
35 shall be confidential and shall be available for inspection only by
36 the court, jury, parties, counsel for the parties, and any other person
37 who is authorized by the court to inspect them. Upon the judgment
38 in the action or proceeding becoming final, the court shall order
39 the records sealed.

1 (g) A person who is 26 years of age or older and petitions for
2 an order sealing a record under this section may be required to
3 reimburse the court for the actual cost of services rendered, whether
4 or not the petition is granted and the records are sealed or
5 expunged, at a rate to be determined by the court, not to exceed
6 one hundred fifty dollars (\$150), and to reimburse the county for
7 the actual cost of services rendered, whether or not the petition is
8 granted and the records are sealed or expunged, at a rate to be
9 determined by the county board of supervisors, not to exceed one
10 hundred fifty dollars (\$150), and to reimburse any city for the
11 actual cost of services rendered, whether or not the petition is
12 granted and the records are sealed or expunged, at a rate to be
13 determined by the city council, not to exceed one hundred fifty
14 dollars (\$150). Ability to make this reimbursement shall be
15 determined by the court using the standards set forth in paragraph
16 (2) of subdivision (g) of Section 987.8 and shall not be a
17 prerequisite to a person's eligibility under this section. The court
18 may order reimbursement in a case in which the petitioner appears
19 to have the ability to pay, without undue hardship, all or any portion
20 of the cost for services established pursuant to this subdivision.

21 ~~SEC. 2. Section 781 of the Welfare and Institutions Code is~~
22 ~~amended to read:~~

23 ~~781. (a) (1) (A) In any case in which a petition has been filed~~
24 ~~with a juvenile court to commence proceedings to adjudge a person~~
25 ~~a ward of the court, the court shall, at the time the jurisdiction of~~
26 ~~the juvenile court has terminated as to the person, order all records,~~
27 ~~papers, and exhibits in the person's case in the custody of the~~
28 ~~juvenile court sealed and destroyed, including the juvenile court~~
29 ~~record, minute book entries, and entries on dockets, and any other~~
30 ~~records relating to the case in the custody of the other agencies,~~
31 ~~entities, and officials as are named in the order. Once the court has~~
32 ~~ordered the person's records sealed and destroyed, the proceedings~~
33 ~~in the case shall be deemed never to have occurred, and the person~~
34 ~~may properly reply accordingly to any inquiry about the events,~~
35 ~~the records of which are ordered sealed.~~

36 ~~(B) The court shall send a copy of the order to each agency,~~
37 ~~entity, and official named therein, directing the agency or entity~~
38 ~~to seal and destroy its records. Each agency, entity, and official~~
39 ~~shall seal and destroy the records in its custody as directed by the~~
40 ~~order, shall advise the court of its compliance, and thereupon shall~~

1 seal the copy of the court's order for sealing of records that it, he,
2 or she received.

3 (C) In any case in which a ward of the juvenile court is subject
4 to the registration requirements set forth in Section 290 of the
5 Penal Code, a court, in ordering the sealing of the juvenile records
6 of the person, shall also provide in the order that the person is
7 relieved from the registration requirement and for the destruction
8 of all registration information in the custody of the Department of
9 Justice and other agencies, entities, and officials.

10 (D) Notwithstanding any other law, the court shall not order the
11 person's records sealed in any case in which the person has been
12 found by the juvenile court to have committed an offense listed in
13 subdivision (b) of Section 707 when he or she had attained 14
14 years of age or older.

15 (2) In any case in which a person is cited to appear before a
16 probation officer or is taken before a probation officer pursuant to
17 Section 626, or in any case in which a minor is taken before any
18 officer of a law enforcement agency, and no petition is filed, the
19 probation department or law enforcement agency shall, at the time
20 at which the decision was made to not refer the person to the
21 probation department or to the district attorney's office, seal all
22 records, including records of arrest, relating to the person's case,
23 in the custody of the probation department and law enforcement
24 agency. Once the records have been sealed, the events shall be
25 deemed never to have occurred, and the person may properly reply
26 accordingly to any inquiry about the events, the records of which
27 are sealed. The probation department or law enforcement agency
28 shall destroy the records sealed pursuant to this paragraph when
29 the person who is the subject of the record reaches 18 years of age.

30 (3) The person who is the subject of records sealed pursuant to
31 this section may petition the superior court to permit inspection
32 of the records by persons named in the petition, and the superior
33 court may so order. Otherwise, except as provided in subdivision
34 (b), the records shall not be open to inspection.

35 (b) In any action or proceeding based upon defamation, a court,
36 upon a showing of good cause, may order any records sealed under
37 this section to be opened and admitted into evidence. The records
38 shall be confidential and shall be available for inspection only by
39 the court, jury, parties, counsel for the parties, and any other person
40 who is authorized by the court to inspect them. Upon the judgment

1 in the action or proceeding becoming final, the court shall order
2 the records sealed.

3 (e) ~~(1) Subdivision (a) does not apply to Department of Motor
4 Vehicle records of any convictions for offenses under the Vehicle
5 Code or any local ordinance relating to the operation, stopping
6 and standing, or parking of a vehicle where the record of any such
7 conviction would be a public record under Section 1808 of the
8 Vehicle Code. However, if a court orders a case record containing
9 any such conviction to be sealed under this section, and if the
10 Department of Motor Vehicles maintains a public record of such
11 a conviction, the court shall notify the Department of Motor
12 Vehicles of the sealing and the department shall advise the court
13 of its receipt of the notice.~~

14 ~~(2) Notwithstanding any other law, subsequent to the
15 notification, the Department of Motor Vehicles shall allow access
16 to its record of convictions only to the subject of the record and
17 to insurers which have been granted requestor code numbers by
18 the department. Any insurer to which such a record of conviction
19 is disclosed, when such a conviction record has otherwise been
20 sealed under this section, shall be given notice of the sealing when
21 the record is disclosed to the insurer. The insurer may use the
22 information contained in the record for purposes of determining
23 eligibility for insurance and insurance rates for the subject of the
24 record, and the information shall not be used for any other purpose
25 nor shall it be disclosed by an insurer to any person or party not
26 having access to the record.~~

27 ~~(3) This subdivision shall not prevent the sealing of any record
28 that is maintained by any agency or party other than the Department
29 of Motor Vehicles.~~

30 ~~(4) This subdivision shall not affect the procedures or authority
31 of the Department of Motor Vehicles for purging department
32 records.~~

33 ~~(d) If the subject of the record was found to be a person
34 described in Section 602 because of the commission of an offense
35 listed in subdivision (b) of Section 707 when he or she was 14
36 years of age or older, the record shall not be destroyed. Any other
37 agency in possession of sealed records may destroy its records five
38 years after the record was ordered sealed.~~

39 ~~(e) This section shall not permit the sealing of a person's
40 juvenile court records for an offense where the person is convicted~~

1 of that offense in a criminal court pursuant to the provisions of
 2 Section 707.1. This subdivision is declaratory of existing law.

3 (f) (1) ~~On and after January 1, 2015, each court and probation
 4 department shall ensure that information regarding the eligibility
 5 for and the procedures to request the sealing and destruction of
 6 records pursuant to this section shall be provided to each person
 7 who is either of the following:~~

8 (A) ~~A person for whom a petition has been filed on or after
 9 January 1, 2015, to adjudge the person a ward of the juvenile court.~~

10 (B) ~~A person who is brought before a probation officer pursuant
 11 to Section 626.~~

12 (2) ~~The Judicial Council shall, on or before January 1, 2015,
 13 develop informational materials for purposes of paragraph (1) and
 14 shall develop a form to petition the court for the sealing and
 15 destruction of records pursuant to this section. The informational
 16 materials and the form shall be provided to each person described
 17 in paragraph (1) when jurisdiction is terminated or when the case
 18 is dismissed.~~

19 ~~SEC. 3.~~

20 *SEC. 2.* Section 903.3 of the Welfare and Institutions Code is
 21 amended to read:

22 903.3. (a) A person who is 26 years of age or older shall, unless
 23 indigent, be liable for the cost to the county and court for any
 24 investigation related to the sealing and for the sealing of any
 25 juvenile court or arrest records pursuant to Section 781 pertaining
 26 to that person.

27 (b) In the event a petition is filed for an order sealing a record,
 28 a person who is 26 years of age or older may be required to
 29 reimburse the county and court for the actual cost of services
 30 rendered, whether or not the petition is granted and the records are
 31 sealed or expunged, at a rate to be determined by the county board
 32 of supervisors for the county and by the court for the court, not to
 33 exceed one hundred fifty dollars (\$150). Ability to make this
 34 reimbursement shall be determined by the court using the standards
 35 set forth in paragraph (2) of subdivision (g) of Section 987.8 of
 36 the Penal Code and shall not be a prerequisite to a person's
 37 eligibility under this section. The court may order reimbursement
 38 in any case in which the petitioner appears to have the ability to
 39 pay, without undue hardship, all or any portion of the cost for
 40 services.

1 (c) Notwithstanding subdivision (a), the father, mother, spouse,
2 or other person liable for the support of the minor, the person
3 himself or herself if he or she is an adult, the estate of that person,
4 or the estate of the minor, shall not be liable for the costs described
5 in this section if a petition to declare the minor a dependent child
6 of the court pursuant to Section 300 is dismissed at or before the
7 jurisdictional hearing.

8 (d) Any determination of amount made by a court under this
9 section shall be valid only if either (1) made under procedures
10 adopted by the Judicial Council or (2) approved by the Judicial
11 Council.

12 ~~SEC. 4.~~

13 *SEC. 3.* If the Commission on State Mandates determines that
14 this act contains costs mandated by the state, reimbursement to
15 local agencies and school districts for those costs shall be made
16 pursuant to Part 7 (commencing with Section 17500) of Division
17 4 of Title 2 of the Government Code.