

AMENDED IN SENATE AUGUST 4, 2016

AMENDED IN SENATE JUNE 6, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2872

Introduced by Assembly Member Patterson

February 19, 2016

An act to amend Section 9001 of the Family Code, and to amend Sections 305.6 and 827 of the Welfare and Institutions Code, relating to children.

LEGISLATIVE COUNSEL'S DIGEST

AB 2872, as amended, Patterson. Children.

(1) Existing law establishes a procedure for a stepparent to adopt a stepchild and requires a probation officer, qualified court investigator, licensed clinical social worker, licensed marriage and family therapist, or licensed adoption agency to conduct an investigation of the proposed stepparent adoption, as specified.

This bill would provide that if the petitioner does not request that a licensed clinical social worker, therapist, or private adoption agency complete the investigation, the court may collect the investigation fee and assign a probation officer, court investigator or, if so authorized by the county board of supervisors, the county welfare department to complete the investigation.

(1)

(2) Existing law prohibits a peace officer from taking into temporary custody, without a warrant, a minor who is in a hospital if specified conditions exist, including that the minor is a newborn who tested

positive for illegal drugs or whose birth mother tested positive for illegal drugs or the minor is the subject of a proposed adoption and a Health Facility Minor Release Report has been completed by the hospital, as specified.

This bill would require the appropriate hospital personnel to complete a Health Facility Minor Release Report and provide copies to specified parties upon request by a parent.

(2)

(3) Existing law authorizes specified persons to inspect a juvenile case file, including a court-appointed investigator who is actively participating in a guardianship case involving a minor, as specified, and acting within the scope of his or her duties in that case.

This bill would additionally permit a statutorily authorized or court-appointed investigator who is conducting specified investigations relating to children, including stepparent adoptions, to inspect a juvenile case file.

(4) *This bill would incorporate additional changes to Section 827 of the Welfare and Institutions Code proposed by AB 1945 that would become operative if this bill and AB 1945 are chaptered and this bill is chaptered last.*

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

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

1 SECTION 1. Section 9001 of the Family Code is amended to
2 read:

3 9001. (a) Except as provided in Section 9000.5, before granting
4 or denying a stepparent adoption request, the court shall review
5 and consider a written investigative report. The report in a
6 stepparent adoption case shall not require a home study unless so
7 ordered by the court upon request of an investigator or interested
8 person, or on the court’s own motion. “Home study” as used in
9 this section means a physical investigation of the premises where
10 the child is residing.

11 (b) At the time of filing the adoption request, the petitioner shall
12 inform the court in writing if the petitioner is electing to have the
13 investigation and written report completed by a licensed clinical
14 social worker, a licensed marriage and family therapist, or a private
15 licensed adoption agency, in which cases the petitioner shall not

1 be required to pay any investigation fee pursuant to Section 9002
2 at the time of filing, but shall pay these fees directly to the
3 investigator. Absent that notification, the court may, at the time
4 of filing, collect an investigation fee pursuant to Section 9002, and
5 may assign one of the following to complete the investigation: a
6 probation officer, a qualified court investigator, or the county
7 welfare department, if so authorized by the board of supervisors
8 of the county where the action is pending.

9 (c) If a private licensed adoption agency conducts the
10 investigation, it shall assign the investigation to a licensed clinical
11 social worker or licensed marriage and family therapist associated
12 with the agency. Any grievance regarding the investigation shall
13 be directed to the licensing authority of the clinical social worker
14 or marriage and family therapist, as applicable.

15 (d) Nothing in this section shall be construed to require the State
16 Department of Social Services to issue regulations for stepparent
17 adoptions.

18 SEC. 2. Section 305.6 of the Welfare and Institutions Code is
19 amended to read:

20 305.6. (a) Any peace officer may, without a warrant, take into
21 temporary custody a minor who is in a hospital if the release of
22 the minor to a prospective adoptive parent or a representative of
23 a licensed adoption agency poses an immediate danger to the
24 minor's health or safety.

25 (b) Notwithstanding subdivision (a) and Section 305, a peace
26 officer shall not, without a warrant, take into temporary custody
27 a minor who is in a hospital if all of the following conditions exist:

28 (1) The minor is a newborn who tested positive for illegal drugs
29 or whose birth mother tested positive for illegal drugs.

30 (2) The minor is the subject of a proposed adoption and a Health
31 Facility Minor Release Report, developed by the department, has
32 been completed by the hospital, including the marking of the boxes
33 applicable to an independent adoption or agency adoption planning,
34 and signed by the placing birth parent or birth parents, as well as
35 either the prospective adoptive parent or parents or an authorized
36 representative of a licensed adoption agency, prior to the discharge
37 of the birth parent or the minor from the hospital. The Health
38 Facility Minor Release Report shall include a notice written in at
39 least 14-point pica type, containing substantially all of the
40 following statements:

1 (A) That the Health Facility Minor Release Report does not
2 constitute consent to adoption of the minor by the prospective
3 adoptive parent or parents, or any other person.

4 (B) That the Health Facility Minor Release Report does not
5 constitute a relinquishment of parental rights for the purposes of
6 adoption.

7 (C) That the birth parent or parents or any person authorized by
8 the birth parent or parents may reclaim the minor at any time from
9 the prospective adoptive parent or parents or any other person to
10 whom the minor was released by the hospital, as provided in
11 Section 8700, 8814.5, or 8815 of the Family Code.

12 (3) The release of the minor to a prospective adoptive parent or
13 parents or an authorized representative of a licensed adoption
14 agency does not pose an immediate danger to the minor.

15 (4) An attorney or an adoption agency has provided
16 documentation stating that he or she, or the agency, is representing
17 the prospective adoptive parent or parents for purposes of the
18 adoption. In the case of an independent adoption, as defined in
19 Section 8524 of the Family Code, the attorney or adoption agency
20 shall provide documentation stating that the prospective adoptive
21 parent or parents have been informed that the child may be eligible
22 for benefits provided pursuant to the Adoption Assistance Program,
23 as set forth in Chapter 2.1 (commencing with Section 16115) of
24 Part 4 of Division 9, only if, at the time the adoption request is
25 filed, the child has met the requirements to receive federal
26 supplemental security income benefits pursuant to Subchapter XVI
27 (commencing with Section 1381) of Chapter 7 of Title 42 of the
28 United States Code, as determined and documented by the federal
29 Social Security Administration.

30 (5) The prospective adoptive parent or parents or their
31 representative, or an authorized representative of a licensed
32 adoption agency, provides all of the following to the peace officer:

33 (A) A fully executed copy of the Health Facility Minor Release
34 Report.

35 (B) A written form signed by either the prospective adoptive
36 parent or parents or a representative of the licensed adoption
37 agency, which shall include all of the following:

38 (i) A statement that the minor is the subject of a proposed
39 adoption.

1 (ii) A declaration that the signer or signers will immediately
2 notify the county child welfare agency pursuant to Section 11165.9
3 of the Penal Code if the adoption plan is terminated for any reason,
4 and will not release the minor to the birth parent or parents or any
5 designee of the birth parent or parents until the county child welfare
6 agency or local law enforcement agency completes an investigation
7 and determines that release of the minor to the birth parent or
8 parents or a designee of the birth parent or parents will not create
9 an immediate risk to the health or safety of the minor.

10 (iii) An agreement to provide a conformed copy of the adoption
11 request or guardianship petition to the county child welfare agency
12 within five business days after filing.

13 (iv) The names, identifying information, and contact information
14 for the minor, for each prospective adoptive parent, and for each
15 birth parent, to the extent that information is known. In the case
16 of an agency adoption where no prospective adoptive parent or
17 parents are identified at the time of the minor's release from the
18 hospital, the licensed adoption agency may provide the information
19 as it pertains to the licensed or certified foster home into which
20 the agency intends to place the minor.

21 (c) (1) In every independent adoption proceeding under this
22 section, the prospective adoptive parent or parents shall file with
23 the court either an adoption request within 10 working days after
24 execution of an adoption placement agreement, or a guardianship
25 petition within 30 calendar days after the child's discharge from
26 the hospital, whichever is earlier.

27 (2) If the adoption plan for a minor who was released from the
28 hospital pursuant to subdivision (b) is terminated for any reason,
29 the prospective adoptive parent or parents or licensed adoption
30 agency shall immediately notify the county child welfare agency.
31 The prospective adoptive parent or parents or licensed adoption
32 agency may not release the minor into the physical custody of the
33 birth parent or parents, or any designee of the birth parent or
34 parents, until the county child welfare agency or local law
35 enforcement agency completes an investigation and determines
36 that release of the minor to the birth parent or parents or a designee
37 of the birth parent or parents will not create an immediate risk to
38 the health or safety of the minor.

39 (d) Upon request by a birth parent or parents of the minor
40 newborn, the appropriate hospital personnel shall complete a Health

1 Facility Minor Release Report and provide copies of the report to
2 the birth parent or parents, and the person or persons who will
3 receive physical custody of the child upon ~~discharge~~. *discharge*
4 *pursuant to Section 1283 of the Health and Safety Code*. Hospital
5 personnel shall not refuse to complete a Health Facility Minor
6 Release Report for any reason, even if the minor is ineligible for
7 release at that time. However, nothing in this section shall be
8 construed to require hospital personnel to release a minor contrary
9 to the directives of a child welfare agency.

10 (e) Nothing in this section is intended to create a duty that
11 requires law enforcement to investigate the prospective adoptive
12 parent or parents.

13 SEC. 3. Section 827 of the Welfare and Institutions Code is
14 amended to read:

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

17 (A) Court personnel.

18 (B) The district attorney, a city attorney, or city prosecutor
19 authorized to prosecute criminal or juvenile cases under state law.

20 (C) The minor who is the subject of the proceeding.

21 (D) The minor's parents or guardian.

22 (E) The attorneys for the parties, judges, referees, other hearing
23 officers, probation officers, and law enforcement officers who are
24 actively participating in criminal or juvenile proceedings involving
25 the minor.

26 (F) The county counsel, city attorney, or any other attorney
27 representing the petitioning agency in a dependency action.

28 (G) The superintendent or designee of the school district where
29 the minor is enrolled or attending school.

30 (H) Members of the child protective agencies as defined in
31 Section 11165.9 of the Penal Code.

32 (I) The State Department of Social Services, to carry out its
33 duties pursuant to Division 9 (commencing with Section 10000),
34 and Part 5 (commencing with Section 7900) of Division 12, of the
35 Family Code to oversee and monitor county child welfare agencies,
36 children in foster care or receiving foster care assistance, and
37 out-of-state placements, Section 10850.4, and paragraph (2).

38 (J) Authorized legal staff or special investigators who are peace
39 officers who are employed by, or who are authorized
40 representatives of, the State Department of Social Services, as

1 necessary to the performance of their duties to inspect, license,
2 and investigate community care facilities, and to ensure that the
3 standards of care and services provided in those facilities are
4 adequate and appropriate and to ascertain compliance with the
5 rules and regulations to which the facilities are subject. The
6 confidential information shall remain confidential except for
7 purposes of inspection, licensing, or investigation pursuant to
8 Chapter 3 (commencing with Section 1500) and Chapter 3.4
9 (commencing with Section 1596.70) of Division 2 of the Health
10 and Safety Code, or a criminal, civil, or administrative proceeding
11 in relation thereto. The confidential information may be used by
12 the State Department of Social Services in a criminal, civil, or
13 administrative proceeding. The confidential information shall be
14 available only to the judge or hearing officer and to the parties to
15 the case. Names that are confidential shall be listed in attachments
16 separate to the general pleadings. The confidential information
17 shall be sealed after the conclusion of the criminal, civil, or
18 administrative hearings, and may not subsequently be released
19 except in accordance with this subdivision. If the confidential
20 information does not result in a criminal, civil, or administrative
21 proceeding, it shall be sealed after the State Department of Social
22 Services decides that no further action will be taken in the matter
23 of suspected licensing violations. Except as otherwise provided in
24 this subdivision, confidential information in the possession of the
25 State Department of Social Services may not contain the name of
26 the minor.

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

29 (L) A judge, commissioner, or other hearing officer assigned
30 to a family law case with issues concerning custody or visitation,
31 or both, involving the minor, and the following persons, if actively
32 participating in the family law case: a family court mediator
33 assigned to a case involving the minor pursuant to Article 1
34 (commencing with Section 3160) of Chapter 11 of Part 2 of
35 Division 8 of the Family Code, a court-appointed evaluator or a
36 person conducting a court-connected child custody evaluation,
37 investigation, or assessment pursuant to Section 3111 or 3118 of
38 the Family Code, and counsel appointed for the minor in the family
39 law case pursuant to Section 3150 of the Family Code. Prior to
40 allowing counsel appointed for the minor in the family law case

1 to inspect the file, the court clerk may require counsel to provide
2 a certified copy of the court order appointing him or her as the
3 minor's counsel.

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

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

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

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

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

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

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

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

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

18 (F) The petitioning party shall have 10 calendar days to file any
19 reply. The juvenile court shall set the matter for hearing no more
20 than 60 calendar days from the date the petition is served on the
21 custodian of records. The court shall render its decision within 30
22 days of the hearing. The matter shall be decided solely upon the
23 basis of the petition and supporting exhibits and declarations, if
24 any, the objection and any supporting exhibits or declarations, if
25 any, and the reply and any supporting declarations or exhibits
26 thereto, and argument at hearing. The court may solely upon its
27 own motion order the appearance of witnesses. If no objection is
28 filed to the petition, the court shall review the petition and issue
29 its decision within 10 calendar days of the final day for filing the
30 objection. Any order of the court shall be immediately reviewable
31 by petition to the appellate court for the issuance of an
32 extraordinary writ.

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

36 (A) If a juvenile case file, or any portion thereof, is privileged
37 or confidential pursuant to any other state law or federal law or
38 regulation, the requirements of that state law or federal law or
39 regulation prohibiting or limiting release of the juvenile case file
40 or any portions thereof shall prevail. Unless a person is listed in

1 subparagraphs (A) to (O), inclusive, of paragraph (1) and is entitled
2 to access under the other state law or federal law or regulation
3 without a court order, all those seeking access, pursuant to other
4 authorization, to portions of, or information relating to the contents
5 of, juvenile case files protected under another state law or federal
6 law or regulation, shall petition the juvenile court. The juvenile
7 court may only release the portion of, or information relating to
8 the contents of, juvenile case files protected by another state law
9 or federal law or regulation if disclosure is not detrimental to the
10 safety, protection, or physical or emotional well-being of a child
11 who is directly or indirectly connected to the juvenile case that is
12 the subject of the petition. This paragraph shall not be construed
13 to limit the ability of the juvenile court to carry out its duties in
14 conducting juvenile court proceedings.

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

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

30 (5) Individuals listed in subparagraphs (A), (B), (C), (D), (E),
31 (F), (H), and (I) of paragraph (1) may also receive copies of the
32 case file. In these circumstances, the requirements of paragraph
33 (4) shall continue to apply to the information received.

34 (b) (1) While the Legislature reaffirms its belief that juvenile
35 court records, in general, should be confidential, it is the intent of
36 the Legislature in enacting this subdivision to provide for a limited
37 exception to juvenile court record confidentiality to promote more
38 effective communication among juvenile courts, family courts,
39 law enforcement agencies, and schools to ensure the rehabilitation

1 of juvenile criminal offenders as well as to lessen the potential for
2 drug use, violence, other forms of delinquency, and child abuse.

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

23 (B) Any information received by a teacher, counselor, or
24 administrator under this subdivision shall be received in confidence
25 for the limited purpose of rehabilitating the minor and protecting
26 students and staff, and shall not be further disseminated by the
27 teacher, counselor, or administrator, except insofar as
28 communication with the juvenile, his or her parents or guardians,
29 law enforcement personnel, and the juvenile's probation officer
30 is necessary to effectuate the juvenile's rehabilitation or to protect
31 students and staff.

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

35 (3) If a minor is removed from public school as a result of the
36 court's finding described in subdivision (b), the superintendent
37 shall maintain the information in a confidential file and shall defer
38 transmittal of the information received from the court until the
39 minor is returned to public school. If the minor is returned to a
40 school district other than the one from which the minor came, the

1 parole or probation officer having jurisdiction over the minor shall
2 so notify the superintendent of the last district of attendance, who
3 shall transmit the notice received from the court to the
4 superintendent of the new district of attendance.

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

12 (d) (1) Each notice sent by the court pursuant to subdivision
13 (b) shall be stamped with the instruction: “Unlawful Dissemination
14 Of This Information Is A Misdemeanor.” Any information received
15 from the court shall be kept in a separate confidential file at the
16 school of attendance and shall be transferred to the minor’s
17 subsequent schools of attendance and maintained until the minor
18 graduates from high school, is released from juvenile court
19 jurisdiction, or reaches the age of 18 years, whichever occurs first.
20 After that time the confidential record shall be destroyed. At any
21 time after the date by which a record required to be destroyed by
22 this section should have been destroyed, the minor or his or her
23 parent or guardian shall have the right to make a written request
24 to the principal of the school that the minor’s school records be
25 reviewed to ensure that the record has been destroyed. Upon
26 completion of any requested review and no later than 30 days after
27 the request for the review was received, the principal or his or her
28 designee shall respond in writing to the written request and either
29 shall confirm that the record has been destroyed or, if the record
30 has not been destroyed, shall explain why destruction has not yet
31 occurred.

32 (2) Except as provided in paragraph (2) of subdivision (b), no
33 liability shall attach to any person who transmits or fails to transmit
34 any notice or information required under subdivision (b).

35 (e) For purposes of this section, a “juvenile case file” means a
36 petition filed in any juvenile court proceeding, reports of the
37 probation officer, and all other documents filed in that case or
38 made available to the probation officer in making his or her report,
39 or to the judge, referee, or other hearing officer, and thereafter

1 retained by the probation officer, judge, referee, or other hearing
2 officer.

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

8 *SEC. 3.5. Section 827 of the Welfare and Institutions Code is*
9 *amended to read:*

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

12 (A) Court personnel.

13 (B) The district attorney, a city attorney, or city prosecutor
14 authorized to prosecute criminal or juvenile cases under state law.

15 (C) The minor who is the subject of the proceeding.

16 (D) The minor's parents or guardian.

17 (E) The attorneys for the parties, judges, referees, other hearing
18 officers, probation officers, and law enforcement officers who are
19 actively participating in criminal or juvenile proceedings involving
20 the minor.

21 (F) The county counsel, city attorney, or any other attorney
22 representing the petitioning agency in a dependency action.

23 (G) The superintendent or designee of the school district where
24 the minor is enrolled or attending school.

25 (H) Members of the child protective agencies as defined in
26 Section 11165.9 of the Penal Code.

27 (I) The State Department of Social Services, to carry out its
28 duties pursuant to Division 9 (commencing with Section 10000),
29 and Part 5 (commencing with Section 7900) of Division 12, of the
30 Family Code to oversee and monitor county child welfare agencies,
31 children in foster care or receiving foster care assistance, and
32 out-of-state placements, Section 10850.4, and paragraph (2).

33 (J) Authorized legal staff or special investigators who are peace
34 officers who are employed by, or who are authorized
35 representatives of, the State Department of Social Services, as
36 necessary to the performance of their duties to inspect, license,
37 and investigate community care facilities, and to ensure that the
38 standards of care and services provided in those facilities are
39 adequate and appropriate and to ascertain compliance with the
40 rules and regulations to which the facilities are subject. The

1 confidential information shall remain confidential except for
2 purposes of inspection, licensing, or investigation pursuant to
3 Chapter 3 (commencing with Section 1500) and Chapter 3.4
4 (commencing with Section 1596.70) of Division 2 of the Health
5 and Safety Code, or a criminal, civil, or administrative proceeding
6 in relation thereto. The confidential information may be used by
7 the State Department of Social Services in a criminal, civil, or
8 administrative proceeding. The confidential information shall be
9 available only to the judge or hearing officer and to the parties to
10 the case. Names that are confidential shall be listed in attachments
11 separate to the general pleadings. The confidential information
12 shall be sealed after the conclusion of the criminal, civil, or
13 administrative hearings, and may not subsequently be released
14 except in accordance with this subdivision. If the confidential
15 information does not result in a criminal, civil, or administrative
16 proceeding, it shall be sealed after the State Department of Social
17 Services decides that no further action will be taken in the matter
18 of suspected licensing violations. Except as otherwise provided in
19 this subdivision, confidential information in the possession of the
20 State Department of Social Services may not contain the name of
21 the minor.

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

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

39 (M) ~~A~~ *When acting within the scope of investigative duties of*
40 *an active case, a statutorily authorized or court-appointed*

1 investigator who is *conducting an investigation pursuant to Section*
2 *7663, 7851, or 9001 of the Family Code, or who is actively*
3 *participating in a guardianship case involving a minor pursuant to*
4 *Part 2 (commencing with Section 1500) of Division 4 of the*
5 *Probate Code and acting within the scope of his or her duties in*
6 *that case.*

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

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

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

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

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

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

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

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

15 (F) The petitioning party shall have 10 calendar days to file any
16 reply. The juvenile court shall set the matter for hearing no more
17 than 60 calendar days from the date the petition is served on the
18 custodian of records. The court shall render its decision within 30
19 days of the hearing. The matter shall be decided solely upon the
20 basis of the petition and supporting exhibits and declarations, if
21 any, the objection and any supporting exhibits or declarations, if
22 any, and the reply and any supporting declarations or exhibits
23 thereto, and argument at hearing. The court may solely upon its
24 own motion order the appearance of witnesses. If no objection is
25 filed to the petition, the court shall review the petition and issue
26 its decision within 10 calendar days of the final day for filing the
27 objection. Any order of the court shall be immediately reviewable
28 by petition to the appellate court for the issuance of an
29 extraordinary writ.

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

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

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

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

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

27 (5) Individuals listed in subparagraphs (A), (B), (C), (D), (E),
28 (F), (H), and (I) of paragraph (1) may also receive copies of the
29 case file. In these circumstances, the requirements of paragraph
30 (4) shall continue to apply to the information received.

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

39 (2) (A) Notwithstanding subdivision (a), written notice that a
40 minor enrolled in a public school, kindergarten to grade 12,

1 inclusive, has been found by a court of competent jurisdiction to
2 have committed any felony or any misdemeanor involving curfew,
3 gambling, alcohol, drugs, tobacco products, carrying of weapons,
4 a sex offense listed in Section 290 of the Penal Code, assault or
5 battery, larceny, vandalism, or graffiti shall be provided by the
6 court, within seven days, to the superintendent of the school district
7 of attendance. Written notice shall include only the offense found
8 to have been committed by the minor and the disposition of the
9 minor's case. This notice shall be expeditiously transmitted by the
10 district superintendent to the principal at the school of attendance.
11 The principal shall expeditiously disseminate the information to
12 those counselors directly supervising or reporting on the behavior
13 or progress of the minor. In addition, the principal shall disseminate
14 the information to any teacher or administrator directly supervising
15 or reporting on the behavior or progress of the minor whom the
16 principal believes needs the information to work with the pupil in
17 an appropriate fashion, to avoid being needlessly vulnerable or to
18 protect other persons from needless vulnerability.

19 (B) Any information received by a teacher, counselor, or
20 administrator under this subdivision shall be received in confidence
21 for the limited purpose of rehabilitating the minor and protecting
22 students and staff, and shall not be further disseminated by the
23 teacher, counselor, or administrator, except insofar as
24 communication with the juvenile, his or her parents or guardians,
25 law enforcement personnel, and the juvenile's probation officer
26 is necessary to effectuate the juvenile's rehabilitation or to protect
27 students and staff.

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

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

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

8 (d) (1) Each notice sent by the court pursuant to subdivision
9 (b) shall be stamped with the instruction: “Unlawful Dissemination
10 Of This Information Is A Misdemeanor.” Any information received
11 from the court shall be kept in a separate confidential file at the
12 school of attendance and shall be transferred to the minor’s
13 subsequent schools of attendance and maintained until the minor
14 graduates from high school, is released from juvenile court
15 jurisdiction, or reaches the age of 18 years, whichever occurs first.
16 After that time the confidential record shall be destroyed. At any
17 time after the date by which a record required to be destroyed by
18 this section should have been destroyed, the minor or his or her
19 parent or guardian shall have the right to make a written request
20 to the principal of the school that the minor’s school records be
21 reviewed to ensure that the record has been destroyed. Upon
22 completion of any requested review and no later than 30 days after
23 the request for the review was received, the principal or his or her
24 designee shall respond in writing to the written request and either
25 shall confirm that the record has been destroyed or, if the record
26 has not been destroyed, shall explain why destruction has not yet
27 occurred.

28 (2) Except as provided in paragraph (2) of subdivision (b), no
29 liability shall attach to any person who transmits or fails to transmit
30 any notice or information required under subdivision (b).

31 (e) For purposes of this section, a “juvenile case file” means a
32 petition filed in any juvenile court proceeding, reports of the
33 probation officer, and all other documents filed in that case or
34 made available to the probation officer in making his or her report,
35 or to the judge, referee, or other hearing officer, and thereafter
36 retained by the probation officer, judge, referee, or other hearing
37 officer.

38 (f) The persons described in subparagraphs (A), (E), (F), (H),
39 (K), (L), (M), and (N) of paragraph (1) of subdivision (a) include
40 persons serving in a similar capacity for an Indian tribe, reservation,

1 or tribal court when the case file involves a child who is a member
2 of, or who is eligible for membership in, that tribe.

3 (g) *A case file that is covered by, or included in, an order of the*
4 *court sealing a record pursuant to Section 781 or 786 may not be*
5 *inspected except as specified by Section 781 or 786.*

6 *SEC. 4. Section 3.5 of this bill incorporates amendments to*
7 *Section 827 of the Welfare and Institutions Code proposed by both*
8 *this bill and Assembly Bill 1945. It shall only become operative if*
9 *(1) both bills are enacted and become effective on or before*
10 *January 1, 2017, (2) each bill amends Section 827 of the Welfare*
11 *and Institutions Code, and (3) this bill is enacted after Assembly*
12 *Bill 1945, in which case Section 3 of this bill shall not become*
13 *operative.*

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