

ASSEMBLY BILL

No. 61

Introduced by Assembly Member Nava

December 9, 2008

An act to amend Section 790 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 61, as introduced, Nava. Juvenile crime: deferred entry of judgment.

Existing law, enacted by initiative statute, provides that if a minor consents and waives his or her right to a speedy jurisdictional hearing, the court may refer the case to the probation department or summarily grant deferred entry of judgment if the minor admits the charges in the petition and waives time for the pronouncement of the judgment. These provisions apply whenever a case is before the juvenile court for a determination of whether the minor is within the jurisdiction of the juvenile court because of the commission of a felony offense, and the minor meets other eligibility criteria, including that the offense charged is not one of an enumerated list of offenses for which a minor 14 years of age or older may be found unfit for treatment in juvenile court and prosecuted under the general law in a court of criminal jurisdiction. The initiative statute provides that any amendment of its provisions requires a $\frac{2}{3}$ vote of the membership of each house of the Legislature.

This bill would list additional sexual offenses for which a minor charged with the commission thereof would become ineligible for a deferred entry of judgment pursuant to these provisions. By changing the punishment for a crime, the bill would impose a state-mandated

local program. Because the bill would amend an initiative statute, it would require a $\frac{2}{3}$ vote.

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 no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$. 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 790 of the Welfare and Institutions Code
2 is amended to read:
3 790. (a) Notwithstanding Section 654 or 654.2, or any other
4 ~~provision of law~~, this article shall apply whenever a case is before
5 the juvenile court for a determination of whether a minor is a
6 person described in Section 602 because of the commission of a
7 felony offense, if all of the following circumstances apply:
8 (1) The minor has not previously been declared to be a ward of
9 the court for the commission of a felony offense.
10 (2) The offense charged is not one of the offenses enumerated
11 in subdivision (b) of Section ~~707~~: *707 or any of the following*
12 *offenses:*
13 (A) *An offense described in paragraph (1), (3), (4), (5), (6), or*
14 *(7) of subdivision (a) of Section 261 of the Penal Code.*
15 (B) *An offense described in Section 264.1 or 285 of the Penal*
16 *Code.*
17 (C) *An offense described in paragraph (1) or (3) of subdivision*
18 *(c), or subdivision (f), (g), (h), (i), (j), or (k) of Section 286 of the*
19 *Penal Code.*
20 (D) *An offense described in subdivision (a) of Section 288 of*
21 *the Penal Code.*
22 (E) *An offense described in paragraph (1) or (3) of subdivision*
23 *(c), or subdivision (d), (f), (g), (h), (i), (j), or (k) of Section 288a*
24 *of the Penal Code.*
25 (F) *An offense described in subdivision (b), (c), (d), (e), (f), (g),*
26 *or (j) of Section 289 of the Penal Code.*
27 (G) *An offense described in Section 647.6 of the Penal Code.*

1 (3) The minor has not previously been committed to the custody
2 of the ~~Youth Authority~~ *Department of Corrections, Division of*
3 *Juvenile Facilities*.

4 (4) The minor's record does not indicate that probation has ever
5 been revoked without being completed.

6 (5) The minor is at least 14 years of age at the time of the
7 hearing.

8 (6) The minor is eligible for probation pursuant to Section
9 1203.06 of the Penal Code.

10 (b) The prosecuting attorney shall review his or her file to
11 determine whether or not paragraphs (1) to (6), inclusive, of
12 subdivision (a) apply. If the minor is found eligible for deferred
13 entry of judgment, the prosecuting attorney shall file a declaration
14 in writing with the court or state for the record the grounds upon
15 which the determination is based, and shall make this information
16 available to the minor and his or her attorney. Upon a finding that
17 the minor is also suitable for deferred entry of judgment and would
18 benefit from education, treatment, and rehabilitation efforts, the
19 court may grant deferred entry of judgment. Under this procedure,
20 the court may set the hearing for deferred entry of judgment at the
21 initial appearance under Section 657. The court shall make findings
22 on the record that a minor is appropriate for deferred entry of
23 judgment pursuant to this article in any case ~~where~~ *in which*
24 deferred entry of judgment is granted.

25 SEC. 2. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.