

Introduced by Senator LenoFebruary 18, 2014

An act to amend Section 782 of, and to add Section 786 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1038, as introduced, Leno. Juveniles: dismissal of petition.

Existing law subjects any person under 18 years of age who commits a crime to the jurisdiction of the juvenile court, which may adjudge that person to be a ward of the court, except as specified. Under existing law, juvenile court proceedings to declare a minor a ward of the court are commenced by the filing of a petition by the probation officer, the district attorney after consultation with the probation officer, or the prosecuting attorney, as specified. Existing law authorizes a judge of the juvenile court to dismiss a petition, or set aside the findings and dismiss a petition, at any time before the minor reaches 21 years of age if the court finds that the interests of justice and the welfare of the minor require that dismissal, or if the court finds that the minor is not in need of treatment or rehabilitation.

This bill would delete the restriction that the petition be dismissed before the minor reaches 21 years of age.

Existing law authorizes a juvenile court to, among other things, order a minor who is the subject of a petition to declare the minor a ward of the juvenile court, to participate in a program of supervision for up to 6 months with the consent of the minor and the minor's parents or guardian, without adjudging the minor a ward of the court. Upon successful completion of the program of supervision, existing law requires the petition to be dismissed.

This bill would additionally require the juvenile court to order the petition of a minor who is subject to the jurisdiction of the court dismissed if the minor satisfactorily completes a term of probation, as specified. The bill would require the court to seal all records pertaining to that dismissed petition in the custody of the juvenile court, but would authorize a prosecuting attorney and the probation department of any county to have access to those records after they are sealed for the limited purpose of determining whether the minor is eligible for deferred entry of judgment.

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

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

1 SECTION 1. Section 782 of the Welfare and Institutions Code
2 is amended to read:

3 782. A judge of the juvenile court in which a petition was filed;
4 ~~at any time before the minor reaches the age of 21 years,~~ may
5 dismiss the petition, or may set aside the findings and dismiss the
6 petition, if the court finds that the interests of justice and the
7 welfare of the minor require ~~such~~ *that* dismissal, or if it finds that
8 the minor is not in need of treatment or rehabilitation. The court
9 ~~shall have~~ *has* jurisdiction to order ~~such~~ dismissal or setting aside
10 of the findings and dismissal regardless of whether the minor is,
11 at the time of ~~such~~ *the* order, a ward or dependent child of the
12 court.

13 SEC. 2. Section 786 is added to the Welfare and Institutions
14 Code, to read:

15 786. If the minor satisfactorily completes (1) an informal
16 program of supervision pursuant to Section 654.2, (2) probation
17 under Section 725, or (3) a term of probation for any offense not
18 listed in subdivision (b) of Section 707, the court shall order the
19 petition dismissed, and the arrest upon which the judgment was
20 deferred shall be deemed not to have occurred. The court shall
21 order sealed all records pertaining to that dismissed petition in the
22 custody of the juvenile court, except that the prosecuting attorney
23 and the probation department of any county shall have access to
24 these records after they are sealed for the limited purpose of

- 1 determining whether the minor is eligible for deferred entry of
- 2 judgment pursuant to Section 790.

O