

ASSEMBLY BILL

No. 1352

Introduced by Assembly Member Eggman

February 27, 2015

An act to add Section 1203.43 to the Penal Code, relating to deferred entry of judgment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1352, as introduced, Eggman. Deferred entry of judgment: withdrawal of plea.

Existing law allows judgment to be deferred with respect to a defendant who is charged with certain crimes involving possession of controlled substances and who meets certain criteria, including that he or she has no prior convictions for any offense involving controlled substances and has had no felony convictions within the 5 years prior, as specified. Existing law prohibits the record pertaining to an arrest resulting in successful completion of a deferred entry of judgment program from being used in any way that could result in the denial of employment, benefit, license, or certificate.

This bill would require a court to allow a defendant who was granted deferred entry of judgment on or after January 1, 1997, after pleading guilty or nolo contendere to the charged offense, to withdraw his or her plea and enter a plea of not guilty if the charges were dismissed after the defendant performed satisfactorily during the deferred entry of judgment period and the defendant shows that the plea may result in the denial or loss to the defendant of any employment, benefit, license, or certificate, including, but not limited to, causing a noncitizen defendant to potentially be found inadmissible, deportable, or subject to any other kind of adverse immigration consequence.

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 1203.43 is added to the Penal Code, to
2 read:

3 1203.43. (a) (1) The Legislature finds and declares that the
4 statement in Section 1000.4, that “successful completion of a
5 deferred entry of judgment program shall not, without the
6 defendant’s consent, be used in any way that could result in the
7 denial of any employment, benefit, license, or certificate”
8 constitutes misinformation about the actual consequences of
9 making a plea in the case of some defendants, including all
10 noncitizen defendants, because the disposition of the case may
11 cause adverse consequences, including adverse immigration
12 consequences.

13 (2) Accordingly, the Legislature finds and declares that based
14 on this misinformation and the potential harm, the defendant’s
15 prior plea is invalid.

16 (b) In any case in which a defendant was granted deferred entry
17 of judgment on or after January 1, 1997, after pleading guilty or
18 nolo contendere to the charged offense, the defendant shall be
19 permitted by the court to withdraw the plea of guilty or nolo
20 contendere and enter a plea of not guilty if the defendant shows
21 both of the following:

22 (1) The charges were dismissed after the defendant performed
23 satisfactorily during the deferred entry of judgment period.

24 (2) The plea of guilty or nolo contendere may result in the denial
25 or loss to the defendant of any employment, benefit, license, or
26 certificate, including, but not limited to, causing a noncitizen
27 defendant to potentially be found inadmissible, deportable, or
28 subject to any other kind of adverse immigration consequence.

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