

Introduced by Senator Hill

February 10, 2016

An act to add and repeal Chapter 2.55 (commencing with Section 1000.7) of Title 6 of Part 2 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 1004, as amended, Hill. Transitional youth diversion program.

Existing law provides that entry of judgment may be deferred with respect to a defendant who is charged with certain crimes involving possession of controlled ~~substances~~ *substances, who pleads guilty to the charge or charges*, 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 requires the criminal charge or charges to be dismissed if the defendant has performed satisfactorily *in a specified program* during the period in which deferred entry of judgment was granted.

~~This bill would state the intent of the Legislature to enact legislation to create a transitional youth diversion pilot program for eligible defendants who are 18 years of age or older, but under 21 years of age on the date the offense was committed.~~

This bill would authorize specified counties to establish a pilot program to operate a transitional youth diversion program for eligible defendants. The bill would authorize a defendant to participate in the diversion program within the county's juvenile hall if that person is charged with committing an offense, except as specified, he or she pleads guilty to the charge or charges, and the probation department

determines that the person meets specified requirements, including that the defendant is 18 years of age or older, but under 21 years of age on the date the offense was committed, is suitable for the program, and shows the ability to benefit from services generally reserved for delinquents. The bill would require the probation department to develop a plan for reentry services.

The bill would require the court to grant deferred entry of judgment if the eligible defendant consents to participate in the program, waives his or her right to a speedy trial or a speedy preliminary hearing, pleads guilty to the charge or charges, and waives time for the pronouncement of judgment. The bill would also require the court to render a finding of guilt to the charge or charges pled, enter judgment, and schedule a sentencing hearing, and would require the return of the defendant to custody in a county jail if the court finds that the defendant is performing unsatisfactorily in the program or that the defendant is not benefiting from the services in the program. If the defendant has performed satisfactorily during the period in which deferred entry of judgment was granted, at the end of that period, the bill would require the court to dismiss the criminal charge or charges.

The bill would require the probation department to submit data relating to the effectiveness of the program to the Division of Recidivism Reduction and Re-Entry, within the Department of Justice. The bill would prohibit a defendant participating in the program from coming into contact with minors within the juvenile hall and would require a participating county to work with the Board of State and Community Corrections to ensure compliance with the federal Juvenile Justice and Delinquency Prevention Act of 1974, as specified.

The authority conferred by this bill would be repealed on January 1, 2020.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Counties of Alameda, Butte, Napa, Nevada, and Santa Clara.

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

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

- 1 SECTION 1. Chapter 2.55 (commencing with Section 1000.7)
- 2 is added to Title 6 of Part 2 of the Penal Code, to read:

1
2 *CHAPTER 2.55. TRANSITIONAL YOUTH DIVERSION PROGRAM*
3

4 *1000.7. (a) The following counties may establish a pilot*
5 *program pursuant to this section to operate a transitional youth*
6 *diversion program for eligible defendants described in subdivision*
7 *(b):*

8 *(1) County of Alameda.*

9 *(2) County of Butte.*

10 *(3) County of Napa.*

11 *(4) County of Nevada.*

12 *(5) County of Santa Clara.*

13 *(b) A defendant may participate in a transitional youth diversion*
14 *program within the county’s juvenile hall if that person is charged*
15 *with committing an offense, other than the offenses listed under*
16 *subdivision (d), he or she pleads guilty to the charge or charges,*
17 *and the probation department determines that the person meets*
18 *all of the following requirements:*

19 *(1) Is 18 years of age or older, but under 21 years of age on the*
20 *date the offense was committed.*

21 *(2) Is suitable for the program after evaluation using a risk*
22 *assessment tool, as described in subdivision (c).*

23 *(3) Shows the ability to benefit from services generally reserved*
24 *for delinquents, including, but not limited to, cognitive behavioral*
25 *therapy, other mental health services, and age-appropriate*
26 *educational, vocational, and supervision services, that are*
27 *currently deployed under the jurisdiction of the juvenile court.*

28 *(4) Meets the rules of the juvenile hall.*

29 *(5) Does not have a prior or current conviction for committing*
30 *an offense listed under subdivision (c) of Section 1192.7 or*
31 *subdivision (c) of Section 667.5.*

32 *(6) Is not required to register as a sex offender pursuant to*
33 *Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.*

34 *(c) The probation department, in consultation with the superior*
35 *court, district attorney, and sheriff of the county or the*
36 *governmental body charged with operating the county jail, shall*
37 *develop an evaluation process using a risk assessment tool to*
38 *determine eligibility for the program.*

39 *(d) The commission by the defendant of one or more of the*
40 *following offenses makes him or her not eligible for the program:*

1 (1) An offense listed under subdivision (c) of Section 1192.7.

2 (2) An offense listed under subdivision (c) of Section 667.5.

3 (3) An offense listed under subdivision (b) of Section 707 of the
4 Welfare and Institutions Code.

5 (e) The court shall grant deferred entry of judgment if an eligible
6 defendant consents to participate in the program, waives his or
7 her right to a speedy trial or a speedy preliminary hearing, pleads
8 guilty to the charge or charges, and waives time for the
9 pronouncement of judgment.

10 (f) (1) If the probation officer determines that the defendant is
11 not eligible for the transitional youth diversion program or the
12 defendant does not consent to participate in the program, the
13 proceedings shall continue as in any other case.

14 (2) If it appears to the probation department that the defendant
15 is performing unsatisfactorily in the program as a result of the
16 commission of a new crime or the violation of any of the rules of
17 the juvenile hall or that the defendant is not benefiting from the
18 services in the program, the probation department may make a
19 motion for entry of judgment. After notice to the defendant, the
20 court shall hold a hearing to determine whether judgment should
21 be entered. If the court finds that the defendant is performing
22 unsatisfactorily in the program or that the defendant is not
23 benefiting from the services in the program, the court shall render
24 a finding of guilt to the charge or charges pled, enter judgment,
25 and schedule a sentencing hearing as otherwise provided in this
26 code, and the probation department, in consultation with the county
27 sheriff, shall remove the defendant from the program and return
28 him or her to custody in county jail. The mechanism of when and
29 how the defendant is moved from custody in juvenile hall to custody
30 in a county jail shall be determined by the local justice
31 stakeholders.

32 (3) If the defendant has performed satisfactorily during the
33 period in which deferred entry of judgment was granted, at the
34 end of that period, the court shall dismiss the criminal charge or
35 charges.

36 (g) The probation department shall develop a plan for reentry
37 services, including, but not limited to, housing, employment, and
38 education services, as a component of the program.

39 (h) The probation department shall submit data relating to the
40 effectiveness of the program to the Division of Recidivism

1 *Reduction and Re-Entry, within the Department of Justice,*
2 *including recidivism rates for program participants as compared*
3 *to recidivism rates for similar populations in the adult system*
4 *within the county.*

5 *(i) A defendant participating in the program pursuant to this*
6 *section shall not come into contact with minors within the juvenile*
7 *hall for any purpose, including, but not limited to, housing,*
8 *recreation, or education.*

9 *(j) A county that establishes a pilot program pursuant to this*
10 *section shall work with the Board of State and Community*
11 *Corrections to ensure compliance with requirements of the federal*
12 *Juvenile Justice and Delinquency Prevention Act of 1974 (42*
13 *U.S.C. Sec. 5601 et seq.), as amended, relating to “sight and*
14 *sound” separation between juveniles and adult inmates.*

15 *(k) This section applies to a defendant that would otherwise*
16 *serve time in custody in a county jail. Participation in a program*
17 *pursuant to this section shall not be authorized as an alternative*
18 *to a sentence involving community supervision.*

19 *(l) This chapter shall remain in effect only until January 1, 2020,*
20 *and as of that date is repealed, unless a later enacted statute, that*
21 *is enacted before January 1, 2020, deletes or extends that date.*

22 *SEC. 2. The Legislature finds and declares that a special law*
23 *is necessary and that a general law cannot be made applicable*
24 *within the meaning of Section 16 of Article IV of the California*
25 *Constitution because of the unique circumstances in the Counties*
26 *of Alameda, Butte, Napa, Nevada, and Santa Clara. Recent*
27 *research on the adolescent brain development has found that brain*
28 *development continues well after an individual reaches 18 years*
29 *of age. This bill would therefore allow for the criminal justice*
30 *system to apply the most recent brain development research to its*
31 *practices in these counties by allowing certain transitional age*
32 *youth access to age-appropriate rehabilitative services available*
33 *in the juvenile justice system when an assessment determines that*
34 *the individual would benefit from the services, with the aim of*
35 *reducing the likelihood of the youth continuing in the criminal*
36 *justice system.*

37 ~~SECTION 1. It is the intent of the Legislature to enact~~
38 ~~legislation to create a transitional youth diversion pilot program~~

- 1 for eligible defendants who are 18 years of age or older, but under
- 2 21 years of age on the date the offense was committed.

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