

AMENDED IN ASSEMBLY JUNE 29, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE APRIL 21, 2016

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1004

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, 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 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 a felony 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 ~~pleaded~~ *pleaded*, 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 a county, prior to establishing a pilot program, to apply to the Board of State and Community Corrections for approval of a county institution as a suitable place for confinement for the purpose of the pilot program. The bill would require the board to review and approve or deny the application of the county within 30 days of receiving notice of this proposed use. The bill would also require each county to establish a multidisciplinary team consisting of representatives of specified local entities. The team would be required to meet periodically to review and discuss the implementation, practices, and impact of the program. The bill would also require the county to evaluate the pilot program.

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, would prohibit a defendant from serving longer than one year in custody within a county's juvenile hall pursuant to the program, and would require the board to review a county's pilot program to ensure compliance with the federal Juvenile Justice and Delinquency Prevention Act of 1974, as specified.

The bill would require a county that establishes a pilot program pursuant to these provisions to submit data regarding the pilot program

to the board, and would require the board to conduct an evaluation of the pilot program’s impact and effectiveness, as specified. The bill would require the evaluation to be combined into a comprehensive report and submitted to the Assembly and Senate Public Safety Committees. The bill would also authorize the board to contract with an independent entity, including, but not limited to, the Regents of the University of California, to carry out these duties.

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: 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:

3
4 CHAPTER 2.55. TRANSITIONAL YOUTH DIVERSION PROGRAM
5

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

- 10 (1) County of Alameda.
- 11 (2) County of Butte.
- 12 (3) County of Napa.
- 13 (4) County of Nevada.
- 14 (5) County of Santa Clara.

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

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

- 1 (2) Is suitable for the program after evaluation using a risk
2 assessment tool, as described in subdivision (c).
- 3 (3) Shows the ability to benefit from services generally reserved
4 for delinquents, including, but not limited to, cognitive behavioral
5 therapy, other mental health services, and age-appropriate
6 educational, vocational, and supervision services, that are currently
7 deployed under the jurisdiction of the juvenile court.
- 8 (4) Meets the rules of the juvenile hall.
- 9 (5) Does not have a prior or current conviction for committing
10 an offense listed under subdivision (c) of Section 1192.7 or
11 subdivision (c) of Section 667.5.
- 12 (6) Is not required to register as a sex offender pursuant to
13 Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.
- 14 (c) The probation department, in consultation with the superior
15 court, district attorney, and sheriff of the county or the
16 governmental body charged with operating the county jail, shall
17 develop an evaluation process using a risk assessment tool to
18 determine eligibility for the program.
- 19 (d) The commission by the defendant of one or more of the
20 following offenses makes him or her not eligible for the program:
 - 21 (1) An offense listed under subdivision (c) of Section 1192.7.
 - 22 (2) An offense listed under subdivision (c) of Section 667.5.
 - 23 (3) An offense listed under subdivision (b) of Section 707 of
24 the Welfare and Institutions Code.
- 25 (e) The court shall grant deferred entry of judgment if an eligible
26 defendant consents to participate in the program, waives his or her
27 right to a speedy trial or a speedy preliminary hearing, pleads guilty
28 to the charge or charges, and waives time for the pronouncement
29 of judgment.
- 30 (f) (1) If the probation officer determines that the defendant is
31 not eligible for the transitional youth diversion program or the
32 defendant does not consent to participate in the program, the
33 proceedings shall continue as in any other case.
 - 34 (2) If it appears to the probation department that the defendant
35 is performing unsatisfactorily in the program as a result of the
36 commission of a new crime or the violation of any of the rules of
37 the juvenile hall or that the defendant is not benefiting from the
38 services in the program, the probation department may make a
39 motion for entry of judgment. After notice to the defendant, the
40 court shall hold a hearing to determine whether judgment should

1 be entered. If the court finds that the defendant is performing
2 unsatisfactorily in the program or that the defendant is not
3 benefiting from the services in the program, the court shall render
4 a finding of guilt to the charge or charges ~~pled~~, *pleaded*, enter
5 judgment, and schedule a sentencing hearing as otherwise provided
6 in this code, and the probation department, in consultation with
7 the county sheriff, shall remove the defendant from the program
8 and return him or her to custody in county jail. The mechanism of
9 when and how the defendant is moved from custody in juvenile
10 hall to custody in a county jail shall be determined by the local
11 justice stakeholders.

12 (3) If the defendant has performed satisfactorily during the
13 period in which deferred entry of judgment was granted, at the end
14 of that period, the court shall dismiss the criminal charge or
15 charges.

16 (g) A defendant shall serve no longer than one year in custody
17 within a county's juvenile hall pursuant to the program.

18 (h) The probation department shall develop a plan for reentry
19 services, including, but not limited to, housing, employment, and
20 education services, as a component of the program.

21 (i) The probation department shall submit data relating to the
22 effectiveness of the program to the Division of Recidivism
23 Reduction and Re-Entry, within the Department of Justice,
24 including recidivism rates for program participants as compared
25 to recidivism rates for similar populations in the adult system
26 within the county.

27 (j) A defendant participating in the program pursuant to this
28 section shall not come into contact with minors within the juvenile
29 hall for any purpose, including, but not limited to, housing,
30 recreation, or education.

31 (k) Prior to establishing a pilot program pursuant to this section,
32 the county shall apply to the Board of State and Community
33 Corrections for approval of a county institution as a suitable place
34 for confinement for the purpose of the pilot program. The board
35 shall review and approve or deny the application of the county
36 within 30 days of receiving notice of this proposed use. In its
37 review, the board shall take into account the available
38 programming, capacity, and safety of the institution as a place for
39 the confinement and rehabilitation of individuals within the

1 jurisdiction of the criminal court, and those within the jurisdiction
2 of the juvenile court.

3 (l) The Board of State and Community Corrections shall review
4 a county's pilot program to ensure compliance with requirements
5 of the federal Juvenile Justice and Delinquency Prevention Act of
6 1974 (42 U.S.C. Sec. 5601 et seq.), as amended, relating to "sight
7 and sound" separation between juveniles and adult inmates.

8 (m) (1) This section applies to a defendant who would otherwise
9 serve time in custody in a county jail. Participation in a program
10 pursuant to this section shall not be authorized as an alternative to
11 a sentence involving community supervision.

12 (2) Each county shall establish a multidisciplinary team that
13 shall meet periodically to review and discuss the implementation,
14 practices, and impact of the program. The team shall include
15 representatives from the following:

16 (A) Probation department.

17 (B) The district attorney's office.

18 (C) The public defender's office.

19 (D) The sheriff's department.

20 (E) Courts located in the county.

21 (F) The county board of supervisors.

22 (G) The county health and human services department.

23 (H) A youth advocacy group.

24 (n) (1) A county that establishes a pilot program pursuant to
25 this section shall ~~conduct~~ *submit data regarding the pilot program*
26 *to the Board of State and Community Corrections.*

27 (2) *The board shall conduct an evaluation of—its the pilot*
28 *program's impact and effectiveness. The evaluation shall include,*
29 *but not be limited to, evaluating each pilot program's impact on*
30 *sentencing and impact on opportunities for community supervision,*
31 *monitoring the program's effect on minors in the juvenile facility,*
32 *if any, and its effectiveness with respect to program participants,*
33 *including outcome-related data for program participants compared*
34 *to young adult offenders sentenced for comparable crimes.*

35 (3) *Each evaluation shall be combined into a comprehensive*
36 *report and submitted to the Assembly and Senate Committees on*
37 *Public Safety.*

38 (4) *The board may contract with an independent entity,*
39 *including, but not limited to, the Regents of the University of*

1 *California, for the purposes of carrying out the duties of the board*
2 *pursuant to this subdivision.*

3 (o) This chapter shall remain in effect only until January 1,
4 2020, and as of that date is repealed, unless a later enacted statute,
5 that is enacted before January 1, 2020, deletes or extends that date.

6 SEC. 2. The Legislature finds and declares that a special law
7 is necessary and that a general law cannot be made applicable
8 within the meaning of Section 16 of Article IV of the California
9 Constitution because of the unique circumstances in the Counties
10 of Alameda, Butte, Napa, Nevada, and Santa Clara. Recent research
11 on the adolescent brain development has found that brain
12 development continues well after an individual reaches 18 years
13 of age. This bill would therefore allow for the criminal justice
14 system to apply the most recent brain development research to its
15 practices in these counties by allowing certain transitional age
16 youth access to age-appropriate rehabilitative services available
17 in the juvenile justice system when an assessment determines that
18 the individual would benefit from the services, with the aim of
19 reducing the likelihood of the youth continuing in the criminal
20 justice system.