

Assembly Bill No. 622

CHAPTER 348

An act to amend Section 853.6a of the Penal Code, relating to juveniles.

[Approved by Governor August 25, 1997. Filed with Secretary of State August 25, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 622, Miller. Juveniles: arrests.

Existing law specifies the procedures by which a person arrested for a misdemeanor or infraction who does not demand to be taken before a magistrate may be released and given a written notice to appear in court. If the person appears to be under the age of 18 years, and the arrest is for a violation of specified offenses, the notice shall provide instead that the person shall appear before the juvenile court, a juvenile court referee, or a juvenile traffic hearing officer.

This bill would specify that these procedures do not apply to an arrest for an offense involving a firearm.

The bill also would provide that in counties where an Expedited Youth Accountability Program is operative, a peace officer may issue a citation and written promise to appear in juvenile court or record the minor's refusal to sign the promise to appear and serve notice to appear in juvenile court. The bill would provide that this provision shall become operative only if AB 1105 is enacted and becomes effective on or before January 1, 1998.

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

SECTION 1. Section 853.6a of the Penal Code is amended to read:

853.6a. (a) Except as provided in subdivision (b), if the person arrested appears to be under the age of 18 years, and the arrest is for a violation listed in Section 256 of the Welfare and Institutions Code, other than an offense involving a firearm, the notice under Section 853.6 shall instead provide that the person shall appear before the juvenile court, a juvenile court referee, or a juvenile traffic hearing officer within the county in which the offense charged is alleged to have been committed, and the officer shall instead, as soon as practicable, file the duplicate notice with the prosecuting attorney unless the prosecuting attorney directs the officer to file the duplicate notice with the clerk of the juvenile court, the juvenile court referee, or the juvenile traffic hearing officer. If the notice is filed with the prosecuting attorney, within 48 hours before the date specified on the notice to appear, the prosecutor, within his or her



discretion, may initiate proceedings by filing the notice or a formal petition with the clerk of the juvenile court, or the juvenile court referee or juvenile traffic hearing officer, before whom the person is required to appear by the notice.

(b) A juvenile court may exercise the option of not requiring a mandatory appearance of the juvenile before the court for infractions contained in the Vehicle Code, except those related to drivers' licenses as specified in Division 6 (commencing with Section 12500), those related to financial responsibility as specified in Division 7 (commencing with Section 16000), speeding violations as specified in Division 11 (commencing with Section 21000) where the speed limit was violated by 15 or more miles per hour, and those involving the use or possession of alcoholic beverages as specified in Division 11 (commencing with Section 12500).

(c) Nothing in this section shall be construed to limit the discretion of a peace officer or other person with the authority to enforce laws pertaining to juveniles to take the minor into custody pursuant to Article 15 (commencing with Section 625) of the Welfare and Institutions Code.

SEC. 2. Section 853.6a of the Penal Code is amended to read:

853.6a. (a) Except as provided in subdivision (b), if the person arrested appears to be under the age of 18 years, and the arrest is for a violation listed in Section 256 of the Welfare and Institutions Code, other than an offense involving a firearm, the notice under Section 853.6 shall instead provide that the person shall appear before the juvenile court, a juvenile court referee, or a juvenile traffic hearing officer within the county in which the offense charged is alleged to have been committed, and the officer shall instead, as soon as practicable, file the duplicate notice with the prosecuting attorney unless the prosecuting attorney directs the officer to file the duplicate notice with the clerk of the juvenile court, the juvenile court referee, or the juvenile traffic hearing officer. If the notice is filed with the prosecuting attorney, within 48 hours before the date specified on the notice to appear, the prosecutor, within his or her discretion, may initiate proceedings by filing the notice or a formal petition with the clerk of the juvenile court, or the juvenile court referee or juvenile traffic hearing officer, before whom the person is required to appear by the notice.

(b) A juvenile court may exercise the option of not requiring a mandatory appearance of the juvenile before the court for infractions contained in the Vehicle Code, except those related to drivers' licenses as specified in Division 6 (commencing with Section 12500), those related to financial responsibility as specified in Division 7 (commencing with Section 16000), speeding violations as specified in Division 11 (commencing with Section 21000) where the speed limit was violated by 15 or more miles per hour, and those



involving the use or possession of alcoholic beverages as specified in Division 11 (commencing with Section 12500).

(c) In counties where an Expedited Youth Accountability Program is operative, as established under Section 660.5 of the Welfare and Institutions Code, a peace officer may issue a citation and written promise to appear in juvenile court or record the minor's refusal to sign the promise to appear and serve notice to appear in juvenile court, according to the requirements and procedures provided in that section.

(d) Nothing in this section shall be construed to limit the discretion of a peace officer or other person with the authority to enforce laws pertaining to juveniles to take the minor into custody pursuant to Article 15 (commencing with Section 625) of the Welfare and Institutions Code.

SEC. 3. Section 2 of this bill shall become operative only if Assembly Bill 1105 of the 1997-98 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 1998, in which case Section 1 of this bill shall not become operative.

