

AMENDED IN ASSEMBLY APRIL 16, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1105

Introduced by Assembly Member Hertzberg

February 27, 1997

An act to amend Sections 255, 256, 256.5, 257, 258, 260, 261, 262, and 263 of the Welfare and Institutions Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1105, as amended, Hertzberg. Juvenile hearing officers.

Existing law sets forth a comprehensive body of law governing proceedings in the juvenile court concerning delinquent minors. Existing law also specifies the powers and duties of traffic hearing officers for purposes of those provisions.

Existing law provides that a parent, guardian, or other person having control or charge of a minor who is in violation of the Compulsory Education Law, may be guilty of a crime, as specified. These charges may be heard in juvenile court. Existing law also provides that a minor may be adjudged a ward of the court on the basis of noncriminal conduct (so-called "status offenders").

This bill would delete references to traffic hearing officers and instead provide for the appointment and powers of juvenile hearing officers, as specified.

The bill would expand the jurisdiction of juvenile hearing officers to hear any case in which a minor is alleged to have committed various additional misdemeanors, as specified, as well as matters relating to *minors alleged to be* status offenders *on the basis of truancy*. It also would expand the jurisdiction of the juvenile court by authorizing juvenile hearing officers to hear matters relating to parental violation of the Compulsory Continuation Education Law, thus creating a state-mandated local program by imposing new duties on the juvenile justice system similar to those imposed by the creation of a new crime. The bill would also specifically prohibit a juvenile hearing officer from hearing or disposing of specified cases, including any crime involving a firearm, or any minor who has previously been declared a ward of the court or charged pursuant to this provision, *as specified*. *The bill would provide that a juvenile court would be known as the Informal Juvenile and Traffic Court when a hearing officer hears a case pursuant to these provisions.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 255 of the Welfare and
 2 Institutions Code is amended to read:
 3 255. The judge of the juvenile court, or in counties
 4 having more than one judge of the juvenile court the
 5 presiding judge of the juvenile court or the senior judge
 6 if there is no presiding judge, may appoint one or more
 7 persons of suitable experience, who may be judges of the
 8 municipal court or a probation officer or assistant or
 9 deputy probation officers, to serve as juvenile hearing
 10 officers on a full-time or part-time basis. A hearing officer
 11 shall serve at the pleasure of the appointing judge, and



1 unless the appointing judge makes his or her order
2 terminating the appointment of a hearing officer, the
3 hearing officer shall continue to serve until the
4 appointment of his or her successor. The board of
5 supervisors shall determine whether any compensation
6 shall be paid to hearing officers, not otherwise employed
7 by a public agency or holding another public office, and
8 shall establish the amounts and rates thereof. An
9 appointment of a probation officer, assistant probation
10 officer, or deputy probation officer as a traffic hearing
11 officer may be made only with the consent of the
12 probation officer. *A juvenile court shall be known as the*
13 *Informal Juvenile and Traffic Court when a hearing*
14 *officer appointed pursuant to this section hears a case*
15 *specified in Section 256.*

16 SEC. 2. Section 256 of the Welfare and Institutions
17 Code is amended to read:

18 256. (a) Subject to the orders of the juvenile court, a
19 juvenile hearing officer may hear and dispose of any case,
20 except those listed in subdivision (b), in which a minor
21 under the age of 18 years as of the date of the ~~alleged~~
22 ~~offense is charged with any infraction or alleged offense~~
23 *is charged with (1) any violation of the Vehicle Code not*
24 *declared to be a felony, (2) a violation of subdivision (m)*
25 *of Section 602 of the Penal Code, (3) a violation of the Fish*
26 *and Game Code not declared to be a felony, (4) a*
27 *violation of any of the equipment and registration*
28 *provisions of the Harbors and Navigation Code, (5) a*
29 *violation of any provision of state or local law relating to*
30 *traffic offenses, loitering or curfew, or evasion of fares on*
31 *a public transportation system, as defined by Section*
32 *99211 of the Public Utilities Code, (6) a violation of*
33 *Section 27176 of the Streets and Highways Code, (7) a*
34 *violation of Section 640 or 640a of the Penal Code, (8) a*
35 *violation of the rules and regulations established pursuant*
36 *to Sections 5003 and 5008 of the Public Resources Code,*
37 *(9) a violation of Section 33211.6 of the Public Resources*
38 *Code, (10) a violation of Section 25658, 25658.5, 25661, or*
39 *25662 of the Business and Professions Code, (11) a*
40 *violation of subdivision (f) of Section 647 of the Penal*

1 Code, (12) a misdemeanor violation of Section 594 of the
 2 Penal Code, involving defacing property with paint or
 3 any other liquid, (13) a violation of subdivision (b), (d),
 4 or (e) of Section 594.1 of the Penal Code, (14) a violation
 5 of subdivision (b) of Section 11357 of the Health and
 6 Safety Code, or (15) any infraction or misdemeanor for
 7 which a peace officer may cite and release a person
 8 pursuant to Section 827.1 or 853.6a of the Penal Code, or
 9 any act for which a minor may be found to be a person
 10 described in subdivision (b) of Section 601, or in any case
 11 in which a parent, guardian, or other person in charge of
 12 a minor is charged with a violation of Section 48291 or of
 13 the Education Code.

14 (b) A juvenile hearing officer may not hear and
 15 dispose of any case involving:

- 16 (1) Any crime involving a firearm.
- 17 (2) Any minor who has previously been declared a
 18 ward of the court.
- 19 (3) Any minor who has previously been charged
 20 pursuant to this section, *unless the juvenile hearing*
 21 *officer determines that it is in the interests of the minor*
 22 *and of public safety, for the case to be heard in Informal*
 23 *Juvenile and Traffic Court.*
- 24 (4) Any parent, guardian, or other person in charge of
 25 a minor who has previously been convicted of a violation
 26 of Section 48291 or 48454 of the Education Code.
- 27 (c) *Nothing in this section shall be construed to permit*
 28 *a case arising under subdivision (b) of Section 601 to be*
 29 *subject to a proceeding under subdivision (c) of Section*
 30 *650.*

31 SEC. 3. Section 256.5 of the Welfare and Institutions
 32 Code is amended to read:

33 256.5. A juvenile hearing officer may issue a warrant
 34 of arrest against a minor, or a parent or guardian, who is
 35 issued and signs a written notice to appear for any
 36 violation listed in Section 256 and who fails to appear at
 37 the time and place designated in the notice. The juvenile
 38 court judge, referee, or juvenile hearing officer may issue
 39 and have delivered for execution a warrant of arrest
 40 against a minor or parent or guardian within 20 days after



1 the minor's, parent's, or guardian's failure to appear as
2 promised or within 20 days after the minor's, parent's, or
3 guardian's failure to appear after a lawfully granted
4 continuance of his or her promise to appear.

5 SEC. 4. Section 257 of the Welfare and Institutions
6 Code is amended to read:

7 257. *A With the consent of the minor, a hearing*
8 *before a juvenile hearing officer, or a hearing before a*
9 *referee or a judge of the juvenile court, where the minor*
10 *is charged with a traffic offense or a nontraffic offense as*
11 *specified in Section 256, or where the parent, guardian,*
12 *or other person in charge of the minor is charged with an*
13 *infraction pursuant to Section 48291 or 48454 of the*
14 *Education Code upon his or her consent, may be*
15 *conducted upon an exact legible copy of a written notice*
16 *given pursuant to Article 2 (commencing with Section*
17 *40500) of Chapter 2 of Division 17 or Sections 40202 and*
18 *40203 of the Vehicle Code, or an exact legible copy of a*
19 *written notice given pursuant to Chapter 5C*
20 *(commencing with Section 853.6) of Title 3 of Part 2 of*
21 *the Penal Code when the offense charged is a violation*
22 *listed in Section 256, in lieu of a petition as provided in*
23 *Article 16 (commencing with Section 650).*

24 SEC. 5. Section 258 of the Welfare and Institutions
25 Code is amended to read:

26 258. (a) Upon a hearing conducted in accordance
27 with Section 257, and upon either an admission by the
28 person charged of the commission of a violation charged,
29 or a finding that the person did in fact commit the
30 violation, the judge, referee, or juvenile hearing officer
31 may do any of the following:

32 (1) Reprimand the person and take no further action.

33 (2) Request the probation officer ~~or the prosecuting~~
34 ~~attorney~~ to commence a proceeding as provided in
35 Article 16 (commencing with Section 650) ~~or Article 20~~
36 ~~(commencing with Section 775).~~

37 (3) Direct that the probation officer undertake a
38 program of supervision of the minor for a period not to
39 exceed six months, in addition to or in place of the
40 following orders.

1 (4) Order that the person pay a fine up to the amount
2 that an adult would pay for the same violation, unless the
3 violation is otherwise specified within this section, in
4 which case the fine shall not exceed two hundred fifty
5 dollars (\$250). This fine may be levied in addition to or in
6 place of the following orders and the court may waive any
7 or all of this fine, if the person is unable to pay. In
8 determining the minor's ability to pay, the court shall not
9 consider the ability of the minor's family to pay.

10 (5) Order that the person pay restitution to the victim.

11 (6) Order that the minor perform community service
12 work in a public entity or any private nonprofit entity, for
13 not more than 50 hours over a period of 60 days, during
14 times other than his or her hours of school attendance or
15 employment. Work performed pursuant to this
16 paragraph shall not exceed 30 hours during any 30-day
17 period. The timeframes established by this paragraph
18 shall not be modified except in unusual cases where the
19 interests of justice would best be served. When the order
20 to work is made by a referee or a juvenile hearing officer,
21 it shall be approved by a judge of the juvenile court.

22 For the purposes of this paragraph, a judge, referee, or
23 juvenile hearing officer shall not, without the consent of
24 the minor, order the minor to perform work with a
25 private nonprofit entity that is affiliated with any religion.

26 (7) Order that the person participate in and complete
27 a diversion, counseling, or educational program.

28 (8) Require that the minor attend a school program
29 without excused absence.

30 (9) Require that the minor be at his or her legal
31 residence between the hours of 10 p.m. and 6 a.m. unless
32 the minor is accompanied by his or her parent, guardian,
33 or other person in charge of the minor.

34 ~~(10) Require that the minor submit to urine testing~~
35 ~~upon the request of a peace officer or probation officer for~~
36 ~~the purpose of determining the presence of alcohol or~~
37 ~~drugs.~~

38 ~~(11)~~



1 *When an order is made pursuant to this paragraph by*
2 *a referee or a juvenile hearing officer, it shall be approved*
3 *by a judge of the juvenile court.*

4 (10) Order that the driving privileges of the minor be
5 suspended or restricted as provided in the Vehicle Code
6 or, notwithstanding Section 13203 of the Vehicle Code or
7 any other provision of law, when the Vehicle Code does
8 not provide for the suspension or restriction of driving
9 privileges, that, in addition to any other order, the driving
10 privileges of the minor be suspended or restricted for a
11 period of not to exceed 30 days.

12 ~~(12)–~~

13 (11) Make any or all of the following orders with
14 respect to a traffic violation which is not charged as a
15 felony:

16 (A) That the minor attend traffic school over a period
17 not to exceed 60 days.

18 (B) That the minor produce satisfactory evidence that
19 the vehicle or its equipment has been made to conform
20 with the requirements of the Vehicle Code pursuant to
21 Section 40150 of the Vehicle Code.

22 ~~(13)–~~

23 (12) Make any or all of the following orders with
24 respect to a violation of the Fish and Game Code which
25 is not charged as a felony:

26 (A) That the fishing or hunting license involved be
27 suspended or restricted.

28 (B) That the minor work in a park or conservation
29 area for a total of not to exceed 20 hours over a period not
30 to exceed 30 days, during times other than his or her hours
31 of school attendance or employment.

32 (C) That the minor forfeit, pursuant to Section 12157
33 of the Fish and Game Code, any device or apparatus
34 designed to be, and capable of being, used to take birds,
35 mammals, fish, reptiles, or amphibia and which was used
36 in committing the violation charged. The judge, referee,
37 or juvenile hearing officer shall, if the minor committed
38 an offense which is punishable under Section 12008 of the
39 Fish and Game Code, order the device or apparatus



1 forfeited pursuant to Section 12157 of the Fish and Game
2 Code.

3 ~~(14)~~—

4 (13) If the violation charged is of an ordinance of a city,
5 county, or local agency relating to loitering, curfew, or
6 fare evasion on a public transportation system, as defined
7 by Section 99211 of the Public Utilities Code, or is a
8 violation of Section 640 or 640a of the Penal Code, make
9 the order that the minor shall perform community
10 service for a total time not to exceed 20 hours over a
11 period not to exceed 30 days, during times other than his
12 or her hours of school attendance or employment.

13 (b) (1) The judge, referee, or juvenile hearing
14 officer shall retain jurisdiction of the case until all orders
15 made under this section have been fully complied with.

16 (2) *If a minor, or a parent charged with an infraction*
17 *pursuant to Section 48291 or 48454 of the Education Code,*
18 *violates an order made pursuant to subdivision (a),*
19 *additional orders may be made under subdivision (a), or*
20 *the case may be referred to a judge of the juvenile court*
21 *for civil contempt proceedings.*

22 (3) *If, after 60 days from the date of the initial orders*
23 *under subdivision (a), the juvenile hearing officer*
24 *determines that the minor has failed to comply with the*
25 *orders of the Informal Juvenile and Traffic Court, the*
26 *minor shall be referred to the probation department for*
27 *evaluation and risk assessment.*

28 SEC. 6. Section 260 of the Welfare and Institutions
29 Code is amended to read:

30 260. A juvenile hearing officer shall promptly furnish
31 a written report of his or her findings and orders to the
32 clerk of the juvenile court. The clerk of the juvenile court
33 shall promptly transmit an abstract of ~~such~~ those findings
34 and orders to the Department of Motor Vehicles.

35 SEC. 7. Section 261 of the Welfare and Institutions
36 Code is amended to read:

37 261. Subject to the provisions of Section 262, all orders
38 of a juvenile hearing officer shall be immediately
39 effective.



1 SEC. 8. Section 262 of the Welfare and Institutions
2 Code is amended to read:

3 262. Upon motion of the minor or his or her parent or
4 guardian for good cause, or upon his or her own motion,
5 a judge of the juvenile court may set aside or modify any
6 order of a juvenile hearing officer, or may order or
7 himself or herself conduct a rehearing. If the minor or
8 parent or guardian has made a motion that the judge set
9 aside or modify the order or has applied for a rehearing,
10 and the judge has not set aside or modified the order or
11 ordered or conducted a rehearing within 10 days after the
12 date of the order, the motion or application shall be
13 deemed denied as of the expiration of that period.

14 SEC. 9. Section 263 of the Welfare and Institutions
15 Code is amended to read:

16 263. At any time prior to the final disposition of a
17 hearing pursuant to Section 257, the judge, referee, or
18 juvenile hearing officer may, on motion of the minor, his
19 or her parent or guardian, or on its own motion, transfer
20 the case to the county of the minor's residence for further
21 proceedings pursuant to Sections 258, 260, 261, and 262.

22 SEC. 10. No reimbursement is required by this act
23 pursuant to Section 6 of Article XIII B of the California
24 Constitution because the only costs that may be incurred
25 by a local agency or school district will be incurred
26 because this act creates a new crime or infraction,
27 eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section
29 17556 of the Government Code, or changes the definition
30 of a crime within the meaning of Section 6 of Article
31 XIII B of the California Constitution.

32 Notwithstanding Section 17580 of the Government
33 Code, unless otherwise specified, the provisions of this act
34 shall become operative on the same date that the act
35 takes effect pursuant to the California Constitution.

