

AMENDED IN ASSEMBLY JANUARY 3, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 788

Introduced by Assembly Member Maldonado

February 24, 1999

~~An act to add and repeal Article 29 (commencing with Section 988) of Chapter 2 of Part 1 of the Welfare and Institutions Code, relating to juveniles, and declaring the urgency thereof, to take effect immediately. An act to amend Section 202 of the Welfare and Institutions Code, relating to juvenile court law.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 788, as amended, Maldonado. ~~Juveniles—~~*Juvenile court law: purpose.*

Existing law sets forth the purpose of juvenile court law. Among other things, existing law states that minors under the jurisdiction of the juvenile court shall receive care, treatment, and guidance, as specified.

This bill would revise the purposes of the juvenile court law to include dispositions intended to accomplish specified public safety objectives, and would set forth 5 principles governing the operation of the juvenile justice system, including the right of the public to safe and secure homes and communities.

~~Existing provisions of the Juvenile Court Law authorize the juvenile court to commit any minor adjudged a ward of the court to specified facilities and programs.~~

~~This bill would enact a pilot program in up to 3 counties selected by the Judicial Council, at the option of those counties, as provided. The pilot program would apply to juveniles adjudged a ward of the juvenile court by reason of the commission of a nonviolent misdemeanor offense who have never been adjudged a ward of the juvenile court by reason of the commission of any violent offense and who have not attended a victim-offender reconciliation program, and to juveniles who are undergoing specified programs of supervision. The bill would require these juveniles to attend a victim-offender reconciliation program, as specified, perform community service as required, and pay restitution to the victim pursuant to specified provisions. These provisions would be repealed on January 1, 2003. The bill would provide that participation in a pilot program would be a county option and that the state has no obligation to provide funding for the pilot programs unless funds are appropriated for that purpose.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

~~Vote: $\frac{2}{3}$ —majority. Appropriation: no. Fiscal committee: yes no. State-mandated local program: no.~~

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

1 ~~SECTION 1. The Legislature hereby finds and~~
 2 *SECTION 1. It is the intent of the Legislature to*
 3 *promote the mission of the juvenile justice system,*
 4 *long-term public safety, through the implementation of*
 5 *a juvenile justice model known as “The Balanced*
 6 *Approach to Restorative Justice.” The Balance Approach*
 7 *to Restorative Justice holds as its central tenet that*
 8 *long-term public safety is best served when victims, the*
 9 *community, and offenders engage together as active*
 10 *participants in balanced efforts to accomplish all of the*
 11 *following: (1) assure community protection; (2) hold*
 12 *offenders personally accountable for repairing the harm*
 13 *to victims and communities resulting from juvenile*
 14 *crime; and (3) ensure that juvenile offenders make*
 15 *measurable gains in educational, vocational, social, civic,*



1 *and other areas of competency that enhance their*
2 *capacity to function as law-abiding citizens.*

3 *SEC. 2. Section 202 of the Welfare and Institutions*
4 *Code is amended to read:*

5 202. (a) The purpose of this chapter is to provide for
6 the protection, *restoration*, and safety of the public and
7 each minor under the jurisdiction of the juvenile court
8 and to preserve and strengthen the minor's family ties
9 whenever possible, removing the minor from the custody
10 of his or her parents only when necessary for his or her
11 welfare or for the safety and protection of the public.
12 When removal of a minor is determined by the juvenile
13 court to be necessary, reunification of the minor with his
14 or her family shall be a primary objective. When the
15 minor is removed from his or her own family, it is the
16 purpose of this chapter to secure for the minor custody,
17 care, and discipline as nearly as possible equivalent to that
18 which should have been given by his or her parents. This
19 chapter shall be liberally construed to carry out these
20 purposes.

21 (b) Minors under the jurisdiction of the juvenile court
22 who are in need of protective services shall receive care,
23 treatment and guidance consistent with their best
24 interest and the best interest of the public. ~~Minors under~~
25 ~~the jurisdiction of the juvenile court as a consequence of~~
26 ~~delinquent conduct shall, in conformity with the interests~~
27 ~~of public safety and protection, receive care, treatment~~
28 ~~and guidance which is consistent with their best interest,~~
29 ~~which holds them accountable for their behavior, and~~
30 ~~which is appropriate for their circumstances. This~~
31 ~~guidance may include punishment that is consistent with~~
32 ~~the rehabilitative objectives of this chapter. If a minor has~~
33 ~~been removed from the custody of his or her parents,~~
34 ~~family preservation and family reunification are~~
35 ~~appropriate goals for the juvenile court to consider when~~
36 ~~determining the disposition of a minor under the~~
37 ~~jurisdiction of the juvenile court as a consequence of~~
38 ~~delinquent conduct when those goals are consistent with~~
39 ~~his or her best interests and the best interests of the~~
40 ~~public.~~ When the minor is no longer a ward of the juvenile



1 court, the guidance he or she received should enable him
2 or her to be a law-abiding and productive member of his
3 or her family and the community.

4 ~~(e)~~—*To that end, minors under the jurisdiction of the*
5 *juvenile court as a consequence of delinquent conduct*
6 *shall receive dispositions intended to accomplish public*
7 *safety through the following three objectives:*

8 *(1) Community protection through a continuum of*
9 *appropriate responses to delinquent conduct, ranging*
10 *from supervision to incapacitation, which protect citizens*
11 *and victims from the threat to public safety posed by the*
12 *minor.*

13 *(2) Accountability of the minor through restoration of*
14 *the losses experienced by the victim and the community.*

15 *(3) Competency development of the minor in basic*
16 *living skills necessary for law-abiding citizenship. These*
17 *objectives shall be given equal consideration and shall be*
18 *equally addressed by juvenile courts, probation*
19 *departments, and youth, corrections, and other agencies*
20 *that may recommend, order, implement, or supervise*
21 *dispositions for delinquent minors.*

22 *(c) It is the intent of the Legislature that the following*
23 *five principles form the basis of operation for the juvenile*
24 *justice system to achieve long-term public safety when*
25 *dealing with delinquent minors:*

26 *(1) The public has a right to safe and secure homes and*
27 *communities.*

28 *(2) Crime results in injury to the victim, the*
29 *community, and the offender. The juvenile justice system*
30 *should seek to repair those injuries. Victims and*
31 *communities should be actively involved throughout the*
32 *juvenile justice process, to the extent consistent with the*
33 *offender's right to due process and the right of victims*
34 *and minors under subdivision (b) of Section 676.5.*

35 *(3) Juvenile offenders should be capable of living in a*
36 *responsible and law-abiding manner within the*
37 *community and their families when they emerge from*
38 *the juvenile court's jurisdiction.*



1 (4) *The unique set of experiences and circumstances*
2 *contributing to the minor's offensive behavior must be*
3 *addressed.*

4 (5) *California's juvenile justice system will best*
5 *achieve long-term public safety when community*
6 *protection, accountability of the offender to the victim*
7 *and the community, and offender competency*
8 *development are treated as equally weighted goals.*

9 (d) It is also the purpose of this chapter to reaffirm that
10 the duty of a parent to support and maintain a minor child
11 continues, subject to the financial ability of the parent to
12 pay, during any period in which the minor may be
13 declared a ward of the court and removed from the
14 custody of the parent.

15 ~~(d)~~

16 (e) Juvenile courts and other public agencies charged
17 with enforcing, interpreting, and administering the
18 juvenile court law shall consider the safety, *restoration*
19 and protection of the public, the importance of redressing
20 injuries to victims, and the best interests of the minor in
21 all deliberations pursuant to this chapter. Participants in
22 the juvenile justice system shall hold themselves
23 accountable for its results. They shall act in conformity
24 with a comprehensive set of objectives established to
25 improve system performance in a vigorous and ongoing
26 manner.

27 ~~(e)~~

28 (f) As used in this chapter, "punishment" means the
29 imposition of sanctions which include the following:

30 (1) Payment of a fine by the minor.

31 (2) Rendering of compulsory service without
32 compensation performed for the benefit of the
33 community by the minor.

34 (3) *Participation in a victim-offender reconciliation*
35 *program.*

36 (4) Limitations on the minor's liberty imposed as a
37 condition of probation or parole.

38 ~~(4)~~

39 (5) Commitment of the minor to a local detention or
40 treatment facility, such as a juvenile hall, camp, or ranch.



1 ~~(5)~~
2 (6) Commitment of the minor to the Department of
3 the Youth Authority.

4 “Punishment,” for the purposes of this chapter, does
5 not include retribution.

6 ~~(f)~~
7 (g) In addition to the actions authorized by
8 subdivision ~~(e)~~ ~~(f)~~, the juvenile court may, as
9 appropriate, direct the offender to complete a victim
10 impact class, participate in victim offender conferencing
11 subject to the victim’s consent, pay restitution to the
12 victim or victims, and make a contribution to the victim
13 restitution fund after all victim restitution orders and
14 fines have been satisfied, in order to hold the offender
15 accountable or restore the victim or community.

16 declares as follows:

17 ~~(a) There is a need to preserve existing prison and jail~~
18 ~~space for habitual violent offenders to guarantee public~~
19 ~~safety.~~

20 ~~(b) To reach this goal, it is the intent of the Legislature~~
21 ~~to create punishment options that fall in a continuum~~
22 ~~between traditional probation and traditional~~
23 ~~incarceration.~~

24 ~~(c) It is the intent of the Legislature to promote the~~
25 ~~long-term safety and security of the community by~~
26 ~~expanding the array of cost-effective sanctions for~~
27 ~~holding minors accountable to victims and the~~
28 ~~community for their delinquent conduct, and by~~
29 ~~enhancing community-based rehabilitation efforts.~~

30 ~~(d) Crime results in injury to the victim, the~~
31 ~~community, and the offender. The criminal justice~~
32 ~~system must seek to repair those injuries.~~

33 ~~(e) In promoting justice, victims and communities~~
34 ~~should be actively involved in the criminal justice process~~
35 ~~at the earliest point and to the maximum extent possible.~~

36 ~~(f) Offenders should be held accountable for their~~
37 ~~actions. Offenders should face their victim or victims and~~
38 ~~make things right. Restitution is a central ingredient, as~~
39 ~~is victim-offender reconciliation when appropriate.~~



1 ~~(g) A nonviolent youthful offender must be taught~~
2 ~~that when a crime is committed, it is a crime against a real~~
3 ~~victim, not a crime against the state.~~

4 ~~(h) It is essential that the criminal justice system~~
5 ~~support and expand responses to crime which help bring~~
6 ~~the juvenile offender to a point of remorse after a crime~~
7 ~~is committed.~~

8 ~~(i) The following three objectives are critical for~~
9 ~~achieving long term public safety:~~

10 ~~(1) Community protection through a continuum of~~
11 ~~appropriate responses to delinquent conduct, ranging~~
12 ~~from supervision to incapacitation, which protect citizens~~
13 ~~and victims from the threat to public safety posed by the~~
14 ~~minor.~~

15 ~~(2) Accountability of the minor through restoration of~~
16 ~~the losses experienced by the victim and the community.~~

17 ~~(3) Competency development of the minor in basic~~
18 ~~living skills necessary for law-abiding citizenship.~~

19 ~~SEC. 2. Article 29 (commencing with Section 988) is~~
20 ~~added to Chapter 2 of Part 1 of the Welfare and~~
21 ~~Institutions Code, to read:~~

22
23 ~~Article 29. Juvenile Justice Pilot Program~~
24

25 ~~988. This article establishes a pilot program in up to~~
26 ~~three counties selected by the Judicial Council, the board~~
27 ~~of supervisors of which adopt a resolution agreeing to~~
28 ~~participate therein. One county shall have a population~~
29 ~~of less than 100,000, one county shall have a population of~~
30 ~~not less than 250,000 and not more than 500,000, and one~~
31 ~~county shall have a population of over 500,000. This article~~
32 ~~shall apply to juveniles adjudged a ward of the juvenile~~
33 ~~court pursuant to Section 602 by reason of the commission~~
34 ~~of a nonviolent misdemeanor offense who have never~~
35 ~~been adjudged a ward of the juvenile court pursuant to~~
36 ~~Section 602 by reason of the commission of any violent~~
37 ~~offense and who have not previously attended a~~
38 ~~victim-offender reconciliation program, and to juveniles~~
39 ~~who are undergoing a program of supervision pursuant to~~



1 ~~Section 654 or 654.2. Nothing in this article shall be~~
2 ~~construed to require victim participation.~~
3 ~~988.1. Juveniles to whom this article applies shall be~~
4 ~~required to do any or all of the following:~~
5 ~~(a) Attend a victim-offender reconciliation program~~
6 ~~that is modeled on existing community conflict resolution~~
7 ~~programs established pursuant to Title 10.5~~
8 ~~(commencing with Section 14150) of Part 4 of the Penal~~
9 ~~Code, if appropriate.~~
10 ~~(b) Perform community service as required, which~~
11 ~~may include graffiti abatement and other established~~
12 ~~programs and projects that, whenever possible, benefit~~
13 ~~the community where the crime was committed.~~
14 ~~(c) Pay restitution to the victim pursuant to Section~~
15 ~~730.6.~~
16 ~~988.2. Any juvenile justice pilot program established~~
17 ~~pursuant to this article shall collect and evaluate data~~
18 ~~pertaining to the use, effectiveness, and cost of the~~
19 ~~program on an annual basis. The evaluation shall~~
20 ~~determine whether the amount of restitution collected~~
21 ~~pursuant to subdivision (c) of Section 988.1 is 40 percent~~
22 ~~more than the amount collected through juvenile~~
23 ~~probation programs and whether the rate of recidivism~~
24 ~~is 10 percent less than in juvenile probation programs.~~
25 ~~This data shall be submitted annually to the board of~~
26 ~~supervisors of the county in which the program operates.~~
27 ~~At a minimum, the information collected and evaluated~~
28 ~~shall include the following data:~~
29 ~~(a) The number of offenders and victims participating~~
30 ~~in the program.~~
31 ~~(b) The number of eligible offenders who declined to~~
32 ~~participate in the program.~~
33 ~~(c) The number of victims who declined to participate~~
34 ~~in the program.~~
35 ~~(d) The success of the program, as measured by~~
36 ~~reported victim and offender satisfaction, completion of~~
37 ~~the program by victims and offenders, and any additional~~
38 ~~success factors identified and tracked by the program.~~
39 ~~(e) The annual operating administrative costs of the~~
40 ~~program.~~



1 ~~(f) A description of the program's operation, including~~
2 ~~staffing, volunteers, and any other pertinent information.~~

3 ~~988.3. After data described in Section 988.2 is~~
4 ~~submitted to the board of supervisors, it shall be provided~~
5 ~~to the Judicial Council for evaluation. The Judicial~~
6 ~~Council shall then submit a report to the following~~
7 ~~committees and officers of the Legislature:~~

8 ~~(a) Assembly Appropriations.~~

9 ~~(b) Assembly Public Safety.~~

10 ~~(c) Speaker of the Assembly.~~

11 ~~(d) Senate Appropriations.~~

12 ~~(e) Senate Public Safety.~~

13 ~~(f) Senate President pro Tempore.~~

14 ~~988.4. This article shall remain in effect only until~~
15 ~~January 1, 2003, and as of that date is repealed, unless a~~
16 ~~later enacted statute, that is enacted before January 1,~~
17 ~~2003, deletes or extends that date.~~

18 ~~SEC. 3. Participation in the pilot programs~~
19 ~~established by Section 2 shall be entirely at county option~~
20 ~~and shall be funded through federal, state, or private~~
21 ~~grants or by appropriations for that purpose. The state~~
22 ~~shall have no obligation to provide funding for the pilot~~
23 ~~programs unless funds are appropriated for that purpose.~~

24 ~~SEC. 4. This act is an urgency statute necessary for the~~
25 ~~immediate preservation of the public peace, health, or~~
26 ~~safety within the meaning of Article IV of the~~
27 ~~Constitution and shall go into immediate effect. The facts~~
28 ~~constituting the necessity are:~~

29 ~~In order that our juvenile justice system be improved~~
30 ~~and the safety of the public be enhanced at the earliest~~
31 ~~possible time, it is necessary that this act take effect~~
32 ~~immediately.~~

