

AMENDED IN SENATE MAY 2, 2006  
AMENDED IN SENATE APRIL 6, 2006

**SENATE BILL**

**No. 1626**

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**Introduced by Senator Ashburn**

February 24, 2006

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An act to amend Section 790 of, ~~and to add Section 602.7 to,~~ the Welfare and Institutions Code, relating to juvenile crime.

LEGISLATIVE COUNSEL'S DIGEST

SB 1626, as amended, Ashburn. Juvenile crime.

Existing juvenile law, enacted by initiative statute, provides that if a minor consents and waives his or her right to a speedy jurisdictional hearing, the court may refer the case to the probation department or summarily grant deferred entry of judgment if the minor admits the charges in the petition and waives time for the pronouncement of the judgment and meets other eligibility criteria. This provision does not apply if the minor has committed any one of various, specified serious or violent offenses.

Existing law provides that, upon the agreement of the prosecuting attorney, the public defender or the minor's private defense attorney, and the presiding judge of the juvenile court or his or her designee, the procedure for deferred entry of judgment shall be completed as soon as possible after the initial filing of the petition. If they do not agree, existing law requires that the minor's case be heard according to procedures generally governing juvenile cases.

~~This bill would expand the list of offenses which would make a minor ineligible for the program described above. The bill would also delete the latter provisions described above requiring the agreement of the attorneys and the judge and would instead provide that upon a~~

finding that a minor is eligible for deferred entry of judgment and would benefit from education, treatment, and rehabilitation efforts, the court may grant deferred entry of judgment. *The bill would require the court to make findings on the record that a minor is appropriate for deferred entry of judgment in any case in which it is granted. The bill would also require the Judicial Council to report to the Legislature on the use of deferred entry of judgment on or before July 1, 2008.* Because the bill would amend an initiative statute, it would require a 2/3 vote.

~~Existing law authorizes the juvenile court to order various types of treatment and supervision for wards of the court, including probation or commitment to a juvenile facility.~~

~~The bill would specifically authorize the juvenile court to issue an order authorizing the use of continuous electronic monitoring, including the Global Positioning System, or GPS, to monitor the whereabouts of any ward who is in custody or on probation.~~

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

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

1     SECTION 1. Section 790 of the Welfare and Institutions Code  
2     is amended to read:

3     790. (a) Notwithstanding ~~Sections~~ Section 654, 654.2, or any  
4     other provision of law, this article shall apply whenever a case is  
5     before the juvenile court for a determination of whether a minor  
6     is a person described in Section 602 because of the commission  
7     of a felony offense, if all of the following circumstances apply:

8     (1) The minor has not previously been declared to be a ward of  
9     the court for the commission of a felony offense.

10    (2) The offense charged is not one of the offenses enumerated  
11    in subdivision (b) of Section 707.

12    (3) The minor has not previously been committed to the  
13    custody of the Youth Authority.

14    (4) The minor's record does not indicate that probation has  
15    ever been revoked without being completed.

16    (5) The minor is at least 14 years of age at the time of the  
17    hearing.

18    (6) The minor is eligible for probation pursuant to Section  
19    1203.06 of the Penal Code.

1 (b) The prosecuting attorney shall review his or her file to  
2 determine whether or not paragraphs (1) to (6), inclusive, of  
3 subdivision (a) apply. ~~Upon the agreement of the prosecuting~~  
4 ~~attorney, the public defender or the minor's private defense~~  
5 ~~attorney, and the presiding judge of the juvenile court or a judge~~  
6 ~~designated by the presiding judge to the application of this~~  
7 ~~article, this procedure shall be completed as soon as possible~~  
8 ~~after the initial filing of the petition. If the prosecuting attorney,~~  
9 ~~the defense attorney, and the juvenile court judge do not agree,~~  
10 ~~the case shall proceed according to Article 17 (commencing with~~  
11 ~~Section 675). If the minor is found eligible for deferred entry of~~  
12 ~~judgment, the prosecuting attorney shall file a declaration in~~  
13 ~~writing with the court or state for the record the grounds upon~~  
14 ~~which the determination is based, and shall make this~~  
15 ~~information available to the minor and his or her attorney. Upon~~  
16 ~~a finding that the minor is also eligible for deferred entry of~~  
17 ~~judgment and would benefit from education, treatment, and~~  
18 ~~rehabilitation efforts, the court may grant deferred entry of~~  
19 ~~judgment. Under this procedure, the court may set the hearing for~~  
20 ~~deferred entry of judgment at the initial appearance under Section~~  
21 ~~657. The court shall make findings on the record that a minor is~~  
22 ~~appropriate for deferred entry of judgment pursuant to this~~  
23 ~~article in any case where deferred entry of judgment is granted.~~  
24 ~~On or before July 1, 2008, the Judicial Council shall report to~~  
25 ~~the Legislature on the use of deferred entry of judgment pursuant~~  
26 ~~to this article. This report shall include, but not be limited to, the~~  
27 ~~number of cases and types of crimes for which deferred entry of~~  
28 ~~judgment has been granted during a specified period of time in~~  
29 ~~jurisdictions surveyed by the council.~~

30 ~~SECTION 1. Section 602.7 is added to the Welfare and~~  
31 ~~Institutions Code, to read:~~

32 ~~602.7. The juvenile court may issue an order authorizing the~~  
33 ~~use of continuous electronic monitoring, including the Global~~  
34 ~~Positioning System, or GPS, to monitor the whereabouts of any~~  
35 ~~ward who is in custody or on probation.~~

36 ~~SEC. 2. Section 790 of the Welfare and Institutions Code is~~  
37 ~~amended to read:~~

38 ~~790. (a) Notwithstanding Sections 654, 654.2, or any other~~  
39 ~~provision of law, this article shall apply whenever a case is~~  
40 ~~before the juvenile court for a determination of whether a minor~~

1 is a person described in Section 602 because of the commission  
2 of a felony offense, if all of the following circumstances apply:

3 (1) The minor has not previously been declared to be a ward of  
4 the court for the commission of a felony offense.

5 (2) The offense charged is not one of the offenses enumerated  
6 in subdivision (b) of Section 707 or any of the following  
7 offenses:

8 (A) The offense described in paragraph (1), (3), (4), (5), (6), or  
9 (7) of subdivision (a) of Section 261 of the Penal Code.

10 (B) The offense described in Section 264.1 or 285 of the Penal  
11 Code.

12 (C) The offense described in paragraph (1) or (3) of  
13 subdivision (e) or subdivision (f), (g), (h), (i), (j), or (k) of  
14 Section 286 of the Penal Code.

15 (D) The offense described in subdivision (a) or paragraph (1)  
16 or (2) of subdivision (b) of Section 288 of the Penal Code.

17 (E) The offense described in paragraph (1) or (3) of  
18 subdivision (c), or subdivision (d), (f), (g), (h), (i), (j), or (k) of  
19 Section 288a of the Penal Code.

20 (F) The offense described in subdivision (b), (c), (d), (e), (f),  
21 (g), or (j) of Section 289 of the Penal Code.

22 (G) The offense described in Section 647.6 of the Penal Code.

23 (3) The minor has not previously been committed to the  
24 custody of the Division of Juvenile Facilities.

25 (4) The minor's record does not indicate that probation has  
26 ever been revoked without being completed.

27 (5) The minor is at least 14 years of age at the time of the  
28 hearing.

29 (6) The minor is eligible for probation pursuant to Section  
30 1203.06 of the Penal Code.

31 (b) The prosecuting attorney shall review his or her file to  
32 determine whether or not paragraphs (1) to (6), inclusive, of  
33 subdivision (a) apply. If the minor is found eligible for deferred  
34 entry of judgment, the prosecuting attorney shall file a  
35 declaration in writing with the court or state for the record the  
36 grounds upon which the determination is based, and shall make  
37 this information available to the minor and his or her attorney.  
38 Upon a finding that the minor is also eligible for deferred entry  
39 of judgment and would benefit from education, treatment, and  
40 rehabilitation efforts, the court may grant deferred entry of

1 judgment. Under this procedure, the court may set the hearing for  
2 deferred entry of judgment at the initial appearance under Section  
3 657.

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