

AMENDED IN ASSEMBLY APRIL 2, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2541

Introduced by Assembly Member Bass

February 22, 2008

An act to amend and renumber Section 1000.8 of, to add and repeal Chapter 2.6 (commencing with Section 1000.8) of Title 6 of Part 2 of, and to add and repeal Part 4.5 (commencing with Section 14500) of, the Penal Code, relating to reentry.

LEGISLATIVE COUNSEL'S DIGEST

AB 2541, as amended, Bass. Reentry courts: deferred entry of judgment.

Under existing law, the Department of Corrections and Rehabilitation is required to establish 3 pilot programs to provide intensive training and counseling for female parolees to assist in the successful reintegration of those parolees into the community, a pilot reentry program in East Palo Alto and a pilot prerelease parole program in Alameda County. Existing law also requires the department to provide various education, drug treatment, and skills training to inmates and parolees. Existing law further requires the establishment of a Reentry Advisory Committee to advise the secretary on all matters related to the successful statewide planning, implementation, and outcomes of all reentry programs and services provided by the department.

This bill would authorize a superior court, until January 1, 2012, to develop and operate a deferred entry of judgment reentry program targeted at preventing recidivism among ~~low-level drug offenders or any other type of offender that the court deems appropriate~~ *nonviolent offenders*. The bill would specify the characteristics of that program

and the process for eligibility for the program. The bill would also authorize, until January 1, 2012, no more than 3 ~~superior courts~~ *counties* to develop and implement a ~~reentry court system~~ *court-based reentry program*. The bill would specify the characteristics of a ~~reentry court program~~ *program* and would require the presiding judge, district attorney, public defender, Board of Parole Hearings, and Department of Corrections and Rehabilitation to enter into an agreement about the jurisdiction of the ~~court program~~, as specified.

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. The Legislature finds and declares all of the
2 following:

3 (a) Every year, ~~more than~~ *approximately* 125,000 California
4 prisoners are released from California prisons. Of those released,
5 more than half will return to prison within two years and more
6 than 70 percent will return within three years, many for committing
7 more crimes, which will result in more victims.

8 (b) Many former offenders exit prison utterly unprepared to live
9 crime free, *often* not having addressed the underlying problems
10 that contributed to their criminal behavior, including lack of
11 employment, lack of job readiness, substance abuse problems,
12 reentry problems, and lack of housing.

13 (c) ~~Without~~ *Approximately 95 percent of state prisoners will*
14 *eventually be released. Thus, without* an effective strategy for
15 preventing former offenders from reentering prison, the safety of
16 our communities is at enormous risk.

17 (d) California taxpayers pay significantly when former offenders
18 reoffend. For each person who ends up back in prison, taxpayers
19 pay more than \$43,000 per year.

20 (e) Successful models exist for planning for, supervising, and
21 ultimately ensuring the successful, crime-free reentry of former
22 offenders into society.

23 (f) The San Francisco District Attorney's office has developed
24 an effective reentry program, Back On Track. Among low-level,
25 nonviolent drug sellers, the three-year recidivism rate for Back On
26 Track participants is significantly lower than the 53 percent

1 recidivism rate for the same population in state prison. As a result,
2 the Back On Track program has been selected as a national model.

3 (g) Successful reentry models combine a continuity of services
4 before and after release and legal ~~incentives to hold~~ *mechanisms*
5 *for holding* former offenders accountable for ~~using those services~~
6 *becoming self-sufficient and living crime-free*.

7 (h) The most successful models for preventing recidivism
8 include public-private partnerships among law enforcement,
9 government agencies, business and labor associations, private
10 employers, and community-based organizations, formed to create
11 living wage employment opportunities for eligible former offenders
12 and to take advantage of existing programs and incentives for
13 hiring former offenders.

14 ~~(i) Existing law does not provide express authorization for~~
15 ~~reentry courts or for any jurisdiction for courts to exercise over~~
16 ~~offenders who have been released into our communities. Reentry~~
17 ~~courts have proven successful in reducing recidivism in some~~
18 ~~jurisdictions and should be expressly authorized for any jurisdiction~~
19 ~~that wants to establish one.~~

20 SEC. 2. Section 1000.8 of the Penal Code is amended and
21 renumbered to read:

22 1000.6. (a) Where a person is participating in a deferred entry
23 of judgment program or a preguilty plea program pursuant to this
24 chapter, the person may also participate in a licensed methadone
25 or levoalphacetylmethadol (LAAM) program if the following
26 conditions are met:

27 (1) The sheriff allows a methadone program to operate in the
28 county jail.

29 (2) The participant allows release of his or her medical records
30 to the court presiding over the participant's preguilty or deferred
31 entry program for the limited purpose of determining whether or
32 not the participant is duly enrolled in the licensed methadone or
33 LAAM program and is in compliance with deferred entry or
34 preguilty plea program rules.

35 (b) If the conditions specified in paragraphs (1) and (2) of
36 subdivision (a) are met, participation in a methadone or LAAM
37 treatment program shall not be the sole reason for exclusion from
38 a deferred entry or preguilty plea program. A methadone or LAAM
39 patient who participates in a preguilty or deferred entry program
40 shall comply with all court program rules.

1 (c) A person who is participating in a deferred entry of judgment
2 program or preguilty plea program pursuant to this chapter who
3 participates in a licensed methadone or LAAM program shall
4 present to the court a declaration from the director of the methadone
5 or LAAM program, or the director’s authorized representative,
6 that the person is currently enrolled and in good standing in the
7 program.

8 (d) Urinalysis results that only establish that a person described
9 in this section has ingested or taken the methadone administered
10 or prescribed by a licensed methadone or LAAM program shall
11 not be considered a violation of the terms of the deferred entry of
12 judgment or preguilty plea program under this chapter.

13 (e) Except as provided in subdivisions (a) to (d), inclusive, this
14 section shall not be interpreted to amend any provisions governing
15 deferred entry and diversion programs.

16 SEC. 3. Chapter 2.6 (commencing with Section 1000.8) is
17 added to Title 6 of Part 2 of the Penal Code, to read:

18

19 CHAPTER 2.6. DEFERRED ENTRY OF JUDGMENT REENTRY
20 PROGRAM

21

22 1000.8. A superior court may develop and operate a deferred
23 entry of judgment reentry program targeted at preventing
24 recidivism among ~~low-level drug offenders or any other type of~~
25 ~~offender that the court deems appropriate~~ *nonviolent offenders*.
26 The program shall have the following characteristics:

27 (a) A dedicated calendar or a locally developed deferred entry
28 of judgment program.

29 (b) Leadership by a superior court judicial officer who is
30 assigned by the presiding judge.

31 (c) An appropriate level of transitional services for each
32 participant, based on available resources from county and
33 community reentry providers and other agencies, to address the
34 issues identified during the assessment performed in Section
35 1000.9. The transitional services may include the following:

- 36 (1) Job training, readiness, and placement.
- 37 (2) Life skills and “soft” skills training.
- 38 (3) Mental health treatment.
- 39 (4) Substance abuse treatment.

1 (5) Assistance with obtaining identification cards and driver's
2 licenses.

3 (6) Assistance with expungement of criminal and arrests records
4 and other barriers to employment, where appropriate.

5 (7) Parenting skills and assistance with child support obligations.

6 (d) Legal incentives for defendants for progress and successful
7 completion of the program, including modification of conditions
8 or terms of probation, dismissal or reduction of criminal charges
9 upon successful completion of the program, and assistance with
10 expungement of prior criminal convictions.

11 (e) Graduated sanctions and frequent, ongoing appearances
12 before the court regarding the progress of the defendant to ensure
13 that the defendant successfully completes the program and complies
14 with any other terms and conditions that will optimize the
15 likelihood that the defendant will complete the program. The court
16 may use available legal mechanisms including return to custody
17 if necessary, for failure to comply with the supervised plan.

18 (f) The program may develop a local, public-private partnership
19 between law enforcement, government agencies, private employers,
20 and community-based organizations for the purpose of creating
21 meaningful employment opportunities for eligible former offenders
22 and to take advantage of existing programs and incentives for
23 hiring defendants participating in the program.

24 1000.9. The court shall hold a hearing to determine whether a
25 defendant is eligible for a deferred entry of judgment reentry
26 program.

27 (a) To assist the court in determining whether the defendant is
28 eligible for the program, the prosecuting attorney, or the court on
29 its own, may make a motion to require that the defendant undergo
30 an individualized assessment to determine what support services,
31 treatment plans, and programs are needed to address the
32 defendant's criminal behavior. Upon the motion of the prosecuting
33 attorney, the court may require the defendant to participate in up
34 to 200 hours of community service or perform restitution prior to
35 determining whether the defendant is eligible for the program.

36 (b) If the prosecuting attorney determines that this section may
37 be applicable to the defendant, he or she shall advise the defendant
38 and his or her attorney in writing of that determination. This
39 notification shall include the following:

- 1 (1) A full description of the procedures for deferred entry of
2 judgment.
- 3 (2) A general explanation of the role and authority of the
4 prosecuting attorney, the program, and the court in the process.
- 5 (3) A clear statement that in lieu of trial, the court may grant
6 deferred entry of judgment with respect to the current crime or
7 crimes charged if the defendant pleads guilty to each charge and
8 waives time for the pronouncement of judgment, and that, upon
9 the defendant's successful completion of the program and the
10 motion of the prosecuting attorney, the court will dismiss the
11 charge or charges against the defendant and the provisions of
12 Section 1203.4 will apply.
- 13 (4) A clear statement that failure to comply with any condition
14 under the program may result in the prosecuting attorney or the
15 court making a motion for entry of judgment, whereupon the court
16 will render a finding of guilty to the charge or charges pled, enter
17 judgment, and schedule a sentencing hearing as otherwise provided
18 in this code.
- 19 (5) An explanation of criminal record retention and disposition
20 resulting from participation in the deferred entry of judgment
21 program and the defendant's rights relative to answering questions
22 about his or her arrest and deferred entry of judgment following
23 successful completion of the program.
- 24 (c) If the court determines that the defendant is eligible for the
25 program, the court shall state for the record the grounds upon which
26 the determination is based and shall make this information available
27 to the defendant and his or her attorney. This procedure is intended
28 to allow the court to set the hearing for deferred entry of judgment
29 at the arraignment. If the prosecuting attorney objects to granting
30 the defendant deferred entry of judgment under this section, the
31 court may nonetheless grant deferred entry of judgment to the
32 defendant if the court has ordered the defendant's individualized
33 assessment pursuant to subdivision (a) and has considered the
34 results of the assessment in making its determination regarding
35 the defendant's eligibility for the program.
- 36 (d) If the court determines that the defendant is ineligible for
37 the program, the court shall state for the record the grounds upon
38 which the determination is based and shall make this information
39 available to the defendant and his or her attorney. The sole remedy
40 of a defendant who is found ineligible for deferred entry of

1 judgment is a postconviction appeal. If the court does not deem
2 the defendant eligible, or the defendant does not consent to
3 participate, the proceedings shall continue as in any other case.

4 1000.10. A defendant’s plea of guilty pursuant to this chapter
5 shall not constitute a conviction for any purpose unless a judgment
6 of guilty is entered pursuant to Section 1000.3.

7 1000.11. This chapter shall remain in effect until January 1,
8 2012, and as of that date is repealed, unless a later enacted statute
9 deletes or repeals that date.

10 SEC. 4. Part 4.5 (commencing with Section 14500) is added
11 to the Penal Code, to read:

12
13 PART 4.5. RECIDIVISM PREVENTION

14
15 TITLE 1. REENTRY COURTS

16
17 14500. ~~No more than three superior courts~~ *Counties* may
18 develop and implement ~~a reentry court system~~ *court-based reentry*
19 *programs*, to be operated as ~~a pilot program~~ *pilot programs* until
20 January 1, 2012. *The total number of counties authorized under*
21 *this section shall not exceed three.*

22 14501. (a) The purposes of a reentry court are to reduce
23 recidivism among parolees and to increase public safety.

24 (b) ~~A reentry court~~ *court-based reentry program* shall have the
25 following characteristics:

26 (1) A dedicated calendar or a locally developed court-supervised
27 reentry program.

28 (2) A process for developing an individualized plan for the
29 successful, crime-free reentry of each parolee into society.

30 (3) Leadership by a superior court judicial officer, who is
31 assigned by the presiding judge.

32 (4) Cooperation between judicial officers, the Board of Parole
33 Hearings, local law enforcement, and community-based treatment
34 and service providers.

35 (5) A process for providing individualized assessments, support
36 services, and treatment plans for parolees to address underlying
37 issues driving criminal behavior.

38 (6) Supervision of reentering parolees in order to maintain
39 progress in fulfilling their reentry plans.

1 (7) A means of holding parolees accountable for successfully
2 completing the program through a combination of graduated
3 sanctions, including return to custody, incentives, and other legal
4 mechanisms.

5 (8) Program incentives, which may include modifying the
6 conditions or terms of parole, treatment programming, assistance
7 with child support, employment training, records support such as
8 assistance obtaining identification cards and driver’s licenses, and
9 expungement of prior criminal convictions.

10 14502. In developing a ~~reentry court~~ *court-based reentry*
11 *program* pursuant to this title, the district attorney, the public
12 defender, the presiding judge of the superior court, and the Board
13 of Parole Hearings or other designee of the Department of
14 Corrections and Rehabilitation, shall develop a plan that addresses,
15 at a minimum, the following components:

16 (a) The method by which the ~~reentry court~~ *court-based reentry*
17 *program* will ensure that the target population of defendants will
18 be identified and referred to the reentry court.

19 (b) Eligibility criteria specifying what factors will make the
20 defendant eligible to participate in a ~~reentry court~~ *court-based*
21 *reentry program*, including whether the defendant can benefit from
22 the program, the facts of the current criminal conviction, as well
23 as prior criminal history, and substance abuse and mental health
24 treatment history.

25 (c) The treatment and supportive services of the program.

26 (d) The process to ensure defendants will receive an appropriate
27 level of treatment services, based on available resources, from
28 county and ~~community~~ *community-based* reentry providers and
29 other agencies.

30 (e) Frequent, ongoing reviews of the progress of the offender
31 in treatment in order to ensure the offender adheres to the treatment
32 plan, remains in treatment, and completes treatment.

33 (f) A requirement that participants in the ~~reentry court~~
34 *court-based reentry program* complete the recommended reentry
35 plan, including compliance with any other terms and conditions
36 that optimize the likelihood that the defendant will complete the
37 program.

38 (g) An agreement between the defendant and the other parties
39 listed in this section regarding the jurisdiction of the ~~reentry court~~
40 *court-based reentry program*. The agreement shall specify whether

1 the ~~reentry court~~ *program*, the Board of Parole Hearings, or both,
2 will exercise jurisdiction over all of the following:

3 (1) Sanctions for failing to comply with the program or the
4 court's orders, including ordering a parolee returned to prison.

5 (2) Providing incentives to parolees who successfully progress
6 or complete the program, including modifying conditions or term
7 of parole or suspending revocation of parole pending the parolee's
8 successful completion of the reentry court program.

9 (3) Any other terms and conditions that will optimize the
10 likelihood that a parolee will complete the program.

11 14503. A ~~reentry court~~ *court-based reentry program* may issue
12 any order that falls within the scope of the agreement made
13 pursuant to subdivision (g) of Section 14502.

14 14505. This part shall remain in effect until January 1, 2012,
15 and as of that date is repealed, unless a later enacted statute deletes
16 or repeals that date.