

AMENDED IN ASSEMBLY MARCH 22, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2141

Introduced by Assembly Member Bonnie Lowenthal

February 18, 2010

An act to add Section 790.5 to the Welfare and Institutions Code, relating to juvenile offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 2141, as amended, Bonnie Lowenthal. Deferred entry of judgment: misdemeanor offenses.

Existing law, Proposition 21, an initiative statute, provides for deferred entry of judgment for minors who may be adjudged a ward of the juvenile court because of the commission of a felony offense and who meet other, specified criteria. Among other criteria, the minor must be at least 14 years of age, he or she must not have previously been declared to be a ward of the court for the commission of a felony offense, and the offense charged must not be one of specified, enumerated serious or violent offenses. A minor who is granted deferred entry of judgment must admit to each allegation contained in the petition. If the minor performs satisfactorily during the period of 12 to 36 months during which deferred entry of judgment is granted, at the end of that period the charge or charges are dismissed, the arrest upon which the judgment was deferred is deemed never to have occurred, and the records are sealed, as specified. Existing law imposes various supervisory and other duties upon probation officers in connection with the procedure.

This bill would expand the scope of the deferred entry of judgment procedure to include minors who have committed a misdemeanor offense, as specified. Because the bill would amend Proposition 21, an

initiative statute, the bill would require a $\frac{2}{3}$ vote. Because the bill would increase the duties of probation officers, the bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: $\frac{2}{3}$. 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 790.5 is added to the Welfare and
 2 Institutions Code, to read:
 3 790.5. (a) Notwithstanding Section 654, 654.2, 790, or any
 4 ~~other law, this article shall apply, except as otherwise provided in~~
 5 ~~this section~~ *other law*, whenever a case is before the juvenile court
 6 for a determination of whether a minor is a person described in
 7 Section 602 because of the commission of a misdemeanor offense,
 8 *the court may grant deferred entry of judgment* if all of the
 9 following circumstances apply:
 10 (1) The minor has not previously been declared a ward of the
 11 juvenile court for the commission of a felony offense.
 12 (2) The minor has not previously been committed to the custody
 13 of the Division of Juvenile Facilities.
 14 (3) The minor’s record does not indicate that probation has ever
 15 been revoked without being completed.
 16 (4) The minor is eligible for probation pursuant to Section
 17 1203.06 of the Penal Code.
 18 ~~(b) The prosecuting attorney shall review his or her file to~~
 19 ~~determine whether paragraphs (1) to (4), inclusive, of subdivision~~
 20 ~~(a) apply. If the minor is found eligible for deferred entry of~~
 21 ~~judgment pursuant to this section, the prosecuting attorney shall~~
 22 ~~file a declaration in writing with the court or state for the record~~
 23 ~~the grounds upon which the determination is based, and shall make~~
 24 ~~this information available to the minor and his or her attorney.~~
 25 ~~Upon a finding that the minor is suitable for deferred entry of~~

1 judgment and would benefit from education, treatment, and
2 rehabilitation efforts, the court may grant deferred entry of
3 judgment. Under this procedure, the court may set the hearing for
4 deferred entry of judgment at the initial appearance under Section
5 657. In the event that the case is set for hearing for deferred entry
6 of judgment, the notice provisions of paragraphs (1) to (5),
7 inclusive, of subdivision (a) of, and subdivision (b) of, Section
8 791, shall be followed. The court shall make findings on the record

9 (b) *The court shall make findings on the record* that a minor is
10 appropriate for deferred entry of judgment pursuant to this article
11 in any case in which deferred entry of judgment is granted. The
12 procedures set forth in Sections 792, 793, 794, and 795 for deferred
13 entry of judgment in cases in which the minor has committed a
14 felony offense shall be equally applicable to the cases in which
15 the minor has been deemed eligible for deferred entry of judgment
16 pursuant to this section.

17 SEC. 2. If the Commission on State Mandates determines that
18 this act contains costs mandated by the state, reimbursement to
19 local agencies and school districts for those costs shall be made
20 pursuant to Part 7 (commencing with Section 17500) of Division
21 4 of Title 2 of the Government Code.