
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: AB 1318 **Hearing Date:** July 13, 2021
Author: Stone
Version: June 18, 2021
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Deferred entry of judgment pilot program*

HISTORY

Source: Chief Probation Officers of California

Prior Legislation: AB 1390 (Stone), Ch. 129, Stats. 2019
SB 1106 (Hill) Ch. 1007, Stats. 2018
SB 1004 (Hill) Ch. 865, Stats. 2016

Support: Unknown

Opposition: None known

Assembly Floor Vote: Not applicable

PURPOSE

The purpose of this bill is to extend the operative date of the Transitional Age Youth Pilot Program in the Counties of Alameda, Butte, Napa, Nevada, Santa Clara, and Ventura until January 1, 2024.

Existing law provides that the counties of Alameda, Butte, Napa, Nevada, Santa Clara and Ventura may establish a pilot program to operate a deferred entry of judgment pilot program until January 1, 2022 for certain eligible defendants. (Pen. Code, § 1000.7, subd. (a).)

Existing law provides that a defendant may participate in a deferred entry of judgment pilot program within the county's juvenile hall if that person is charged with committing a felony offense, except as specified, he or she pleads guilty to the charge or charges, and the probation department determines that the person meets all of the following requirements:

- Is 18 years of age or older, but under 21 years of age on the date the offense was committed, or is 21 years of age or older, but under 25 years of age on the date the offense was committed with the approval of the county multidisciplinary team established pursuant to this pilot program;
- Is suitable for the program after evaluation using a risk assessment tool, as specified;
- Shows the ability to benefit from services generally reserved for delinquents, including but not limited to, cognitive behavioral therapy, other mental health services, and age-

appropriate educational, vocational, and supervision services, that are currently deployed under the jurisdiction of the juvenile court;

- Meets the rules of the juvenile hall developed in accordance with the applicable regulations;
- Does not have a prior or current conviction for committing certain specified offenses; and,
- Is not required to register as a sex offender, as specified. (Pen. Code, § 1000.7, subd. (b).)

Existing law requires the probation department, in consultation with the superior court, district attorney, and sheriff of the county or the governmental body charged with operating the county jail, to develop an evaluation process using a risk assessment tool to determine eligibility for the program. (Pen. Code, § 1000.7, subd. (c).)

Existing law makes ineligible for the deferred entry of judgment pilot program a defendant who is required to register as a sex offender, as specified, or who has been convicted of one or more of the following offenses:

- A “serious” felony, as that term is defined by law;
- A “violent” felony, as that term is defined by law; or,
- A serious or violent crime as that term is defined by juvenile law. (Pen. Code, § 1000.7, subd. (d).)

Existing law provides that the court must grant deferred entry of judgment if an eligible defendant consents to participate in the program, waives his or her right to a speedy trial or a speedy preliminary hearing, pleads guilty to the charge or charges, and waives time for the pronouncement of judgment. (Pen. Code, § 1000.7, subd. (e).)

Existing law provides that if the probation department determines that the defendant is not eligible for the deferred entry of judgment pilot program or the defendant does not consent to participate in the program, the proceedings shall continue as in any other case. (Pen. Code, § 1000.7, subd. (f)(1).)

Existing law states that if it appears to the probation department that the defendant is performing unsatisfactorily in the program as a result of the commission of a new crime or the violation of any of the rules of the juvenile hall or that the defendant is not benefiting from the services in the program, the probation department may make a motion for entry of judgment. After notice to the defendant, the court is required to hold a hearing to determine whether judgment should be entered. (Pen. Code, § 1000.7, subd. (f)(2).)

Existing law states that if the court finds that the defendant is performing unsatisfactorily in the program or that the defendant is not benefiting from the services in the program, the court is required to render a finding of guilt to the charge or charges pleaded, enter judgment, and schedule a sentencing hearing, and the probation department, in consultation with the county sheriff, is required to remove the defendant from the program and return him or her to custody in county jail. The mechanism of when and how the defendant is moved from custody in juvenile

hall to custody in a county jail shall be determined by the local multidisciplinary team, as specified. (*Id.*)

Existing law provides that if the defendant has performed satisfactorily during the period in which deferred entry of judgment was granted, at the end of that period, the court is required to dismiss the criminal charge or charges. (Pen. Code, § 1000.7, subd. (f)(3).)

Existing law prohibits a defendant participating in this program from serving longer than one year in juvenile hall. (Pen. Code, § 1000.7, subd. (g).)

Existing law requires the probation department to develop a plan for reentry services, including, but not limited to, housing, employment, and education services, as a component of the program. (Pen. Code, § 1000.7, subd. (h).)

Existing law requires the probation department to submit data relating to the effectiveness of the program to the Division of Recidivism Reduction and Re-Entry, within the Department of Justice, including recidivism rates for program participants as compared to recidivism rates for similar populations in the adult system within the county. (Pen. Code, § 1000.7, subd. (i).)

Existing law prohibits a defendant participating in the program from coming into contact with minors within the juvenile hall for any purpose, including, but not limited to, housing, recreation, or education. (Pen. Code, § 1000.7, subd. (j).)

Existing law provides that prior to establishing a pilot program pursuant to this section, the county is required to apply to the Board of State and Community Corrections (BSCC) for approval of a county institution as a suitable place for confinement for the purpose of the pilot program. The BSCC is required to review and approve or deny the application of the county within 30 days of receiving notice of this proposed use. In its review, the BSCC is required to take into account the available programming, capacity, and safety of the institution as a place for the confinement and rehabilitation of individuals within the jurisdiction of the criminal court, and those within the jurisdiction of the juvenile court. (Pen. Code, § 1000.7, subd. (k).)

Existing law requires the BSCC to review a county's pilot program to ensure compliance with requirements of the federal law, relating to "sight and sound" separation between juveniles and adult inmates. (Pen. Code, § 1000.7, subd. (l).)

Existing law provides that the statutes related to this pilot program apply to a defendant who would otherwise serve time in custody in a county jail. Participation in this pilot program is prohibited as an alternative to a sentence involving community supervision. (Pen. Code, § 1000.7, subd. (m)(1).)

Existing law requires that each county establish a multidisciplinary team that shall meet periodically to review and discuss the implementation, practices, and impact of the program. The team shall include representatives from the following entities:

- The probation department;
- The district attorney's office;
- The public defender's office;

- The sheriff's department;
- Courts located in the county;
- The county board of supervisors;
- The county health and human services department;
- A youth advocacy group. (Pen. Code, § 1000.7, subd. (m)(2).)

Existing law requires a county that establishes a pilot program pursuant to this section to submit data regarding the pilot program to the BSCC. (Pen. Code, § 1000.7, subd. (n)(1).)

Existing law requires the BSCC to conduct an evaluation of the pilot program's impact and effectiveness. The evaluation is required to include, but not limited to, evaluating each pilot program's impact on sentencing and impact on opportunities for community supervision, monitoring the program's effect on minors in the juvenile facility, if any, and its effectiveness with respect to program participants, including outcome-related data for program participants compared to young adult offenders sentenced for comparable crimes. (Pen. Code, § 1000.7, subd. (n)(2).)

Existing law requires BSCC's evaluation of each participating county to be combined into a comprehensive report and submitted to the Assembly and Senate Committees on Public Safety, no later than December 31, 2020. (Pen. Code, § 1000.7, subd. (n)(3).)

This bill extends the operative date of the Transitional Age Youth Pilot Program in the authorized counties until January 1, 2024 and requires BSCC's comprehensive report to be submitted no later than December 31, 2023.

COMMENTS

1. Need for This Bill

According to the author of this bill:

While those between the ages of 18-25 are legally adults, they are still undergoing significant brain development. Research has shown that this age group can be better serviced by the juvenile justice system with age-appropriate services. Research has also revealed that people do not fully develop adult-quality decision-making skills until their early 20's, otherwise known as the "maturity gap". Because of this, young adults are more likely to engage in risk seeking behavior but are also more receptive to cognitive rehabilitation and changes in decision-making.

AB 1318 would extend the sunset for the Transitional Age Youth pilot program to January 1, 2024, which allows participating counties to serve young adults aged 18-25 in the juvenile system instead of adult county jail. This scientifically backed bill ensures transitional aged youth continue to have the best opportunity to receive age-appropriate intensive services. It requires the consent of the

defendant to participate and in doing so, they are able to receive services and supports through the juvenile system and have their record cleared.

2. Transitional Age Youth Pilot Program

SB 1004 (Hill) authorized five counties—Alameda, Butte, Napa, Nevada, and Santa Clara—to operate a three-year pilot program in which certain young adult offenders could serve a maximum term of one year in the county juvenile hall for an eligible felony instead of jail. The bill recognized that although 18 to 21 year olds are legally adults, “young offenders...are still undergoing significant brain development and...may be better served by the juvenile justice system with corresponding age appropriate intensive services.” (Sen. Com. on Public Safety, Analysis of Sen. Bill No. 1004 (2015-2016 Reg. Sess.) as amended on Mar. 28, 2016.) The pilot program was later amended to include County of Ventura and to expand eligible defendants to persons under 25. (SB 1106 (Hill) Ch. 1007, Stats. 2018; AB 1390 (Stone), Ch. 129, Stats. 2019.)

The pilot program is a deferred entry of judgment program, meaning that participants have to plead guilty to be eligible for the program, and if they succeed in the program then the criminal charges are dismissed. The young adults must be between the ages of 18 and 21, or between the ages of 21 and 25 if participation in the program is approved by the county multidisciplinary team, and must not have a prior or current conviction for a serious, violent, or sex crime. Participants must consent to participate in the program, be assessed and found suitable for the program, and show the ability to benefit from the services generally provided to juvenile hall youth. The law prohibits the young adult offenders in the program from coming into contact with any minors in the juvenile hall. Probation is required to develop a plan for reentry services, including, but not limited to, housing, employment, and education services, as a component of the program. Finally, a person participating in the program cannot serve more than one year in juvenile hall.

Each participating county is required to establish a multidisciplinary team to meet periodically to review and discuss the implementation, practices, and impact of the program, and to submit data to BSCC on the pilot program. BSCC is required to conduct an evaluation of the pilot program’s impact and effectiveness, as specified, and would require, no later than December 31, 2020, the evaluation to be combined into a comprehensive report and submitted to the Assembly and Senate Committees on Public Safety.

The pilot program was set end on January 1, 2020, but was subsequently amended to extend the operative date of the program to January 1, 2022. This bill extends the operative date of the program to January 1, 2024, and requires the comprehensive report to be submitted no later than December 31, 2023.

Should the reporting date be amended to an earlier date to allow enough time for the Legislature to evaluate the pilot program prior to the sunset date?

3. Argument in Support

According to Chief Probation Officers of California:

This program reflects research in adolescent brain development which notes that while individuals aged 18-25 are legally adults, these young adults are still

undergoing significant brain development. Research has also shown that this age group can be well served by the juvenile justice system with age-appropriate intensive services.

SB 1004 (Hill, 2016) and SB 1106 (Hill, 2018) authorized six counties (Alameda, Butte, Napa, Nevada, Santa Clara, and Ventura) to voluntarily enact a deferred entry of judgement pilot program that allows young adults who have committed non-serious, non-violent, and non-sex offenses, aged 18-21 to voluntarily participate in the program which allows them to receive age-appropriate services in the juvenile system instead of an adult facility. Programming for these young adults includes cognitive behavioral therapy, mental health treatment, vocational training and education, among others.

AB 1390 (Stone, 2019) then authorized counties to include additional young adults in the Transitional Age Youth Pilot Program up to age 25, upon agreement by the local multidisciplinary team. The local disciplinary team consists of the probation department, the public defender's office, a youth advocacy group, county health and human services, board of supervisors, district attorney's office, and the sheriff's department.

This program allows for young adults to receive age-appropriate services, coordination and planning for employment, housing and educational services, and have their charges dismissed upon completion of the program in order to remove barriers to help set them on a positive path forward. Participation in the programs is voluntary and requires the defendant's consent.

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