
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: AB 2629 **Hearing Date:** June 28, 2022
Author: Santiago
Version: May 23, 2022
Urgency: No **Fiscal:** No
Consultant: SJ

Subject: *Juveniles: dismissals*

HISTORY

Source: Anti-Recidivism Coalition
Fresh Lifelines for Youth
Pacific Juvenile Defender Center

Prior Legislation: AB 529 (Stone), Ch. 685, Stats. 2017
SB 312 (Skinner), Ch. 679, Stats. 2017
AB 666 (Stone), Ch. 368, Stats. 2015
SB 1038 (Leno), Ch. 249, Stats. 2014

Support: ACLU California Action; Asian Prisoner Support Committee; Bend the Arc; Jewish Action; California Alliance for Youth and Community Justice; California Attorneys for Criminal Justice; California Catholic Conference; California Public Defenders Association; Californians for Safety and Justice; Communities United for Restorative Youth Justice; Congregations Organized for Prophetic Engagement; East Bay Community Law Center; Ella Baker Center for Human Rights; Freedom 4 Youth; Fresno Barrios Unidos; Fresno County Public Defender's Office; Friends Committee on Legislation of California; Immigrant Legal Resource Center; John Burton Advocates for Youth; Juvenile Court Judges of California; Juvenile Law Center; Law Project of Los Angeles; Los Angeles County District Attorney's Office; Motivating Individual Leadership for Public Advancement; National Association of Social Workers, California Chapter; National Center for Youth Law; National Institute for Criminal Justice Reform; National Juvenile Justice Network; San Francisco District Attorney's Office; San Francisco Public Defender's Office; San Mateo County Bar Association, Private Defender Program; Santa Cruz Barrios Unidos; Smart Justice California; The Gault Center; Underground Scholars Initiative, UC Berkeley; Underground Scholars Initiative, UC San Diego; Underground Scholars Initiative, UCLA; W. Haywood Burns Institute; Youth Forward; Youth Law Center

Opposition: None known

Assembly Floor Vote: 51 - 20

PURPOSE

The purpose of this bill is to clarify that the juvenile court may dismiss a petition at any time after it has been filed and require a court, at the time the court terminates jurisdiction or any time after, to consider and afford great weight to evidence offered to prove that mitigating circumstances are present which weigh in favor of dismissing the petition, except as specified.

Existing law provides that a minor between 12 and 17 years of age, inclusive, who violates any federal, state, or local law or ordinance, and a minor under 12 years of age who is alleged to have committed murder or a specified sex offenses, is within jurisdiction of the juvenile court, which may adjudge the minor to be a ward of the court. (Welf. & Inst. Code, § 602.)

Existing law provides that a juvenile court judge in which a petition was filed may dismiss the petition, or may set aside the findings and dismiss the petition, if the court finds that the interests of justice and the welfare of the person who is the subject of the petition require that dismissal, or if it finds that he or she is not in need of treatment or rehabilitation. Provides that the court has jurisdiction to order dismissal or setting aside of the findings and dismissal regardless of whether the person who is the subject of the petition is, at the time of the order, a ward or dependent child of the court. Provides that this provision of law shall not be interpreted to require the court to maintain jurisdiction over a person who is the subject of a petition between the time the court's jurisdiction over that person terminates and the point at which his or her petition is dismissed. (Welf. & Inst. Code, § 782.)

This bill requires the court, when exercising its discretion at the time the court terminates jurisdiction or at any time thereafter, to consider and afford great weight to evidence offered by a person to prove mitigating circumstances are present, including, but not limited to, satisfactory completion of a term of probation, that rehabilitation has been attained to the satisfaction of the court, that dismissal of the petition would not endanger public safety, or that the underlying offense is connected to mental illness, prior victimization, or childhood trauma.

This bill provides that proof of the presence of one or more mitigating circumstances weighs greatly in favor of dismissing the petition.

This bill provides that "satisfactory completion of a term of probation" has the same meaning as it does in Section 786.

This bill provides that "rehabilitation has been attained to the satisfaction of the court" has the same meaning as it does in Section 781.

This bill provides that "mental illness," "childhood trauma," "prior victimization," and "endanger public safety" have the same meaning as it does in Section 1385 of the Penal Code.

This bill provides that the great weight standard is not be applicable in cases where an individual has been convicted in criminal court of a serious or violent felony. Provides that "violent felony" means any offense defined in subdivision (c) of Section 667.5, and "serious felony" means any offense defined in subdivision (c) of Section 1192.7, of the Penal Code.

This bill provides that the absence of the great weight standard does not affect the court's authority to dismiss a petition.

This bill requires the reasons for a decision to be stated orally on the record. Requires the court to set forth the reasons in an order entered upon the minutes if requested by either party or in any

case in which the proceedings are not being recorded electronically or reported by a court reporter.

This bill clarifies that the court has authority to exercise discretion to dismiss a petition at any time after the filing of the petition. Clarifies that the court has authority to exercise discretion to dismiss a petition regardless of whether a petition was sustained at trial, by admission, or plea agreement.

This bill provides that dismissal of a petition, or setting aside of the findings and dismissal of a petition, pursuant to section 782, after the person was declared a ward, does not alone constitute a sealing of records as defined in Section 781 or 786. Provides that any unsealed records pertaining to the dismissed petition may be accessed, inspected, or used by the court, the probation department, the prosecuting attorney, or counsel for the minor in juvenile court proceedings commenced by the filing of a new petition.

This bill provides that dismissal of the petition, or setting aside the findings and dismissal of the petition, does not relieve a person from the obligation to pay unfulfilled victim restitution ordered pursuant a civil judgment under Section 730.6.

COMMENTS

1. Need For This Bill

According to the author:

In California, the juvenile justice system is intended to rehabilitate youth who commit offenses. The juvenile justice system exists separately from the criminal justice system, in part, to eliminate the collateral consequences of system involvement on youth after the termination of their court involvement. ...

The juvenile court has discretion to grant record sealing and dismissal remedies that are intended to promote a youth's rehabilitation and reentry as they transition into adulthood. Once a person's juvenile records have been sealed pursuant to Sections 781, 781.5, 786 or 786.5 of the Welfare and Institutions Code, the proceedings in the person's case are deemed never to have occurred, allowing the person to say they have not been arrested or adjudged a ward of the court. This relief is limited in various respects, and despite the rehabilitative aims of sealing laws, many people with prior juvenile records continue to encounter obstacles to their full participation in society even after their juvenile records have been sealed.

First, juvenile sealing laws only apply to agencies within the State of California....

In contrast, an adjudication that has been *dismissed* pursuant to Welfare and Institutions Code Section 782 increases the likelihood that an applicant will receive a waiver to enlist in the military. A dismissal erases the prior adjudication as if it never occurred. Allowing former minors with prior juvenile justice system involvement to serve our country promotes their rehabilitation and enhances our national defense.

...

The proposed changes in this bill would give judges explicit guidance requiring judges to give great weight to a number of mitigating circumstances that favor dismissal at the time the court terminates jurisdiction, or any time after. AB 2629 enumerates certain exceptions: The great weight standard does not apply at earlier stages of a juvenile case, such as when charges are pending, at jurisdiction, or at disposition; it does not apply to any individual who has been convicted in criminal court of a serious or violent felony; and the great weight standard may be overcome when there is clear and convincing evidence that dismissal of the petition would endanger public safety. ...

Additionally, AB 2629 will rectify any uncertainty regarding when the juvenile court can exercise discretion to dismiss under section 782. ...

... AB 2629 would confirm the broad discretion of juvenile judges to dismiss a case regardless of the stage the case is in, and regardless of whether the adjudication was a result of a sustained petition after trial, an admission, or a plea agreement.

By providing judges with explicit guidance for handling requests to dismiss juvenile petitions under section 782, AB 2629 will conform the governing law to the goal of supporting successful, productive entry into society for our young people and it will give them a chance at new opportunities after they leave the juvenile justice system. It will take a much-needed step in ensuring that young people leave the juvenile court system set up for successful futures instead of leaving with lasting hurdles to overcome.

2. Dismissals in Juvenile Matters

Under current law, the juvenile court may dismiss a juvenile delinquency petition if the court finds that dismissal serves the interests of justice and the welfare of the minor, or if the court finds that the minor does not need treatment or rehabilitation. (Welf. & Inst. Code, § 782.) In general, a dismissal pursuant to section 782 can occur at any time. (*In re Greg F.* (2012) 55 Cal.4th 393, 419.)

This bill clarifies that the juvenile court has broad discretion to dismiss a petition at any time, including after a disposition. Second, it clarifies that the juvenile court's discretion under section 782 can be exercised regardless of whether the sustained adjudication was the result of a trial, admission, or plea bargain. Finally, this bill creates a great weight standard in favor of dismissal when the juvenile court terminates jurisdiction, or any time thereafter. The proponents of the bill contend that the existing statute does not provide any guidance in how to exercise the court's discretion. To that end, the bill requires the court to consider and afford great weight to evidence offered by a person to prove mitigating circumstances are present, including, but not limited to, satisfactory completion of a term of probation, that rehabilitation has been attained to the satisfaction of the court, that dismissal of the petition would not endanger public safety, or that the underlying offense is connected to mental illness, prior victimization, or childhood trauma. The bill further provides that proof of the presence of one or more mitigating circumstances weighs greatly in favor of dismissing the petition.

This bill additionally provides that the great weight standard is not be applicable in cases where an individual has been convicted in criminal court of a serious or violent felony, as defined in the Penal Code. This bill further provides that dismissal of a petition, or setting aside of the findings and dismissal of a petition, does not by itself constitute a sealing of the juvenile record. Finally, this bill provides that dismissal of the petition, or setting aside the findings and dismissal of the petition, does not relieve a person from the obligation to pay unfulfilled victim restitution.

3. Argument in Support

According to the Pacific Juvenile Defender Center, one of the bill's co-sponsors:

In California, the juvenile justice system is intended to rehabilitate youth who commit offenses. ... However, a person's past involvement in the juvenile justice system often hinders their ability to enlist in the military, obtain meaningful employment, and achieve occupational licenses. These collateral consequences frustrate the rehabilitative purposes of the juvenile court system.

While the juvenile court has discretion to grant record sealing pursuant to sections 781, 781.5, 786, 786.5, or 793 of the Welfare and Institutions Code, many people with past juvenile justice system involvement encounter obstacles to their full participation in society even after their records have been sealed.

...

Welfare and Institutions Code section 782 provides an avenue for relief from these consequences. It is intended to give young people a new beginning as they transition into adulthood by authorizing the juvenile court to exercise discretion to dismiss a petition if the interests of justice and the welfare of the person require it. As stated, this is a more powerful remedy than record sealing because it fully dismisses a petition, instead of merely hiding it from view. Existing law allows juvenile courts to exercise this discretion to dismiss juvenile petitions.

However, as written, section 782 provides no guidance to judges as to how or when to dismiss a petition. As a result, outcomes for requests to dismiss under section 782 vary widely – not just between counties, but between courtrooms in the same county. The likelihood of dismissal thus depends on how a judge interprets the broad and undefined standard in the current statute. The lack of uniformity in the application of the court's discretion under this statute has remained a persistent problem since section 782 was enacted in 1971.

A.B. 2629 provides critically needed guidance to juvenile judges by increasing fairness and uniformity in the application of section 782 through three major provisions.

(1) A.B. 2629 creates a great weight standard in favor of dismissal under section 782 when the juvenile court terminates jurisdiction, or later.

Section 782 of the Welfare and Institutions Code (WIC) currently authorizes, but does not require, a judge to dismiss a juvenile petition if the "interests of justice

and the welfare of the person. . . require that dismissal, or if it finds that he or she is not in need of treatment or rehabilitation.” The statute does not provide any guidance to judges in exercising this discretion, a criticism that also formerly was directed at Penal Code section 1385, the adult dismissal statute, and was a principal reason for the recent amendment of Penal Code section 1385 via Senate Bill 81.

A.B. 2629 amends section 782 to provide guidance to judges about how to exercise judicial discretion when a youth is being terminated from juvenile court jurisdiction, or at any time thereafter. . . .

A.B. 2629 will encourage use of section 782 to relieve youth of the penalties and disabilities of juvenile justice system involvement if one or more of the mitigating circumstances are present. If the juvenile court concludes that the person did not present any mitigating circumstances, the court would not be required to apply the great weight standard in favor of dismissal. The juvenile court will exercise its discretion as it does under current law.

A.B. 2629’s great weight standard does not apply at earlier stages of a juvenile case – it does not apply pre-adjudication, at adjudication, at disposition, or when a youth is on probation. It only applies at the time the court terminates juvenile court jurisdiction or any time thereafter. A.B. 2629’s great weight standard also does not apply in cases where the person seeks to achieve dismissal of a preexisting juvenile adjudication after being convicted in criminal court of a serious or violent felony.

(2) A.B. 2629 clarifies that the juvenile court’s existing, broad section 782 discretion can be exercised at any time.

A.B. 2629 amends section 782 to clarify that the court’s longstanding authority to exercise discretion under section 782 can be exercised any time after a petition has been filed. . . .

...A.B. 2629 affirms this broad discretion by clarifying that the juvenile court’s authority to dismiss a petition can be exercised at any time.

(3) A.B. 2629 clarifies that the juvenile court’s broad section 782 discretion can be exercised regardless of whether the sustained adjudications were the result of a trial, admission, or plea bargain.

A.B. 2629 will rectify any uncertainty regarding when the juvenile court can exercise discretion to dismiss a juvenile petition under section 782. . . .

...[T]he court of appeal recently held that the juvenile court cannot exercise section 782 discretion if to do so would deprive a party of the benefit of a plea bargain. Without Legislative clarification, this opinion could be interpreted to strip juvenile courts of their broad section 782 discretion in most juvenile cases, where the adjudication is the result of a plea bargain. A.B. 2629 will provide this important clarification.