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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 2. CHILDREN [100 - 1500] (*Division 2 enacted by Stats. 1937, Ch. 369.*)

PART 1. DELINQUENTS AND WARDS OF THE JUVENILE COURT [100 - 1459] (*Part 1 enacted by Stats. 1937, Ch. 369.*)

CHAPTER 2. Juvenile Court Law [200 - 987] (*Chapter 2 repealed and added by Stats. 1961, Ch. 1616.*)

ARTICLE 20.5. Deferred Entry of Judgment [790 - 795] (*Article 20.5 added March 7, 2000, by initiative Proposition 21, Sec. 29.*)

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

- (1) The minor has not previously been declared to be a ward of the court for the commission of a felony offense.
 - (2) The offense charged is not one of the offenses enumerated in subdivision (b) of Section 707.
 - (3) The minor has not previously been committed to the custody of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.
 - (4) The minor's record does not indicate that probation has ever been revoked without being completed.
 - (5) The minor is at least 14 years of age at the time of the hearing.
 - (6) The minor is eligible for probation pursuant to Section 1203.06 of the Penal Code.
 - (7) The offense charged is not rape, sodomy, oral copulation, or an act of sexual penetration specified in Section 289 of the Penal Code when the victim was prevented from resisting due to being rendered unconscious by any intoxicating, anesthetizing, or controlled substance, or when the victim was at the time incapable, because of mental disorder or developmental or physical disability, of giving consent, and that was known or reasonably should have been known to the minor at the time of the offense.
- (b) The prosecuting attorney shall review their file to determine whether or not paragraphs (1) to (7), inclusive, of subdivision (a) apply. If the minor is found eligible for deferred entry of judgment, the prosecuting attorney shall file a declaration in writing with the court or state for the record the grounds upon which the determination is based, and shall make this information available to the minor and their attorney. Upon a finding that the minor is also suitable for deferred entry of judgment and would benefit from education, treatment, and rehabilitation efforts, the court may grant deferred entry of judgment. Under this procedure, the court may set the hearing for deferred entry of judgment at the initial appearance under Section 657. The court shall make findings on the record that a minor is appropriate for deferred entry of judgment pursuant to this article in any case where deferred entry of judgment is granted.
- (c) (1) If a minor is eligible for deferred entry of judgment, but the minor resides in a different county and the case will be transferred, as described in Section 750, the court may adjudicate the case without determining the minor's suitability for deferred entry of judgment to enable the court in the minor's county of residence to make that determination.
- (2) If a minor is eligible for deferred entry of judgment, but the court did not determine the minor's suitability for deferred entry of judgment pursuant to paragraph (1), upon transfer of the case to the minor's county of residence, the receiving court may, prior to determining the disposition of the case, determine the minor's suitability for deferred entry of judgment and modify the transferring court's finding accordingly.

(Amended by Stats. 2021, Ch. 603, Sec. 2. (SB 383) Effective January 1, 2022. Note: This section was added on March 7, 2000, by initiative Prop. 21.)

791. (a) The prosecuting attorney's written notification to the minor shall also include all of the following:

(1) A full description of the procedures for deferred entry of judgment.

(2) A general explanation of the roles and authorities of the probation department, the prosecuting attorney, the program, and the court in that process.

(3) A clear statement that, in lieu of jurisdictional and disposition hearings, the court may grant a deferred entry of judgment with respect to any offense charged in the petition, provided that the minor admits each allegation contained in the petition and waives time for the pronouncement of judgment, and that upon the successful completion of the terms of probation, as defined in Section 794, the positive recommendation of the probation department, and the motion of the prosecuting attorney, but no sooner than 12 months and no later than 36 months from the date of the minor's referral to the program, the court shall dismiss the charge or charges against the minor.

(4) A clear statement that upon any failure of the minor to comply with the terms of probation, including the rules of any program the minor is directed to attend, or any circumstances specified in Section 793, the prosecuting attorney or the probation department, or the court on its own, may make a motion to the court for entry of judgment and the court shall render a finding that the minor is a ward of the court pursuant to Section 602 for the offenses specified in the original petition and shall schedule a dispositional hearing.

(5) An explanation of record retention and disposition resulting from participation in the deferred entry of judgment program and the minor's rights relative to answering questions about their arrest and deferred entry of judgment following successful completion of the program.

(b) If the minor consents and waives their right to a speedy jurisdictional hearing, the court may refer the case to the probation department or the court may summarily grant deferred entry of judgment if the minor admits the charges in the petition and waives time for the pronouncement of judgment. When directed by the court, the probation department shall make an investigation and take into consideration the defendant's age, maturity, educational background, family relationships, demonstrable motivation, treatment history, if any, and other mitigating and aggravating factors in determining whether the minor is a person who would be benefited by education, treatment, or rehabilitation. The probation department shall also determine which programs would accept the minor. The probation department shall report its findings and recommendations to the court. The court shall make the final determination regarding education, treatment, and rehabilitation of the minor.

(c) If a minor is eligible for deferred entry of judgment, but the court did not determine the minor's suitability for deferred entry of judgment pursuant to paragraph (1) of subdivision (c) of Section 790, when the case is transferred, the receiving court may, prior to determining the disposition of the case, order the probation department to make an investigation and report pursuant to subdivision (b) to determine the minor's suitability for deferred entry of judgment.

(d) A minor's admission of the charges contained in the petition pursuant to this chapter shall not constitute a finding that a petition has been sustained for any purpose, unless a judgment is entered pursuant to subdivision (b) of Section 793.

(Amended by Stats. 2021, Ch. 603, Sec. 3. (SB 383) Effective January 1, 2022.)

792. The judge shall issue a citation directing any custodial parent, guardian, or foster parent of the minor to appear at the time and place set for the hearing, and directing any person having custody or control of the minor concerning whom the petition has been filed to bring the minor with him or her. The notice shall in addition state that a parent, guardian, or foster parent may be required to participate in a counseling or education program with the minor concerning whom the petition has been filed. The notice shall explain the provisions of Section 170.6 of the Code of Civil Procedure. Personal service shall be made at least 24 hours before the time stated for the appearance.

(Added March 7, 2000, by initiative Proposition 21, Sec. 29.)

793. (a) If it appears to the prosecuting attorney, the court, or the probation department that the minor is not performing satisfactorily in the assigned program or is not complying with the terms of the minor's probation, or that the minor is not benefiting from education, treatment, or rehabilitation, the court shall lift the deferred entry of judgment and schedule a dispositional hearing. If after accepting deferred entry of judgment and during the period in which deferred entry of judgment was granted, the minor is convicted of, or declared to be a person described in Section 602 for the commission of, any felony offense or of any two misdemeanor offenses committed on separate occasions, the judge shall enter judgment and schedule a dispositional hearing. If the minor is convicted of, or found to be a person described in Section 602, because of the commission of one misdemeanor offense, or multiple misdemeanor offenses committed during a single occasion, the court may enter judgment and schedule a dispositional hearing.

(b) If the judgment previously deferred is imposed and a dispositional hearing scheduled pursuant to subdivision (a), the juvenile court shall report the complete criminal history of the minor to the Department of Justice, pursuant to Section 602.5.

(c) If the minor has performed satisfactorily during the period in which deferred entry of judgment was granted, at the end of that period the charge or charges in the wardship petition shall be dismissed and the arrest upon which the judgment was deferred shall be deemed never to have occurred and any records in the possession of the juvenile court shall be sealed, except that the prosecuting attorney and the probation department of any county shall have access to these records after they are sealed for the limited purpose of determining whether a minor is eligible for deferred entry of judgment pursuant to Section 790 and as described in subdivision (d).

(d) (1) A record that has been sealed pursuant to this section may be accessed, inspected, or utilized by the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation. A request to access information in the sealed record for this purpose, including the prosecutor's rationale for believing that access to the information in the record may be necessary to meet the disclosure obligation and the date by which the records are needed, shall be submitted by the prosecuting attorney to the juvenile court. The juvenile court shall review the case file and records that have been referenced by the prosecutor as necessary to meet the disclosure obligation and any response submitted by the person having the sealed record. The court shall approve the prosecutor's request to the extent that the court has, upon review of the relevant records, determined that access to a specific sealed record or portion of a sealed record is necessary to enable the prosecuting attorney to comply with the disclosure obligation. If the juvenile court approves the prosecuting attorney's request, the court shall state on the record appropriate limits on the access, inspection, and utilization of the sealed record information in order to protect the confidentiality of the person whose sealed record is accessed pursuant to this subdivision. A ruling allowing disclosure of information pursuant to this subdivision does not affect whether the information is admissible in a criminal or juvenile proceeding. This subdivision does not impose any discovery obligations on a prosecuting attorney that do not already exist.

(2) This subdivision shall not apply to juvenile case files pertaining to matters within the jurisdiction of the juvenile court pursuant to Section 300.

(Amended by Stats. 2019, Ch. 50, Sec. 4. (AB 1537) Effective January 1, 2020.)

794. When a minor is permitted to participate in a deferred entry of judgment procedure, the judge shall impose, as a condition of probation, the requirement that the minor be subject to warrantless searches of his or her person, residence, or property under his or her control, upon the request of a probation officer or peace officer. The court shall also consider whether imposing random drug or alcohol testing, or both, including urinalysis, would be an appropriate condition of probation. The judge shall also, when appropriate, require the minor to periodically establish compliance with curfew and school attendance requirements. The court may, in consultation with the probation department, impose any other term of probation authorized by this code that the judge believes would assist in the education, treatment, and rehabilitation of the minor and the prevention of criminal activity. The minor may also be required to pay restitution to the victim or victims pursuant to the provisions of this code.

(Added March 7, 2000, by initiative Proposition 21, Sec. 29.)

795. The county probation officer or a person designated by the county probation officer shall serve in each county as the program administrator for juveniles granted deferred entry of judgment and shall be responsible for developing, supervising, and monitoring treatment programs and otherwise overseeing the placement and supervision of minors granted probation pursuant to the provisions of this chapter.

(Added March 7, 2000, by initiative Proposition 21, Sec. 29.)