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AB-1423 Transfers to juvenile court. (2019-2020)

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Date Published: 10/09/2019 09:00 PM

Assembly Bill No. 1423

CHAPTER 583

An act to add Section 707.5 to the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor October 08, 2019. Filed with Secretary of State October 08, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1423, Wicks. Transfers to juvenile court.

Existing law, the Public Safety and Rehabilitation Act of 2016, as enacted by Proposition 57 at the November 8, 2016, statewide general election, authorizes the district attorney, among other things, to make a motion to transfer a minor from juvenile court to a court of criminal jurisdiction in a case in which a minor is alleged to have committed a felony when the person was 16 years of age or older. Following a fitness hearing, existing law requires the juvenile court to decide whether the minor should be transferred to a court of criminal jurisdiction and recite the basis for its decision.

This bill would authorize a person whose case was transferred from juvenile court to a court of criminal jurisdiction to file a motion to return the case to juvenile court for disposition under specified circumstances, including, among others, when the person is convicted at trial only of an offense that was not the basis for transfer from juvenile court to the criminal court, as specified. Upon return to the juvenile court, the bill would require the probation department to prepare a social study on the questions of proper disposition, and would impose additional duties on the clerk of the court with respect to notice and court records, as specified. By imposing new duties on probation departments, 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 the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 707.5 is added to the Welfare and Institutions Code, to read:

707.5. (a) In any case in which a person is transferred from juvenile court to a court of criminal jurisdiction pursuant to Section 707, upon conviction or entry of a plea, the person may, under the circumstances described in subdivision (b), request the criminal court to return the case to the juvenile court for disposition.

(b) Upon motion by the person, the criminal court shall have the authority to return the case to juvenile court for disposition in the following circumstances:

(1) If the person is convicted at trial in criminal court solely of a misdemeanor or misdemeanors, upon request by the defense, the case shall be returned to juvenile court, as provided in subdivisions (d) and (e).

(2) If any of the allegations in the juvenile court petition that were the basis for transfer involved an offense listed in subdivision (b) of Section 707, and the person is convicted at trial in criminal court only of felony offenses that are not listed in subdivision (b) of Section 707, or a combination of such felony offenses and misdemeanors, upon request by the defense, the court shall have the discretion to return the case to juvenile court for further proceedings pursuant to subdivision (c).

(3) If the allegations in the juvenile court petition that were the basis for transfer involved only offenses not listed in subdivision (b) of Section 707, and pursuant to a plea agreement the person pleads guilty only to a misdemeanor or misdemeanors, or if any of the allegations in the juvenile court petition that were the basis for transfer involved an offense listed in subdivision (b) of Section 707, and pursuant to a plea agreement the person pleads guilty only to a misdemeanor or misdemeanors, felony offenses that are not listed in subdivision (b) of Section 707, or a combination of such felony offenses and misdemeanors, upon agreement and request of the parties, and subject to the approval of the court, the case shall be returned to juvenile court for further proceedings pursuant to subdivision (c).

(c) In determining whether the case should be returned to juvenile court pursuant to paragraph (2) of subdivision (b), or in determining whether to approve the agreement pursuant to paragraph (3) of subdivision (b), the court shall make a finding by a preponderance of the evidence that a juvenile disposition is in the interests of justice and the welfare of the person, and shall so state on the minute order with the specific reasons for making that finding. In making the determination, the court shall consider the transcript and minute order of the transfer hearing, the time that the person has served in custody, the dispositions and services available to the person in the juvenile court, and any relevant evidence submitted by either party. A case that is ordered returned to juvenile court shall comply with subdivisions (d) and (e).

(d) Upon determining that the case shall be returned to the juvenile court, the court shall return the entire case to the juvenile court and the matter shall be calendared within two court days.

(e) The juvenile court shall order the probation department to prepare a social study on the questions of the proper disposition, and the case shall proceed to disposition as set forth in Sections 702, 706, 706.5, and 730, and Article 18 (commencing with Section 725), as applicable. A conviction or guilty plea that is returned to juvenile court shall be considered an adjudication or admission before the juvenile court for all purposes.

(f) The clerk of the criminal court shall report the return to juvenile court to the probation department, the law enforcement agency that arrested the minor for the offense, and the Department of Justice. The clerk of the criminal court shall deliver to the clerk of the juvenile court all copies of the minor's record in criminal court and shall obliterate the person's name for any index maintained in the criminal court. The clerk of the juvenile court shall maintain the criminal court records as provided by Article 22 (commencing with Section 825) until such time as the juvenile court may issue an order that the records be sealed.

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