

Assembly Bill No. 1318

Passed the Assembly September 1, 2021

Chief Clerk of the Assembly

Passed the Senate August 30, 2021

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2021, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1000.7 of the Penal Code, relating to diversion.

LEGISLATIVE COUNSEL’S DIGEST

AB 1318, Stone. Deferred entry of judgment pilot program.

Existing law authorizes, until January 1, 2022, the Counties of Alameda, Butte, Napa, Nevada, Santa Clara, and Ventura to establish a pilot program to operate a deferred entry of judgment program for eligible defendants. Existing law authorizes a defendant to participate in the program within the county’s juvenile hall if that person is charged with committing a felony offense, except as specified, pleads guilty to the charge or charges, and the probation department determines that the person meets prescribed requirements, including that the defendant meets the age requirements. Existing law requires each participating county to establish a multidisciplinary team to meet periodically to review and discuss the implementation, practices, and impact of the program, and to submit data on the pilot program to the Board of State and Community Corrections. Existing law requires the board 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.

This bill would extend the pilot program to January 1, 2024, and would instead require, no later than December 31, 2022, the above-specified comprehensive report to be submitted to the Assembly and Senate Committees on Public Safety.

The people of the State of California do enact as follows:

SECTION 1. Section 1000.7 of the Penal Code is amended to read:

1000.7. (a) The following counties may establish a pilot program pursuant to this section to operate a deferred entry of

judgment pilot program for eligible defendants described in subdivision (b):

- (1) County of Alameda.
- (2) County of Butte.
- (3) County of Napa.
- (4) County of Nevada.
- (5) County of Santa Clara.
- (6) County of Ventura.

(b) 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, other than the offenses listed under subdivision (d), pleads guilty to the charge or charges, and the probation department determines that the person meets all of the following requirements:

(1) Is 18 years of age or older, but under 21 years of age on the date the offense was committed. A defendant who is 21 years of age or older, but under 25 years of age on the date the offense was committed, may participate in the program with the approval of the multidisciplinary team established pursuant to paragraph (2) of subdivision (m).

(2) Is suitable for the program after evaluation using a risk assessment tool, as described in subdivision (c).

(3) 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.

(4) Meets the rules of the juvenile hall developed in accordance with the applicable regulations set forth in Title 15 of the California Code of Regulations.

(5) Does not have a prior or current conviction for committing an offense listed under subdivision (c) of Section 1192.7 or subdivision (c) of Section 667.5, or subdivision (b) of Section 707 of the Welfare and Institutions Code.

(6) Is not required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.

(c) 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, shall

develop an evaluation process using a risk assessment tool to determine eligibility for the program.

(d) A defendant is ineligible for the program if the defendant is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1 or has been convicted of one or more of the following offenses:

(1) An offense listed under subdivision (c) of Section 1192.7.

(2) An offense listed under subdivision (c) of Section 667.5.

(3) An offense listed under subdivision (b) of Section 707 of the Welfare and Institutions Code.

(e) The court shall grant deferred entry of judgment if an eligible defendant consents to participate in the program, waives the 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.

(f) (1) If the probation department determines that the defendant is ineligible 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.

(2) 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 shall hold a hearing to determine whether judgment should be entered. 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 shall render a finding of guilt to the charge or charges pleaded, enter judgment, and schedule a sentencing hearing as otherwise provided in this code, and the probation department, in consultation with the county sheriff, shall remove the defendant from the program and return the defendant 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 specified in paragraph (2) of subdivision (m).

(3) 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 shall dismiss the criminal charge or charges.

(g) A defendant shall serve no longer than one year in custody within a county's juvenile hall pursuant to the program.

(h) The probation department shall develop a plan for reentry services, including, but not limited to, housing, employment, and education services, as a component of the program.

(i) The probation department shall 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.

(j) A defendant participating in this program shall not come into contact with minors within the juvenile hall for any purpose, including, but not limited to, housing, recreation, or education.

(k) Before establishing a pilot program pursuant to this section, the county shall apply to the Board of State and Community Corrections for approval of a county institution as a suitable place for confinement for the purpose of the pilot program. The board shall review and approve or deny the application of the county within 30 days of receiving notice of this proposed use. In its review, the board shall 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.

(l) The Board of State and Community Corrections shall review a county's pilot program to ensure compliance with requirements of the federal Juvenile Justice and Delinquency Prevention Act of 1974 (34 U.S.C. Sec. 11101 et seq.), as amended, relating to "sight and sound" separation between juveniles and adult inmates.

(m) (1) This section applies to a defendant who would otherwise serve time in custody in a county jail. Participation in a program pursuant to this section shall not be authorized as an alternative to a sentence involving community supervision.

(2) Each county shall 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 all of the following:

- (A) Probation department.
- (B) The district attorney's office.
- (C) The public defender's office.
- (D) The sheriff's department.
- (E) Courts located in the county.
- (F) The county board of supervisors.
- (G) The county health and human services department.
- (H) A youth advocacy group.

(n) (1) A county that establishes a pilot program pursuant to this section shall submit data regarding the pilot program to the Board of State and Community Corrections. The data submitted shall be used for the purposes of paragraph (2).

(2) The board shall conduct an evaluation of the pilot program's impact and effectiveness. The evaluation shall include, but not be 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.

(3) Each evaluation shall be combined into a comprehensive report and submitted to the Assembly and Senate Committees on Public Safety, no later than December 31, 2022.

(4) The board may contract with an independent entity, including, but not limited to, the Regents of the University of California, for the purposes of carrying out the duties of the board pursuant to this subdivision.

(o) This chapter shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2024, deletes or extends that date.

Approved _____, 2021

Governor