

SENATE THIRD READING  
SB 383 (Cortese)  
As Amended March 11, 2021  
2/3 vote

## SUMMARY

Authorizes a court receiving a juvenile transfer case to determine whether an eligible minor is suitable for deferred entry of judgment (a post-adjudication, pre-disposition diversion program) if the transferring court did not do so and expands the circumstances under which a minor is eligible for informal supervision (a pre-adjudication diversion program).

### Major Provisions

- 1) Removes the restrictions making minors presumptively ineligible for informal supervision if they are alleged to have sold or possessed for sale a controlled substance or are alleged to have committed a felony offense when they were at least 14 years of age.
- 2) Removes the requirement that in order for a court to grant informal supervision to presumptively ineligible minors, it must be an "unusual case" where the interests of justice would best be served. Requires instead that it simply be where the interests of justice would best be served.
- 3) Prohibits finding a minor ineligible for informal supervision or finding the minor has failed to comply with the terms of informal supervision where they are unable to pay victim restitution due to indigency.
- 4) Provides that if a minor is eligible for deferred entry of judgment (DEJ), but the minor resides in a different county where the case will be transferred, as described, the court may adjudicate the case without determining the minor's suitability for DEJ to enable the court in the minor's county of residence to make that determination.
- 5) Provides that if a minor is eligible for DEJ, but the court did not determine the minor's suitability for it, upon transfer of the case to the minor's county of residence, the receiving court may determine the minor's suitability before determining the disposition of the case and modify the transferring court's finding accordingly. Allows the receiving court to order a probation report regarding the minor's suitability for DEJ.
- 6) Removes the notice requirement pertaining to using a minor's failure to comply with the terms of DEJ as the basis for finding the minor unfit to be tried in juvenile court.

## COMMENTS

### According to the Author

"At this time, if a youth is over 14 and charged with any felony a judge cannot consider Informal Supervision (I.S.), except in unusual cases where the court determines the interest of justice would be served by Informal Supervision. This means that if the charge is a first-time non-violent felony offense the judge must articulate facts that make the case eligible for I.S. This prevents the judge from offering a youth who made a first-time mistake to have the case handled

informally, even if all parties were to agree. This bill enables a judge to offer I.S. in cases that involve a first-time offender arrested for or charged with a non-violent felony.

"Currently when a youth commits a crime in another county and is later transferred into their county of residence, the county of residence is restricted from offering a deferred entry of judgment and any diversion services. Procedurally, the court in the county where the crime was committed must sustain a petition before transferring the youth and this petition cannot be unsustained. Courts in one county may be unaware of the services offered in the youth's county of residence. This procedural restriction prevents the court in the county of residence from evaluating and offering these services, as if the youth had committed the crime in-county.

"To address this disparity, this bill provides that once the youth is accepted as 'transferred in' by the county of residence, the court can consider eligibility for a deferred entry of judgment. If the court determines that the deferred entry of judgment is suitable, the youth's adjudication can be modified. Additionally, this bill allows a deferred entry of judgment suitability report to be written by the county's juvenile probation department for any non-violent felony transferred into the county. This prevents nonviolent youth, who take responsibility for a first offense, from unnecessarily entering the criminal justice system because of a procedural barrier."

### **Arguments in Support**

According to the *Prosecutors Alliance of California*, "Under current law, if a youth is over the age of 14 and charged with any felony, a judge cannot consider informal supervision except in unusual cases. Additionally, when a youth commits a crime in another county and is later transferred into their county of residence, the county of residence is restricted from offering deferred entry of judgment and any diversion services.

"SB 383 will remove these barriers to youth rehabilitation by enabling a judge to offer informal supervision in cases that involve youth arrested for or charged for the first time with a nonviolent felony. It will also allow a youth's county of residence to conduct an analysis of the youth's needs and, if appropriate, offer deferred entry of judgment and any diversion services, as if the youth had committed the crime in-county. By increasing access to diversion for young people, SB 383 will promote rehabilitation and protect youth from more restrictive judicial interventions."

### **Arguments in Opposition**

None.

## **FISCAL COMMENTS**

According to the Assembly Appropriations Committee:

- 1) Minor and absorbable costs (Trial Court Trust Fund) for juvenile courts to review cases transferred from other counties for DEJ suitability and expanded IS because the number of cases subject to review will likely be small and at the discretion of the juvenile court.
- 2) One-time costs (General Fund) of \$43,000 to the Department of Justice in increased staff workload to litigate appeals from minors eligible for DEJ or IS pursuant to the requirements of this but who may have already been sentenced. DOJ estimates attorney workload may increase by a total of 500 hours in fiscal year 2022-23 and dissipating thereafter.

**VOTES****SENATE FLOOR: 32-6-2**

**YES:** Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

**NO:** Borgeas, Dahle, Grove, Jones, Nielsen, Wilk

**ABS, ABST OR NV:** Bates, Melendez

**ASM PUBLIC SAFETY: 6-1-1**

**YES:** Jones-Sawyer, Bauer-Kahan, Lee, Quirk, Santiago, Wicks

**NO:** Lackey

**ABS, ABST OR NV:** Seyarto

**ASM APPROPRIATIONS: 10-3-3**

**YES:** Lorena Gonzalez, Bryan, Calderon, Carrillo, Chau, Gabriel, Levine, Quirk, Holden, Akilah Weber

**NO:** Bigelow, Davies, Fong

**ABS, ABST OR NV:** Megan Dahle, Eduardo Garcia, McCarty

**UPDATED**

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