

Date of Hearing: April 21, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2636 (Pacheco) – As Amended March 16, 2026

SUMMARY: Requires the court to consider, for purposes of determining suitability of a minor for deferred entry of judgement (DEJ), whether the minor is charged with an offense of carrying a loaded firearm in public.

EXISTING LAW:

- 1) Provides, generally, that a minor who is between 12 years of age and 17 years of age, inclusive, when the minor violates any law defining a crime, is subject to the jurisdiction of the juvenile court and to adjudication as a ward. (Welf. & Inst. Code, § 602, subd. (a).)
- 2) Requires, whenever a case is before the juvenile court for a determination of whether a minor may be adjudicated as a ward because of the commission of a felony offense, the minor to be considered DEJ if all of the following circumstances apply:
 - a) The minor has not previously been declared to be a ward of the court for the commission of a felony offense;
 - b) The offense charged is not one of the offenses enumerated in subdivision (b) of Section 707;
 - c) The minor has not previously been committed to the custody of the Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Facilities;
 - d) The minor's record does not indicate that probation has ever been revoked without being completed;
 - e) The minor is at least 14 years of age at the time of the hearing;
 - f) The minor is eligible for probation; and,
 - g) The offense charged is not rape, sodomy, oral copulation, or an act of sexual penetration 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. (Welf. & Inst. Code, § 790, subd. (a).)
- 3) Requires the prosecuting attorney to review their file to determine whether the minor is eligible for DEJ based on the factors listed above, and if so determined, requires the

prosecuting attorney to file a declaration 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. (Welf. & Inst. Code, § 790, subd. (b).)

- 4) States that upon a finding that the minor is also suitable for DEJ and would benefit from education, treatment, and rehabilitation efforts, the court may grant DEJ. The court shall make these findings on the record. (Welf. & Inst. Code, § 790, subd. (b).)
- 5) States that a person is guilty of carrying a loaded firearm when the person carries a loaded firearm on the person or in a vehicle while in any public place or on any public street in an incorporated city, city and county, or in any public place or on any public street in a prohibited area of an unincorporated area of a county or city and county. (Pen. Code, § 25850, subd. (a).)
- 6) Punishes the crime of carrying a loaded firearm in public as follows:
 - a) Where the person previously has been convicted of any felony, or of any specified firearm-related offenses, as a felony.
 - b) Where the firearm is stolen and the person knew or had reasonable cause to believe that it was stolen, as a felony.
 - c) Where the person is an active participant in a criminal street gang, as defined.
 - d) Where the person is not in lawful possession of the firearm, or is within a class of persons prohibited from possessing or acquiring a firearm, as a felony.
 - e) Where the person has been convicted of a crime against a person or property, or of a narcotics or dangerous drug violation, as an alternate felony-misdemeanor (hereinafter “wobbler”).
 - f) Where the person is not listed with the Department of Justice (DOJ) as the recorded owner of the handgun, as a wobbler.
 - g) In all cases other than those specified above, as a misdemeanor, punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed one \$1,000, or by both that imprisonment and fine. (Pen. Code, § 25850, subd. (c).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “California continues to face a serious challenge with youth access to firearms. In recent years, juvenile violent crime arrests have increased, and firearms remain a leading cause of death among children and adolescents, underscoring the urgency of this issue. Existing law prohibits minors from possessing firearms. However, these cases still are eligible for Deferred Entry of Judgment (DEJ), a program intended for first-time, low-level offenses to provide an offramp from further justice involvement by allowing a court to order programming or treatment to address the

underlying criminal factors. This bill requires courts, when determining suitability for Deferred Entry of Judgment (DEJ), to consider whether the offense charged is possession of a loaded firearm, a violation of Penal Code 25850. AB 2636 represents a balanced and necessary change to ensure that courts are giving consideration to this specific offense of carrying a loaded firearm, which has significant impact and consequence to our communities, when looking at the appropriate disposition for these cases. This ensures that conduct posing a significant risk to public safety is addressed with appropriate rehabilitative and accountability interventions. AB 2636 prioritizes public safety while preserving rehabilitative opportunities for youth that promote community safety.”

- 2) **Juvenile Court Jurisdiction:** As a general rule, any person between the age of 12 and 17 who commits a crime falls within the jurisdiction of the juvenile court. (Welf. & Inst. Code, § 602.) This extends to a youth alleged to have committed a crime before their 18th birthday, even if they were an adult at the time of arrest or commencement of proceedings. (Welf. & Inst. Code, § 603.) For example, if someone commits a crime at age 17, but it is not discovered or tried until the person is 20, the person can still be tried in juvenile court. The jurisdiction of the juvenile court continues until the youth is 23 years old, unless the youth would have, in criminal court, faced a sentence of 7 years or more, in which case the juvenile court’s jurisdiction continues until the youth turns 25. (Welf. & Inst. Code, § 607.)

The creation of the juvenile court, now over 100 years old, was rooted in the idea that adolescents, who are not fully developed or mature, are less culpable than adults. Accordingly, the focus of the juvenile court was rehabilitation, not punishment. (See e.g., *In re Gault* (1967) 387 U.S. 1, 15-16.) The purpose of the juvenile law is to provide for the protection and safety of the public and each minor under the jurisdiction of the court and to preserve and strengthen family ties when possible. (Welf. & Inst. Code, § 202, subd. (a).) Minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable for their behavior, and that is appropriate for their circumstances. This may include punishment that is consistent with rehabilitative objectives. (Welf. & Inst. Code, § 202, subd. (b).) The juvenile court has a wide range of options available for placing its wards, including probation, placement in a relative's home, foster home, licensed community care facility, or group home, and commitment to “a juvenile home, ranch, camp, or forestry camp” or “the county juvenile hall.” (Welf. & Inst. Code, §§ 727, subd. (a); 730, subd. (a)(1).)

- 3) **Deferred Entry of Judgment (DEJ):** DEJ is a post-adjudication, pre-disposition diversion program. Under existing law, certain juvenile offenders are eligible for DEJ. (Welf. & Inst. Code, § 790.) With DEJ, a minor must admit each allegation in the petition, and the judgment is deferred while the minor is placed on probation for one to three years. (Welf. & Inst. Code, § 791.) While on probation, certain terms and conditions related to the minor’s treatment and rehabilitation are imposed. Upon the successful completion of the terms of probation, the charge or charges against the minor are dismissed, the arrest upon which the judgment was deferred is deemed never to have occurred, and any records in the possession of the juvenile court are required to be sealed, except as specified. (Welf. & Inst. Code, § 793, subd. (c).) 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 probation, or that the minor is not benefiting from education, treatment, or rehabilitation,

the deferred entry of judgment is lifted and the court will schedule a dispositional hearing. (Welf. & Inst. Code, § 793, subd. (a).)

In order to be eligible for DEJ, a minor must meet the following requirements: (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 a serious or violent felony listed in Welfare and Institutions Code section 707 (b); (3) the minor has not previously been committed to the custody of the Division of Juvenile Justice; (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 under Penal Code section 1203.06; and (7) the offense charged is not one of several specified sex offenses. (Welf. & Inst. Code, § 790, subd. (a).)

The prosecuting attorney is required to make a determination regarding a minor's eligibility for DEJ, and if the minor is eligible, the prosecuting attorney must notify the court, the minor, and the minor's attorney. (Welf. & Inst. Code, § 790, subd. (b).)

The juvenile court must then decide if the minor is suitable for DEJ. A minor is suitable for DEJ if the judge finds that the minor would benefit from court-ordered education, rehabilitation, and treatment efforts. (*Id.*)

Under existing law, a person who personally used a firearm during the commission or attempted commission of specified offenses is ineligible for DEJ. (Welf. & Inst. Code, § 790, subd. (b); Pen. Code, § 1203.06.) This bill does not add to the offenses that would make the minor ineligible for DEJ. Instead, it would require the court in making its suitability determination whether the offense charged is an offense of carrying a loaded firearm in public. Existing law does not enumerate specified factors for the court to consider in its suitability determination. Thus, it appears the court has wide discretion to grant when the court makes a finding that the minor would benefit from education, treatment, and rehabilitation efforts. It is unclear whether this new consideration is to be made in conjunction with the court's determination that the minor would benefit from education, treatment, and rehabilitation efforts, or if it is to be considered wholly separately and how the court is to weigh that fact in its determination.

By adding this additional consideration, courts may read the language to signal legislative intent that those charged with carrying a loaded firearm in public are less suitable for diversion. This may in turn raise the question of what other offenses that are perhaps more serious should be added to the list for consideration.

- 4) **Proposition 21:** Proposition 21, the Gang Violence and Juvenile Crime Prevention Act, was approved by voters on March 7, 2000 at the statewide primary election. The initiative made various changes affecting juveniles including increasing punishment for specified offenses, adding offenses to the serious and violent felony lists, and requiring juveniles 14 years or older charged with murder or specified sex offenses to be tried in adult court. Relevant to this bill, the initiative also prohibited informal probation for a juvenile charged with a felony and created a new sanction of DEJ for first-time juvenile offenders charged with felonies. According to the Legislative Analyst's Office: "This measure generally prohibits the use of informal probation for any juvenile offender who commits a felony. Instead, it requires that these offenders appear in court, but allows the court to impose a newly created sanction

called ‘deferred entry of judgment.’ Like informal probation, this sanction would result in the dismissal of charges if an offender successfully completes the term of probation.”¹

Because Proposition 21 was a voter initiative, the Legislature may not amend the statute without subsequent voter approval unless the initiative permits such amendment, and then only upon whatever conditions the voters attached to the Legislature’s amendatory powers. (*People v. Superior Court (Pearson)* (2010) 48 Cal.4th 564, 568; see also Cal. Const., art. II, § 10, subd. (c).) The California Constitution states, “The Legislature may amend or repeal referendum statutes. It may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without their approval.” (Cal. Const., art. II, § 10, subd. (c).) Therefore, unless the initiative expressly authorizes the Legislature to amend, only the voters may alter statutes created by initiative.

The purpose of California’s constitutional limitation on the Legislature’s power to amend initiative statutes is to protect the people’s initiative powers by precluding the Legislature from undoing what the people have done, without the electorate’s consent. Courts have a duty to jealously guard the people’s initiative power and, hence, to apply a liberal construction to this power wherever it is challenged in order that the right to resort to the initiative process is not improperly annulled by a legislative body. (*Proposition 103 Enforcement Project v. Quackenbush* (1998) 64 Cal.App.4th 1473.)

As to the Legislature’s authority to amend the initiative, Proposition 21 states: “The provisions of this measure shall not be amended by the Legislature except by a statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, or by a statute that becomes effective only when approved by the voters.” (See Voter Information Guide, *supra*, p. 131.)

This bill adds a specified factor for the court to consider when determining a minor’s suitability for DEJ. It has been keyed majority vote. Arguably, since it amends a statute which was added by Proposition 21, it should be keyed 2/3. Comparing prior legislation that made changes to this same section, SB 383 (Cortese), Chapter 603, Statutes of 2021, deleted the requirement that a prosecutor provide written notification to the minor about their DEJ suitability and added the ability for a court to transfer a minor who is eligible for DEJ to another county where the minor resides. SB 383 was keyed 2/3 vote. Similarly, SB 1626 (Ashburn), Chapter 675, Statutes of 2006, removed the provision requiring the agreement of the attorneys and the judge and instead provided that upon a finding that a minor is eligible for DEJ and would benefit from education, treatment, and rehabilitation efforts, the court may grant DEJ. SB 1626 was also keyed 2/3. Several other bills that made changes to this section were keyed 2/3 vote as well. (See Prior Legislation section below.)

- 5) **Argument in Support:** According to the *California Police Chiefs Association*, the sponsor of this bill, “AB 2636 requires courts, when determining suitability for Deferred Entry of Judgment (DEJ), to explicitly consider whether the offense charged involves possession of a loaded firearm. This is a targeted and thoughtful reform that ensures courts are appropriately

¹ https://lao.ca.gov/ballot/2000/21_03_2000.html

weighing the seriousness of firearm-related offenses when determining the most suitable rehabilitative pathway for youth.

“Deferred Entry of Judgment plays an important role in California’s juvenile justice system by providing first-time, nonviolent offenders with an opportunity to avoid formal adjudication through successful completion of programming. However, as currently structured, DEJ does not adequately account for the seriousness of certain offenses—particularly those involving firearms. As noted by the Chief Probation Officers of California, DEJ was never intended to address higher-risk offenses that present significant safety concerns to the public.

“Recent data underscores the urgency of this issue. Juvenile involvement in violent crime is increasing, with violent felony arrests rising significantly in recent years. The presence of a loaded firearm in the hands of a minor dramatically elevates the risk of harm—not only to the community, but to the youth themselves. These cases require structured intervention, supervision, and accountability that go beyond what DEJ is designed to provide.

“Importantly, AB 2636 does not eliminate DEJ eligibility, nor does it mandate a particular outcome. Instead, it ensures that courts give appropriate weight to firearm possession when making individualized determinations. This approach preserves judicial discretion while reinforcing the importance of public safety considerations in these cases. It aligns with best practices in juvenile justice by directing higher-risk cases toward more structured supervision and services designed to reduce recidivism and promote long-term rehabilitation.”

- 6) **Argument in Opposition:** According to *California Youth Defender Center*, “Juvenile DEJ offers an opportunity for youth to have their cases dismissed and records sealed upon the successful completion of treatment and supervision in a community setting. Eligible youth must admit all allegations charged and waive the right to a speedy jurisdictional hearing. If a youth subsequently commits a felony offense or two or more misdemeanors, the deferred judgment is imposed.

“Under existing law, a juvenile court may consider whether a youth charged with a first-time, non-violent offense would benefit from education, treatment, and rehabilitation when determining whether to grant DEJ. AB 2636 impedes this process by requiring the court to specifically consider whether the offense charged includes possession of a loaded firearm, making it less likely that youth charged with a first offense will be able to benefit from these programs.

“While reducing gun possession among youth should be a priority, this bill increases punishment for youth without improving public safety. Despite an uptick in gun sales during the pandemic, the share of U.S. youth who carry guns has decreased. At the same time, responses to youth charged with weapon possession have grown increasingly punitive over the last decade.

“Current law provides that youth charged with a felony shall be screened by the prosecution for statutory eligibility for DEJ. Statutory eligibility specifically excludes certain offenses from consideration (Welf. & Inst. Code § 790(a)). If the youth meets eligibility criteria, they are then screened for suitability by both the probation department—which prepares a thorough written report—and the court.

“The court, by statute (Welf. & Inst. Code § 790) and by California Rule of Court 5.800, must find that the youth is suitable and would derive benefit from education, treatment, and rehabilitation efforts offered by DEJ. The court considers the nature of the offense, the youth’s prior record (if any), and the current status of the youth—including school status, home conditions, and the youth’s willingness to cooperate. If the youth is both eligible and suitable, they admit the charge and are placed on up to three years of probation. If successful, the youth’s record is sealed.

“It is well-established that longer periods of confinement produce higher rates of recidivism for youth.³ Recently, the Office of Youth and Community Restoration recognized that community-based alternatives to incarceration reduce further system involvement, decrease life disruption, and promote positive health and social outcomes.

“AB 2636 proposes a solution to a problem that does not exist. Because the court must already consider the nature of the offense, this additional requirement adds nothing to the legal analysis. Instead, AB 2636 will reduce opportunities for youth charged with a first-time, non-violent offense to participate in DEJ, thereby increasing the number of youth incarcerated at juvenile detention facilities and driving up costs without providing a benefit to public safety.”

7) **Prior Legislation:**

- a) SB 383 (Cortese), Chapter 603, Statutes of 2021, authorized a court, if a minor is eligible for DEJ, but the minor resides in a different county and the case will be transferred to the minor’s county of residence, to adjudicate the case without determining the minor’s suitability for DEJ; (2) authorizes the receiving court to make a determination regarding the minor’s suitability for DEJ if the transferring court did not do so, and to modify the transferring court’s finding accordingly; and (3) makes changes to the eligibility criteria for informal supervision.
- b) SB 838 (Beall), Chapter 919, Statutes of 2014, added to the juvenile DEJ criteria that the offense charged is not rape, sodomy, oral copulation, or an act of sexual penetration, as specified, 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.
- c) AB 2408 (Nava), of the 2007-2008 Legislative Session, would have excluded a minor adjudicated for specified sex crimes, including oral copulation, sodomy, sexual penetration where the victim was unconscious, intoxicated or disabled, from eligibility for DEJ. AB 2408 failed passage in the Senate Committee on Public Safety.
- d) AB 61 (Nava), of the 2009-2010 Legislative Session, was substantively similar to AB 2408 (Nava), of the 2007-2008 Legislative Session. AB 61 failed passage in the Senate Committee on Public Safety.

- e) SB 1626 (Ashburn), Chapter 675, Statutes of 2006, deleted a requiring the agreement of the attorneys and judge in granted DEJ and instead provided that upon a finding that a minor is suitable for deferred entry of judgment and would benefit from education, treatment, and rehabilitation efforts, the court may grant DEJ. A court is also required to make findings on the record that a minor is appropriate for deferred entry of judgment in any case in which it is granted.

- f) SB 520 (Ashburn), of the 2005-2006 Legislative Session, would have excluded a minor adjudicated for specified sex crimes, including oral copulation, sodomy, sexual penetration where the victim was unconscious, intoxicated or disabled, from eligibility for DEJ. SB 520 failed passed in the Senate Committee on Public Safety.

REGISTERED SUPPORT / OPPOSITION:

Support

California Police Chiefs Association (Co-Sponsor)
Chief Probation Officers' of California (CPOC) (Co-Sponsor)

Opposition

ACLU California Action
California Public Defenders Association
California Youth Defender Center
Californians United for a Responsible Budget
Justice2jobs Coalition
LA Defensa
Local 148 Los Angeles County Public Defender's Union
San Francisco Public Defender

Analysis Prepared by: Stella Choe / PUB. S. / (916) 319-3744