

Introduced by Senators Lara and MitchellFebruary 16, 2018

An act to amend Section 707 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1391, as introduced, Lara. Juveniles: fitness for 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, allows the district attorney 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 he or she was 16 years of age or older or in a case in which a specified serious offense is alleged to have been committed by a minor when he or she was 14 or 15 years of age. The Public Safety and Rehabilitation Act of 2016 allows this provision to be amended by a majority vote of the members of each house of the Legislature if the amendments are consistent with and further the intent of the act.

This bill would repeal the authority of a district attorney 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 specified serious offense when he or she was 14 or 15 years of age, thereby amending Proposition 57. By increasing the number of minors retained under the jurisdiction of the juvenile court, this 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.

This bill would declare that its provisions are consistent with and further the intent of Proposition 57.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 707 of the Welfare and Institutions Code
2 is amended to read:

3 707. (a) (1) In any case in which a minor is alleged to be a
4 person described in Section 602 by reason of the violation, when
5 he or she was 16 years of age or older, of any *offense listed in*
6 *subdivision (b) or any other felony criminal statute, or of an offense*
7 ~~listed in subdivision (b) when he or she was 14 or 15 years of age,~~
8 the district attorney or other appropriate prosecuting officer may
9 make a motion to transfer the minor from juvenile court to a court
10 of criminal jurisdiction. The motion ~~must~~ *shall* be made prior to
11 the attachment of jeopardy. Upon ~~such~~ *the* motion, the juvenile
12 court shall order the probation officer to submit a report on the
13 behavioral patterns and social history of the minor. The report
14 shall include any written or oral statement offered by the victim
15 pursuant to Section 656.2.

16 (2) Following submission and consideration of the report, and
17 of any other relevant evidence that the petitioner or the minor may
18 wish to submit, the juvenile court shall decide whether the minor
19 should be transferred to a court of criminal jurisdiction. In making
20 its decision, the court shall consider the criteria specified in
21 subparagraphs (A) to (E). If the court orders a transfer of
22 jurisdiction, the court shall recite the basis for its decision in an
23 order entered upon the minutes. In any case in which a hearing
24 has been noticed pursuant to this section, the court shall postpone
25 the taking of a plea to the petition until the conclusion of the
26 transfer hearing, and ~~no~~ *a plea that may have has* been entered
27 already shall *not* constitute evidence at the hearing.

28 (A) (i) The degree of criminal sophistication exhibited by the
29 minor.

1 (ii) When evaluating the criterion specified in clause (i), the
2 juvenile court may give weight to any relevant factor, including,
3 but not limited to, the minor's age, maturity, intellectual capacity,
4 and physical, mental, and emotional health at the time of the
5 alleged offense, the minor's impetuosity or failure to appreciate
6 risks and consequences of criminal behavior, the effect of familial,
7 adult, or peer pressure on the minor's actions, and the effect of the
8 minor's family and community environment and childhood trauma
9 on the minor's criminal sophistication.

10 (B) (i) Whether the minor can be rehabilitated prior to the
11 expiration of the juvenile court's jurisdiction.

12 (ii) When evaluating the criterion specified in clause (i), the
13 juvenile court may give weight to any relevant factor, including,
14 but not limited to, the minor's potential to grow and mature.

15 (C) (i) The minor's previous delinquent history.

16 (ii) When evaluating the criterion specified in clause (i), the
17 juvenile court may give weight to any relevant factor, including,
18 but not limited to, the seriousness of the minor's previous
19 delinquent history and the effect of the minor's family and
20 community environment and childhood trauma on the minor's
21 previous delinquent behavior.

22 (D) (i) Success of previous attempts by the juvenile court to
23 rehabilitate the minor.

24 (ii) When evaluating the criterion specified in clause (i), the
25 juvenile court may give weight to any relevant factor, including,
26 but not limited to, the adequacy of the services previously provided
27 to address the minor's needs.

28 (E) (i) The circumstances and gravity of the offense alleged in
29 the petition to have been committed by the minor.

30 (ii) When evaluating the criterion specified in clause (i), the
31 juvenile court may give weight to any relevant factor, including
32 but not limited to, the actual behavior of the person, the mental
33 state of the person, the person's degree of involvement in the crime,
34 the level of harm actually caused by the person, and the person's
35 mental and emotional development.

36 (b) ~~Subdivision (a) shall be~~ *This subdivision is applicable in*
37 *any case in which a minor is alleged to be a person described in*
38 *Section 602 by reason of the violation of one of the following*
39 *offenses when he or she was 14 or 15 years of age: offenses:*

40 (1) Murder.

- 1 (2) Arson, as provided in subdivision (a) or (b) of Section 451
2 of the Penal Code.
- 3 (3) Robbery.
- 4 (4) Rape with force, violence, or threat of great bodily harm.
- 5 (5) Sodomy by force, violence, duress, menace, or threat of
6 great bodily harm.
- 7 (6) A lewd or lascivious act as provided in subdivision (b) of
8 Section 288 of the Penal Code.
- 9 (7) Oral copulation by force, violence, duress, menace, or threat
10 of great bodily harm.
- 11 (8) An offense specified in subdivision (a) of Section 289 of
12 the Penal Code.
- 13 (9) Kidnapping for ransom.
- 14 (10) Kidnapping for purposes of robbery.
- 15 (11) Kidnapping with bodily harm.
- 16 (12) Attempted murder.
- 17 (13) Assault with a firearm or destructive device.
- 18 (14) Assault by any means of force likely to produce great bodily
19 injury.
- 20 (15) Discharge of a firearm into an inhabited or occupied
21 building.
- 22 (16) An offense described in Section 1203.09 of the Penal Code.
- 23 (17) An offense described in Section 12022.5 or 12022.53 of
24 the Penal Code.
- 25 (18) A felony offense in which the minor personally used a
26 weapon described in any provision listed in Section 16590 of the
27 Penal Code.
- 28 (19) A felony offense described in Section 136.1 or 137 of the
29 Penal Code.
- 30 (20) Manufacturing, compounding, or selling one-half ounce
31 or more of a salt or solution of a controlled substance specified in
32 subdivision (e) of Section 11055 of the Health and Safety Code.
- 33 (21) A violent felony, as defined in subdivision (c) of Section
34 667.5 of the Penal Code, which also would constitute a felony
35 violation of subdivision (b) of Section 186.22 of the Penal Code.
- 36 (22) Escape, by the use of force or violence, from a county
37 juvenile hall, home, ranch, camp, or forestry camp in violation of
38 subdivision (b) of Section 871 if great bodily injury is intentionally
39 inflicted upon an employee of the juvenile facility during the
40 commission of the escape.

1 (23) Torture as described in Sections 206 and 206.1 of the Penal
2 Code.

3 (24) Aggravated mayhem, as described in Section 205 of the
4 Penal Code.

5 (25) Carjacking, as described in Section 215 of the Penal Code,
6 while armed with a dangerous or deadly weapon.

7 (26) Kidnapping for purposes of sexual assault, as punishable
8 in subdivision (b) of Section 209 of the Penal Code.

9 (27) Kidnapping as punishable in Section 209.5 of the Penal
10 Code.

11 (28) The offense described in subdivision (c) of Section 26100
12 of the Penal Code.

13 (29) The offense described in Section 18745 of the Penal Code.

14 (30) Voluntary manslaughter, as described in subdivision (a)
15 of Section 192 of the Penal Code.

16 SEC. 2. If the Commission on State Mandates determines that
17 this act contains costs mandated by the state, reimbursement to
18 local agencies and school districts for those costs shall be made
19 pursuant to Part 7 (commencing with Section 17500) of Division
20 4 of Title 2 of the Government Code.

21 SEC. 3. The Legislature finds and declares that this act is
22 consistent with and furthers the intent of Proposition 57, as enacted
23 at the November 8, 2016, statewide general election.