



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE SACRAMENTO LEGISLATIVE OFFICE

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May 23, 2022

The Honorable Miguel Santiago
California State Assembly
1021 O Street, Suite 6150
Sacramento, CA 95814

ASSEMBLY BILL 2629 (SANTIAGO) CO-SPONSOR

Dear Assembly Member Santiago:

The Los Angeles County District Attorney's Office is pleased to co-sponsor Assembly Bill 2629.

California's juvenile justice system exists separately from the criminal legal system, in part, to eliminate the collateral consequences of a juvenile adjudication after the termination of their case. However, a person's past involvement in the juvenile justice system often hinders their ability to enlist in the military, obtain meaningful employment, and achieve occupational licenses.

While the juvenile court has discretion to grant record sealing pursuant to sections 781, 781.5, 786, 786.5, or 793 of the Welfare and Institutions Code (WIC), many people with past juvenile justice system involvement encounter obstacles to their full participation in society even after their records have been sealed.

WIC section 782 provides greater relief from the consequences of a juvenile adjudication than the record sealing provisions because it fully dismisses the juvenile adjudication rather than just hiding it from public view. WIC section 782 is intended to give young people a new beginning as they transition into adulthood by authorizing the juvenile court to exercise discretion to dismiss a petition if the interests of justice and the welfare of the person require it.

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AB 2629 will help facilitate the dismissal of juvenile court petitions when the court terminates jurisdiction over the matter. AB 2629 contains three main provisions:

(1) A.B. 2629 establishes a new standard of review for courts to utilize under section 782 when the juvenile court terminates jurisdiction, or later.

WIC section 782 currently authorizes, but does not require, a judge to dismiss a juvenile petition if the "interests of justice and the welfare of the person. . . require that dismissal, or if it finds that he or she is not in need of treatment or rehabilitation." The statute does not provide any guidance to judges in exercising this discretion, a criticism that also formerly was directed at Penal Code section 1385,

the adult dismissal statute, and was a principal reason for the recent amendment of Penal Code section 1385 via Senate Bill 81 (Chapter 721/Statutes of 2021).

AB 2629 addresses this issue by amending WIC section 782 to provide guidance to judges about how to exercise judicial discretion when a youth is being terminated from juvenile court jurisdiction, or at any time thereafter. AB 2629 provides that the court shall consider and afford great weight to evidence offered by a petitioner to prove mitigating circumstances are present, including, but not limited to, satisfactory completion of a term of probation, that rehabilitation has been attained to the satisfaction of the court, that dismissal of the petition would not endanger public safety, or that the underlying offense is connected to mental illness, prior victimization, or childhood trauma. If after reviewing the evidence presented by the petitioner, if the court finds proof of the presence of one or more mitigating circumstances AB 2629 provides this shall weigh greatly in favor of granting the 782 petition.

AB 2629's great weight standard does not apply in cases where the person seeks to achieve dismissal of a preexisting juvenile adjudication after being convicted in criminal court of a serious or violent felony.

(2) AB 2629 clarifies that the juvenile court's existing, broad section 782 discretion can be exercised at any time.

AB 2629 clarifies that the court's longstanding authority to exercise discretion under section 782 can be exercised any time after a petition has been filed. Although there did not appear to be any preexisting confusion about this among practitioners and judges, in a recent case, the court of appeal questioned (but did not resolve) whether section 782 authority can be exercised after disposition. (*See In re K.W.* (2020) 54 Cal.App.5th 467, 475.)

Reviewing courts have repeatedly held that WIC section 782's discretion, like that found in PC section 1385 in adult court, is extremely broad. AB 2629 affirms this broad discretion by explicitly codifying that a juvenile court's authority to dismiss a petition can be exercised at any time.

(3) A.B. 2629 clarifies that the juvenile court's broad discretion can be exercised regardless of whether the sustained adjudications were the result of a trial, admission, or plea bargain.

A.B. 2629 will rectify any uncertainty regarding when the juvenile court can exercise discretion to dismiss a juvenile petition under WIC section 782. Until recently, there did not appear to be any confusion about whether the juvenile court's discretion under WIC section 782 could be exercised in cases where there had been a plea bargain – which is usually 90-95% of cases. Juvenile courts routinely would adjudicate section 782 motions even if the underlying charges resulted from a plea bargain.

However, the court of appeal recently held that the juvenile court cannot exercise its discretion pursuant to WIC section 782 if doing so would deprive a party of the benefit of a plea bargain. (*See In re K.W.* (2020) 54 Cal.App.5th 467, 475.)

Without Legislative clarification, the opinion in *In re K.W.* would strip juvenile courts of their broad section discretion in the vast majority of juvenile cases.

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AB 2629 would also have significant benefits for non-citizens who have past juvenile adjudications. The federal government's decision to grant someone an immigration benefit is often discretionary, and juvenile records are routinely considered in the immigration process. While a young person who receives a dismissal under WIC section 782 would still be required to disclose their juvenile record if they apply for an immigration benefit, a dismissal will help them demonstrate that they deserve a positive exercise of discretion from immigration officials, thus minimizing the long-term collateral consequences that non-citizen youth face after justice system involvement. Being able to obtain immigration status is a critical factor in a young person's rehabilitation, as without immigration status they cannot work lawfully or obtain federal financial aid.

By facilitating the dismissal of juvenile court petitions when the court terminates jurisdiction, AB 2629 will allow justice-impacted youth to fully access future opportunities so they may empower themselves to live long, productive, and successful lives.

For these reasons our Office is proud to co-sponsor AB 2629.

If you have any questions or need additional information, please feel free to contact Daniel Felizzatto in my Sacramento Legislative Office at (916) 442-0668.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Gascón", written in a cursive style.

GEORGE GASCÓN
District Attorney