

RESOLUTION 04-11-2015

DIGEST

Juvenile Law: Jurisdiction for Counties to Grant Honorable Discharge

Amends Welfare and Institutions Code sections 1772 and 1179 to authorize courts to grant honorable discharges to juvenile offenders with good records on supervised probation.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Welfare and Institutions Code sections 1772 and 1179 to read as follows:

§1772

1 (a) Subject to subdivision (b), every person honorably discharged from control by the
2 ~~Youth Authority Board of Parole Hearings~~ or by a juvenile court bench officer who has not,
3 during the period of control by the ~~authority~~Board of Parole Hearings or the county probation
4 department, been placed by the ~~authority~~Board of Parole Hearings or county probation
5 department in a state prison shall thereafter be released from all penalties and disabilities
6 resulting from the offense or crime for which he or she was committed, and every person
7 discharged may petition the court which committed him or her, and the court may upon that
8 petition set aside the verdict of guilty and dismiss the accusation or information against the
9 petitioner who shall thereafter be released from all penalties and disabilities resulting from the
10 offense or crime for which he or she was committed, including, but not limited to, any
11 disqualification for any employment or occupational license, or both, created by any other
12 provision of law.

13 (b) Notwithstanding subdivision (a):

14 (1) A person described by subdivision (a) shall not be eligible for appointment as a peace
15 officer employed by any public agency if his or her appointment would otherwise be prohibited
16 by *Section 1029 of the Government Code*. However, that person may be appointed and employed
17 as a peace officer by the ~~Department of the Youth Authority~~Division of Juvenile Facilities if (A)
18 at least five years have passed since his or her honorable discharge, and the person has had no
19 misdemeanor or felony convictions except for traffic misdemeanors since he or she was
20 honorably discharged by the ~~Youth Authority Board of Parole Hearings~~ or by a juvenile court
21 bench officer, or (B) the person was employed as a peace officer by the ~~Department of the Youth~~
22 AuthorityDivision of Juvenile Facilities on or before January 1, 1983. No person who is under
23 the jurisdiction of the ~~Department of the Youth Authority~~Division of Juvenile Facilities shall be
24 admitted to an examination for a peace officer position with the ~~department~~Division of Juvenile
25 Facilities unless and until the person has been honorably discharged from the jurisdiction of the
26 ~~Youth Authority Board of Parole Hearings~~ or by a juvenile court bench officer.

27 (2) A person described by subdivision (a) is subject to Chapter 2 (commencing with
28 Section 29800) and Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part
29 6 of the Penal Code.

30 (3) The conviction of a person described by subdivision (a) for an offense listed in
31 subdivision (b) of Section 707 is admissible in a subsequent criminal, juvenile, or civil
32 proceeding if otherwise admissible, if all the following are true:

33 (A) The person was 16 years of age or older at the time he or she committed the offense.

34 (B) The person was found unfit to be dealt with under the juvenile court law pursuant to
35 Section 707 because he or she was alleged to have committed an offense listed in subdivision (b)
36 of Section 707.

37 (C) The person was tried as an adult and convicted of an offense listed in subdivision (b)
38 of Section 707.

39 (D) The person was committed to the ~~Department of the Youth Authority~~ Division of
40 Juvenile Facilities for the offense referred to in subparagraph (C).

41 (4) The conviction of a person described by subdivision (a) may be used to enhance the
42 punishment for a subsequent offense.

43 (5) The conviction of a person who is 18 years of age or older at the time he or she
44 committed the offense is admissible in a subsequent civil, criminal, or juvenile proceeding, if
45 otherwise admissible pursuant to law.

46 (c) Every person discharged from control by the ~~Youth Authority~~ Board of Parole
47 Hearings or by a juvenile court bench officer shall be informed of the provisions of this section
48 in writing at the time of discharge.

49 (d) "Honorably discharged" as used in this section means and includes every person
50 whose discharge is based upon a good record on parole or probation supervision.

51
52 §1179

53 (a) All persons honorably discharged from control of the ~~Youth Authority~~ Board of
54 Parole Hearings or by a juvenile court bench officer shall thereafter be released from all penalties
55 or disabilities resulting from the offenses for which they were committed, including, but not
56 limited to, any disqualification for any employment or occupational license, or both, created by
57 any other provision of law. However, that a person shall not be eligible for appointment as a
58 peace officer employed by any public agency if his or her appointment would otherwise be
59 prohibited by *Section 1029 of the Government Code*.

60 (b) Notwithstanding the provisions of subdivision (a), that person may be appointed and
61 employed as a peace officer by the ~~Department of the Youth Authority~~ Division of Juvenile
62 Facilities if (1) at least five years have passed since his or her honorable discharge, and the
63 person has had no misdemeanor or felony convictions except for traffic misdemeanors since he
64 or she was honorably discharged by the ~~Board of Parole Hearings~~ or by a juvenile court bench
65 officer, or (2) the person was employed as a peace officer by the ~~department~~ Division of Juvenile
66 Facilities on or before January 1, 1983. No person who is under the jurisdiction of the
67 ~~department~~ Division of Juvenile Facilities shall be admitted to an examination for a peace officer
68 position with the ~~department~~ Division of Juvenile Facilities unless and until the person has been
69 honorably discharged from the jurisdiction of the ~~department~~ Division of Juvenile Facilities by
70 the ~~Youth Authority~~ Board of Parole Hearings or by a juvenile court bench officer.

71 (c) Upon the final discharge or dismissal of any such person, the Department of the
72 Youth Authority shall immediately certify the discharge or dismissal in writing, and shall
73 transmit the certificate to the court by which the person was committed. The court shall
74 thereupon dismiss the accusation and the action pending against that person.

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: Los Angeles County Bar Association

STATEMENT OF REASONS

The Problem: Pursuant to AB 1628 in 2011, youth are now supervised locally under county supervision after discharge from California's Department of Corrections and Rehabilitation's Division of Juvenile Facilities and do not have the ability to earn an honorable discharge pursuant to Welfare and Institutions Code §1772 and §1179. This denies locally supervised youth a relief previously available to youth discharged from state control by the Youth Authority Board and included every person whose discharge was based upon a good record on parole. Now youth released locally to county supervision with a good record on probation cannot petition a court to set aside the accusation or information against him or her and remain disqualified from employment and occupational licensing requirements. The inability to earn an honorable discharge prevents rehabilitated youth from obtaining the necessary employment they need to earn a living and a valuable anti-recidivism tool, honorable discharge, has been removed as an incentive to keep youth crime free while on probation. Without honorable discharge status, the record of even rehabilitated youth will follow them as they try to seek adequate employment.

The Solution: Amend Welfare and Institutions Code §1772 and §1179 to allow county juvenile court bench officers the authority to make a finding of honorable discharge for a person upon a good record on probation supervision. This resolution simply updates and recaptures the honorable discharge status to the same intended recipients as existed before under the old system and allows youth supervised locally under county supervision to have the same rights and relief previously available to state supervised youth discharged on Youth Authority Parole.

IMPACT STATEMENT

This proposed resolution does not affect any other law, statute or rule.

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RESPONSIBLE FLOOR DELEGATE: Pamela Villanueva

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Welfare and Institutions Code sections 1772 and 1179 to authorize courts to grant honorable discharges to juvenile offenders with good records on supervised probation. This resolution should be approved in principle because it reflects the recent change in jurisdiction over youths discharged from California's Department of Corrections and Rehabilitation's Division of Juvenile Facilities from the Youth Authority Board to local counties, per Welfare and Institutions Code sections 1766.01 and 1767.36. (See Assem. Bill No. 1628 (2009-2010 Reg. Sess.).)

The above legislation eliminated the power of revocation or suspension of parole as a state duty exercised by the Juvenile Parole Board and instead requires county courts to establish the conditions of the ward's supervision on parole. This resolution does not substantively change the law, but instead makes the honorable discharge status available to juvenile offenders with good records on supervised probation. Honorable discharge promotes rehabilitation of youths with criminal records. If youths do not have access to honorable discharge, their criminal record stays with them and they may be disqualified from employment opportunities and occupational licensing requirements. The above-mentioned amendments to the Welfare and Institutions Code intended to change the responsibility of supervising youths on parole from the State to local counties. It did not intend to deny youth access to honorable discharge.