

AMENDED IN SENATE MAY 6, 2008
AMENDED IN SENATE APRIL 14, 2008
AMENDED IN SENATE MARCH 24, 2008

SENATE BILL

No. 1250

Introduced by Senator Yee
(Coauthor: Senator Romero)
(Coauthor: Assembly Member Price)

February 15, 2008

An act to amend Sections ~~223~~, 224.72, 1712.1, and 1766 of, *and to add Section 223.1 to*, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1250, as amended, Yee. Juveniles: communications.

(1) Existing law requires the public officer responsible for the well-being of any minor in the custody of the state or the county to notify the parents or guardians of that minor, if they can reasonably be located, within 24 hours of any serious injury or serious offense committed against the minor, upon reasonable substantiation that a serious injury or offense has occurred. This requirement does not apply if the minor requests that his or her parents or guardians not be informed and the chief probation officer or the Chief Deputy Secretary for Juvenile Justice determines that would be in the best interest of the minor.

This bill would enact the Family Communication and Youth Rehabilitation Act of 2008. The bill would expand the above provision to require the public officer responsible for the well-being of any person in the custody of the Division of Juvenile Facilities ~~or the county~~

~~juvenile probation department to also notify the parents or guardians of that person, if they can reasonably be located, within 24 hours of any suicide attempt, as defined, by the person or any serious injury or serious offense committed against the person. The bill would authorize the person, in consultation with division or county probation staff, as appropriate, and with concurrence of the public officer responsible for the well-being of that person, to designate other persons who should be notified in case of an emergency in addition to, or in lieu of, parents or guardians. This requirement would not apply if a minor in custody requests that his or her parents, guardians, or other persons not be notified and the chief probation officer or the director of the division facility determines that would be in the best interest of the minor, or if an adult in custody does not consent to the notification. The bill would require an appropriate staff person, on specified occasions, to explain to a person in custody his or her rights pursuant to these provisions. The bill would require the division or county department to provide the person with forms and any information necessary to provide informed consent as to who shall be notified in case of an emergency, and would require staff to enter specified information in this regard into the ward's record. The bill would also expand the definition of a "serious injury" for purposes of these provisions. By increasing the duties of the county juvenile probation department, the bill would impose a state-mandated local program.~~

(2) Existing law requires each facility of the Division of Juvenile Facilities to post a listing of the statutory rights of youth confined in division facilities in a conspicuous location. The Office of the Ombudspersons of the Division of Juvenile Facilities is required to design posters and provide the posters to each division facility.

This bill would require the division, on or before July 1, 2010, to ensure the listing of rights and posters described above are translated into Spanish and other languages as needed for the members of any linguistic group that represents at least 1% of the division's ward population. The bill also would require a copy of the rights of the youth to be included in orientation packets provided to parents or guardians of wards, and copies of the rights of youth, in English, Spanish, and other languages to be made available in the visiting areas of division facilities and, upon request, to parents or guardians.

(3) Existing law provides that a ward confined in a division facility shall be allowed a minimum of 4 telephone calls to his or her family per month, but authorizes the restriction of telephone usage when calls

conflict with institutional operations, supervision, or security, to the extent reasonably necessary for the continued operation and security of the facility.

This bill would provide that those 4 telephone calls shall be provided at no cost to the ward or his or her family, *but would be limited to 15 minutes each*. The bill would authorize a ward, when speaking by telephone or corresponding with a family member, clergy, or counsel, to use his or her native language or the native language of the person to whom he or she is speaking or writing. The bill also would require the division to encourage correspondence with family or clergy by providing blank paper, envelopes, pencils or other writing instruments, and postage, as specified, ~~and to offer free shuttle transportation for families and other visitors not less than twice per month.~~

(4) Existing law requires the division, not less than 60 days prior to the scheduled parole consideration hearing of a ward eligible for release on parole on or after September 1, 2007, as specified, to provide to the probation department and the court of the committing county, and the ward's counsel, if known, the ward's most recent written case review, along with notice of the parole consideration hearing date.

This bill would require the division, not less than 60 days prior to the ward's scheduled parole consideration hearing, to also notify the ward's parent or guardian, if he or she can reasonably be located, of the date and location of the parole consideration hearing, except as specified. The bill would require the division to also inform other persons identified by the ward, if they can reasonably be located, and who are considered by the division as likely to contribute to a ward's preparation for the parole consideration hearing or the ward's postrelease success. The bill would require an appropriate staff person, on specified occasions, to explain to a person in custody his or her rights pursuant to these provisions, and to provide forms and any information necessary to implement those rights. The bill would require the person's consent to notification of parents, guardians, or other persons, to be documented in his or her record.

~~(5) 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 these statutory provisions.~~

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

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

1 SECTION 1. This act shall be known and may be cited as the
2 Family Communication and Youth Rehabilitation Act of 2008.
3 ~~SEC. 2. Section 223 of the Welfare and Institutions Code is~~
4 ~~amended to read:~~
5 ~~223. (a) (1) The parents or guardians of any person in the~~
6 ~~custody of the Division of Juvenile Facilities or the county juvenile~~
7 ~~probation department, if they can reasonably be located, shall be~~
8 ~~notified within 24 hours by the public officer responsible for the~~
9 ~~well-being of that person, of any suicide attempt by the person or~~
10 ~~any serious injury or serious offense committed against the person.~~
11 ~~In consultation with division or county probation staff, as~~
12 ~~appropriate, and with concurrence of the public officer responsible~~
13 ~~for the well-being of that person, the person may designate other~~
14 ~~persons who should be notified in case of an emergency in addition~~
15 ~~to, or in lieu of, parents or guardians.~~
16 ~~(2) This section shall not apply if either of the following~~
17 ~~conditions is met:~~
18 ~~(A) A minor requests that his or her parents, guardians, or other~~
19 ~~persons not be notified, and the chief probation officer or the~~
20 ~~director of the division facility, as appropriate, determines it would~~
21 ~~be in the best interest of the minor not to notify the parents,~~
22 ~~guardians, or other persons.~~
23 ~~(B) A person 18 years of age or older does not consent to the~~
24 ~~notification.~~
25 ~~(b) Upon intake of a person into a division facility or into the~~
26 ~~custody of the county juvenile probation department, and again~~
27 ~~upon attaining 18 years of age while in the custody of the division~~
28 ~~or county department, an appropriate staff person shall explain,~~
29 ~~using language clearly understandable to the person, all of the~~
30 ~~provisions of this section, including that the person has the right~~
31 ~~to (1) request that the information described in paragraph (1) of~~
32 ~~subdivision (a) not be provided to a parent or guardian, and (2)~~
33 ~~request that another person or persons in addition to, or in lieu of,~~
34 ~~a parent or guardian to be notified in case of an emergency. The~~
35 ~~division or county department shall provide the person with forms~~

1 and any information necessary to provide informed consent as to
2 who shall be notified in case of an emergency. Any designation
3 made pursuant to paragraph (1) of subdivision (a), the consent to
4 notify parents, guardians, or other persons, and the withholding
5 of that consent, may be amended or revoked by the person, and
6 shall be transferable among facilities.

7 (c) Staff of the division or county department shall enter the
8 following information into the ward's record, as appropriate, upon
9 its occurrence:

10 (1) A minor's request that his or her parents, guardians, or other
11 persons not be notified of an emergency pursuant to this section;
12 and the determination of the relevant public officer on that request.

13 (2) The designation of a person to be notified of an emergency
14 pursuant to this section.

15 (3) The revocation or amendment of a designation or consent
16 made pursuant to this section.

17 (4) A person's consent, or withholding thereof, to notify parents,
18 guardians, or other persons pursuant to this section.

19 (d) For purposes of this section:

20 (1) "Serious offense" means any offense that is chargeable as
21 a felony and that involves violence against another person.

22 (2) "Serious injury" means any illness or injury that requires
23 hospitalization or admission to an out-patient housing unit, requires
24 an evaluation for involuntary treatment for a mental health disorder
25 or grave disability under the Lanterman-Petris-Short Act (Part 1
26 (commencing with Section 5000) of Division 5 of the Welfare and
27 Institutions Code), is potentially life threatening, or that potentially
28 will permanently impair the use of a major body organ, appendage,
29 or limb.

30 (3) "Suicide attempt" means a nonfatal, self-inflicted, destructive
31 act committed with explicit or inferred intent to die.

32 SEC. 2. Section 223.1 is added to the Welfare and Institutions
33 Code, to read:

34 223.1. (a) (1) The parents or guardians of any person in the
35 custody of the Division of Juvenile Facilities, if they can reasonably
36 be located, shall be notified within 24 hours by the public officer
37 responsible for the well-being of that person, of any suicide attempt
38 by the person, or any serious injury or serious offense committed
39 against the person. In consultation with division staff, as
40 appropriate, and with concurrence of the public officer responsible

1 for the well-being of that person, the person may designate other
2 persons who should be notified in case of an emergency in addition
3 to, or in lieu of, parents or guardians.

4 (2) This section shall not apply if either of the following
5 conditions is met:

6 (A) A minor requests that his or her parents, guardians, or other
7 persons not be notified, and the director of the division facility, as
8 appropriate, determines it would be in the best interest of the minor
9 not to notify the parents, guardians, or other persons.

10 (B) A person 18 years of age or older does not consent to the
11 notification.

12 (b) Upon intake of a person into a division facility, and again
13 upon attaining 18 years of age while in the custody of the division,
14 an appropriate staff person shall explain, using language clearly
15 understandable to the person, all of the provisions of this section,
16 including that the person has the right to (1) request that the
17 information described in paragraph (1) of subdivision (a) not be
18 provided to a parent or guardian, and (2) request that another
19 person or persons in addition to, or in lieu of, a parent or guardian
20 to be notified in case of an emergency. The division shall provide
21 the person with forms and any information necessary to provide
22 informed consent as to who shall be notified in case of an
23 emergency. Any designation made pursuant to paragraph (1) of
24 subdivision (a), the consent to notify parents, guardians, or other
25 persons, and the withholding of that consent, may be amended or
26 revoked by the person, and shall be transferable among facilities.

27 (c) Staff of the division shall enter the following information
28 into the ward's record, as appropriate, upon its occurrence:

29 (1) A minor's request that his or her parents, guardians, or
30 other persons not be notified of an emergency pursuant to this
31 section, and the determination of the relevant public officer on
32 that request.

33 (2) The designation of a person to be notified of an emergency
34 pursuant to this section.

35 (3) The revocation or amendment of a designation or consent
36 made pursuant to this section.

37 (4) A person's consent, or withholding thereof, to notify parents,
38 guardians, or other persons pursuant to this section.

39 (d) For purposes of this section:

1 (1) “*Serious offense*” means any offense that is chargeable as
2 a felony and that involves violence against another person.

3 (2) “*Serious injury*” means any illness or injury that requires
4 hospitalization or admission to an out-patient housing unit,
5 requires an evaluation for involuntary treatment for a mental
6 health disorder or grave disability under the
7 Lanterman-Petris-Short Act (Part 1 (commencing with Section
8 5000) of Division 5 of the Welfare and Institutions Code), is
9 potentially life threatening, or that potentially will permanently
10 impair the use of a major body organ, appendage, or limb.

11 (3) “*Suicide attempt*” means a nonfatal, self-inflicted,
12 destructive act committed with explicit or inferred intent to die.

13 SEC. 3. Section 224.72 of the Welfare and Institutions Code
14 is amended to read:

15 224.72. (a) Every facility of the Division of Juvenile Facilities
16 shall provide each youth who is placed in the facility with an age
17 and developmentally appropriate orientation that includes an
18 explanation and a copy of the rights of the youth, as specified in
19 Section 224.71, and that addresses the youth’s questions and
20 concerns.

21 (b) Each facility of the Division of Juvenile Facilities shall post
22 a listing of the rights provided by Section 224.71 in a conspicuous
23 location. The Office of the Ombudspersons of the Division of
24 Juvenile Facilities shall design posters and provide the posters to
25 each Division of Juvenile Facilities facility subject to this
26 subdivision. These posters shall include the toll-free telephone
27 number of the Office of the Ombudspersons of the Division of
28 Juvenile Facilities.

29 (c) Consistent with Chapter 17.5 (commencing with Section
30 7290) of Division 7 of Title 1 of the Government Code, on or
31 before July 1, 2010, the division shall ensure the listing of rights
32 and posters described in this section are translated into Spanish
33 and other languages as needed for the members of any linguistic
34 group that represents at least 1 percent of the division’s ward
35 population.

36 (d) A copy of the rights of the youth shall be included in
37 orientation packets provided to parents or guardians of wards.
38 Copies of the rights of youth, in English, Spanish, and other
39 languages shall also be made available in the visiting areas of
40 division facilities and, upon request, to parents or guardians.

SEC. 4. Section 1712.1 of the Welfare and Institutions Code is amended to read:

1712.1. (a) A ward confined in a facility of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall be encouraged to communicate with family members, clergy, and others, and to participate in programs that will facilitate his or her education, rehabilitation, and accountability to victims, and that may help the ward become a law-abiding and productive member of society. If the division or a facility requires a ward to provide a list of allowed visitors, calls, or correspondents, that list shall be transferable from facility to facility, so that the transfer of the ward does not unduly interrupt family and community communication.

(b) A ward shall be allowed a minimum of four telephone calls to his or her family per month at no cost to the ward or family. *Each of the four free calls shall not exceed 15 minutes in duration.* A restriction or reduction of the minimum amount of telephone calls allowed to a ward shall not be imposed as a disciplinary measure. If calls conflict with institutional operations, supervision, or security, telephone usage may be restricted to the extent reasonably necessary for the continued operation and security of the facility. When speaking by telephone with a family member, clergy, or counsel, a ward may use his or her native language or the native language of the person to whom he or she is speaking.

(c) (1) If a ward's visitation rights are suspended, division or facility staff shall be prepared to inform one or more persons on the list of those persons allowed to visit the ward, if any of those persons should call to ask.

(2) The division or facility shall maintain a toll-free telephone number that families and others may call to confirm visiting times, and to provide timely updates on interruptions and rescheduling of visiting days, times, and conditions.

(3) (A) The division shall encourage correspondence with family or clergy by providing blank paper, envelopes, pencils or other writing instruments, and postage. Materials shall be provided in a manner that protects institutional and public safety, and correspondence shall be subject to review by staff only to the extent allowable by law.

1 (B) When corresponding with a family member, clergy, or
2 counsel in writing, the ward may use his or her native language or
3 the native language of the person to whom he or she is writing.

4 (C) Blank paper, correspondence, envelopes, and pencils or
5 other writing instruments, shall not be deemed contraband nor
6 seized except in an emergency that threatens bodily harm, injury,
7 or death to the ward or other persons. If staff asserts that there is
8 an emergency that necessitates seizure of materials normally used
9 for correspondence, the reasons for the seizure shall be entered in
10 writing in the ward's file or records.

11 ~~(4) Not less than twice per month, each facility shall offer free~~
12 ~~shuttle transportation for families and other visitors, just prior to~~
13 ~~and during visiting hours, from the nearest bus and train stations~~
14 ~~in order that families have maximum opportunity to visit wards~~
15 ~~and to participate in their rehabilitation.~~

16 SEC. 5. Section 1766 of the Welfare and Institutions Code is
17 amended to read:

18 1766. (a) Subject to Sections 733 and 1767.35, and subdivision
19 (b) of this section, if a person has been committed to the
20 Department of Corrections and Rehabilitation, Division of Juvenile
21 Facilities, the Board of Parole Hearings, according to standardized
22 review and appeal procedures established by the board in policy
23 and regulation and subject to the powers and duties enumerated
24 in subdivision (a) of Section 1719, may do any of the following:

25 (1) Permit the ward his or her liberty under supervision and
26 upon conditions it believes are best designed for the protection of
27 the public.

28 (2) Order his or her confinement under conditions it believes
29 best designed for the protection of the public pursuant to the
30 purposes set forth in Section 1700, except that a person committed
31 to the division pursuant to Sections 731 or 1731.5 may not be held
32 in physical confinement for a total period of time in excess of the
33 maximum periods of time set forth in Section 731. Nothing in this
34 subdivision limits the power of the board to retain the minor or
35 the young adult on parole status for the period permitted by
36 Sections 1769, 1770, and 1771.

37 (3) Order reconfinement or renewed release under supervision
38 as often as conditions indicate to be desirable.

39 (4) Revoke or modify any parole or disciplinary appeal order.

1 (5) Modify an order of discharge if conditions indicate that such
2 modification is desirable and when that modification is to the
3 benefit of the person committed to the division.

4 (6) Discharge him or her from its control when it is satisfied
5 that discharge is consistent with the protection of the public.

6 (b) The following provisions shall apply to any ward eligible
7 for release on parole on or after September 1, 2007, who was
8 committed to the custody of the Division of Juvenile Facilities for
9 an offense other than one described in subdivision (b) of Section
10 707 or paragraph (3) of subdivision (d) of Section 290 of the Penal
11 Code:

12 (1) The county of commitment shall supervise the reentry of
13 any ward released on parole on or after September 1, 2007, who
14 was committed to the custody of the division for committing an
15 offense other than those described in subdivision (b) of Section
16 707 or paragraph (3) of subdivision (d) of Section 290 of the Penal
17 Code.

18 (2) Not less than 60 days prior to the scheduled parole
19 consideration hearing of a ward described in this subdivision, the
20 division shall provide to the probation department and the court
21 of the committing county, and the ward's counsel, if known, the
22 most recent written review prepared pursuant to Section 1720,
23 along with notice of the parole consideration hearing date.

24 (3) (A) Not less than 60 days prior to the scheduled parole
25 consideration hearing of a ward described in this subdivision, the
26 division shall notify the ward's parent or guardian, if he or she can
27 reasonably be located, of the date and location of the parole
28 consideration hearing. The division shall also inform other persons
29 identified by the ward, if they can reasonably be located, and who
30 are considered by the division as likely to contribute to a ward's
31 preparation for the parole consideration hearing or the ward's
32 postrelease success.

33 (B) This paragraph shall not apply if either of the following
34 conditions is met:

35 (i) A minor requests that his or her parents, guardians, or other
36 persons not be notified, and the director of the division facility
37 determines it would be in the best interest of the minor not to notify
38 the parents, guardians, or other persons.

39 (ii) A person 18 years of age or older does not consent to the
40 notification.

1 (C) Upon intake of a ward into a division facility, and again
2 upon attaining 18 years of age while in the custody of the division,
3 an appropriate staff person shall explain, using language clearly
4 understandable to the ward, that the ward has the right to designate
5 who shall be informed prior to his or her parole consideration
6 hearing. The ward shall be provided with forms and any
7 information necessary to provide informed consent for notification
8 of parents, guardians, or other persons described in subparagraph
9 (A) of the date and location of a scheduled parole consideration
10 hearing. The ward also shall be advised that he or she has the right
11 to request that this information not be provided. The consent, or
12 withholding thereof, to notify parents, guardians, or other persons
13 described in subparagraph (A) may be amended or revoked by the
14 ward, shall be documented in the ward's record, and shall be
15 transferable among facilities.

16 (D) Nothing in this paragraph shall be construed to limit the
17 right of a ward to an attorney under any other law.

18 (4) Not less than 30 days prior to the scheduled parole
19 consideration hearing of a ward described in this subdivision, the
20 probation department of the committing county may provide the
21 division with its written plan for the reentry supervision of the
22 ward. At the parole consideration hearing, the Board of Parole
23 Hearings shall, in determining whether the ward is to be released,
24 consider a reentry supervision plan submitted by the county.

25 (5) Any ward described in this subdivision who is granted parole
26 shall be placed on parole jurisdiction for up to 15 court days
27 following his or her release. The board shall notify the probation
28 department and the court of the committing county within 48 hours
29 of a decision to release a ward.

30 (6) Within 15 court days of the release by the division of a ward
31 described in this subdivision, the committing court shall convene
32 a reentry disposition hearing for the ward. The purpose of the
33 hearing shall be for the court to identify those conditions of
34 probation that are appropriate under all the circumstances of the
35 case. The court shall, to the extent it deems appropriate, incorporate
36 a reentry plan submitted by the county probation department and
37 reviewed by the board into its disposition order. At the hearing the
38 ward shall be fully informed of the terms and conditions of any
39 order entered by the court, including the consequences for any
40 violation thereof. The procedure of the reentry disposition hearing

1 shall otherwise be consistent with the rules, rights, and procedures
2 applicable to delinquency disposition hearings as described in
3 Article 17 (commencing with Section 675) of Chapter 2 of Part 1
4 of Division 2.

5 (7) The division shall have no further jurisdiction over a ward
6 described in this subdivision who is released on parole by the board
7 upon the ward's court appearance pursuant to paragraph (5).

8 (c) Within 60 days of intake, the division shall provide the court
9 and the probation department with a treatment plan for the ward.

10 (d) A ward shall be entitled to an appearance hearing before a
11 panel of board commissioners for any action that would result in
12 the extension of a parole consideration date pursuant to subdivision
13 (d) of Section 5076.1 of the Penal Code.

14 (e) The department shall promulgate policies and regulations
15 to implement this section.

16 (f) Commencing on July 1, 2004, and annually thereafter, for
17 the preceding fiscal year, the department shall collect and make
18 available to the public the following information:

19 (1) The total number of ward case reviews conducted by the
20 division and the board, categorized by guideline category.

21 (2) The number of parole consideration dates for each category
22 set at guideline, above guideline, and below guideline.

23 (3) The number of ward case reviews resulting in a change to
24 a parole consideration date, including the category assigned to the
25 ward, the amount of time added to or subtracted from the parole
26 consideration date, and the specific reason for the change.

27 (4) The percentage of wards who have had a parole consideration
28 date changed to a later date, the percentage of wards who have
29 had a parole consideration date changed to an earlier date, and the
30 average annual time added or subtracted per case.

31 (5) The number and percentage of wards who, while confined
32 or on parole, are charged with a new misdemeanor or felony
33 criminal offense.

34 (6) Any additional data or information identified by the
35 department as relevant.

36 (g) As used in subdivision (f), the term "ward case review"
37 means any review of a ward that changes, maintains, or appreciably
38 affects the programs, treatment, or placement of a ward.

39 ~~SEC. 5. If the Commission on State Mandates determines that~~
40 ~~this act contains costs mandated by the state, reimbursement to~~

1 ~~local agencies and school districts for those costs shall be made~~
2 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
3 ~~4 of Title 2 of the Government Code.~~

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