

Introduced by Senator Yee

April 29, 2009

Senate Concurrent Resolution No. 40—Relative to juvenile justice.

LEGISLATIVE COUNSEL'S DIGEST

SCR 40, as amended, Yee. Juvenile justice.

This measure would acknowledge the role that substance abuse plays in the lives of juvenile offenders and would set forth the rights of all juveniles in the juvenile justice system. The measure would urge each facility in the state that houses wards or is responsible for the oversight of wards to adopt these rights into the regulations and common practices of the facility.

Fiscal committee: no.

1 WHEREAS, According to The National Center on Addiction
2 and Substance Abuse (CASA) at Columbia University, substance
3 abuse plays a role in the lives of up to 80 percent of juveniles in
4 juvenile justice systems across the United States: 18.2 percent are
5 under the influence of alcohol or drugs while committing their
6 offenses, 53.9 percent test positive for drugs at the time of arrest,
7 12.1 percent are arrested for committing an alcohol or drug offense,
8 62.5 percent report having substance abuse problems, and many
9 exhibit some combination of these characteristics; and
10 WHEREAS, Although 44 percent of juveniles arrested nationally
11 meet clinical criteria for a substance abuse disorder requiring
12 medical treatment, only 3.6 percent receive any form of substance
13 abuse treatment; and

1 WHEREAS, Up to 75 percent of all incarcerated juveniles
2 nationally have some diagnosable mental health disorder, yet
3 mental health services remain scarce; and

4 WHEREAS, Incarcerated juveniles have an increased need for
5 basic and special education, but they are left behind in the current
6 system. The education provided should be age appropriate and
7 developmentally appropriate, and the curricula and conditions
8 developed by the state should be comparable to what children in
9 public schools experience, including credentialed teachers and
10 adequate facilities; and

11 WHEREAS, Juveniles who drink and use drugs are more likely
12 to be arrested multiple times, with each conviction raising the
13 likelihood of transfer to adult court and eventual adult felony
14 conviction. Juveniles whose cases are transferred to criminal court
15 also recidivate faster and with more serious offenses than those
16 retained in the juvenile court; and

17 WHEREAS, At least 30 percent of adults in prison for felony
18 crimes nationally were incarcerated as juveniles; and

19 WHEREAS, If treatment options are successful in only 12
20 percent of cases nationally, reducing the population of adult
21 prisoners with juvenile records by the same amount would create
22 annual savings of eighteen billion dollars (\$18,000,000,000), as
23 well as reducing overall crime; and

24 WHEREAS, Rather than spend more than two hundred fifty
25 thousand dollars (\$250,000) annually in California to incarcerate
26 a juvenile offender as was projected for the 2008–09 year, in
27 appropriate cases, California could rehabilitate juveniles who come
28 before the juvenile court through diversion to treatment programs
29 and other appropriate services for a much lower public cost; and

30 WHEREAS, With comprehensive screening, the needs of
31 juveniles can be identified and appropriate care provided while
32 maintaining the safety of the community; and

33 WHEREAS, With appropriate care, juvenile recidivism rates
34 will drop and more youth can become productive, healthy, and
35 law-abiding members of society; now, therefore, be it

36 *Resolved by the Senate of the State of California, the Assembly*
37 *thereof concurring,* That the California Legislature hereby
38 recognizes that all juveniles in the juvenile justice system (hereafter
39 the system) should have the following rights:

1 Right to Rehabilitation: In the handling of each juvenile case,
2 the state should use its best efforts to rehabilitate the juvenile, in
3 furtherance of which; a comprehensive assessment should be made
4 of each juvenile's substance use, medical and mental health,
5 education, and family issues that may be linked to the delinquency.

6 Right to Treatment: All juveniles in the system should have
7 effective, evidence-based treatment services for substance abuse
8 problems and disorders as well as health issues, including medical,
9 mental, and dental issues, based on a comprehensive assessment
10 of their needs, and provided by trained professionals.

11 Right to Education: All juveniles in the system should have a
12 public education, including special education when needed, that
13 meets criteria as established by the State Department of Education.

14 Right to Family and Social Services: All juveniles in the system
15 should have services to improve family and social functioning.

16 Right to Least Restrictive Alternatives: All juveniles in the
17 system should be entitled to the least restrictive means appropriate
18 to their individual cases throughout their contact with the system.

19 Right to Reintegration: All juveniles in the system should be
20 provided with appropriate aftercare to support successful reentry
21 into the community that incorporates a continuity of care from
22 placement through release.

23 Right to Nondiscrimination: All juveniles in the system have
24 the right to have all determinations in their cases made without
25 regard to religion, race, national origin, ethnicity, gender, or sexual
26 orientation.

27 Right to Safety and Security: All juveniles in the system have
28 the right to be housed in safe, dedicated juvenile facilities, to be
29 kept free from any form of abuse, including protection from
30 disproportionate means and the use of force.

31 Right to Counsel: All juveniles in the system have the right to
32 free, competent counsel at all stages of proceedings.

33 Right to Protection from Self-Incrimination: All juveniles in the
34 system have the right to appropriate safeguards against
35 self-incrimination, including the vesting in the juvenile of a
36 privilege for any statement by the juvenile given in furtherance of
37 treatment or assessment for treatment.

38 Right to Evidence-Based Practice: The state should track and
39 evaluate the effectiveness of treatment and assessments over time

1 to ensure that the means employed are scientifically supported and
2 improved.

3 Right to Speedy Review: All juveniles in the system have the
4 right to have their cases processed fairly and quickly; and be it
5 further

6 *Resolved*, That none of the foregoing rights shall abridge or
7 abrogate any other recognized rights, entitlements, or privileges
8 enjoyed by those in whom these rights are vested; and be it further

9 *Resolved*, That each facility in California housing wards of the
10 juvenile court, or responsible for the oversight of wards, is urged
11 to adopt these rights into the regulations and common practices of
12 the facility; and be it further

13 *Resolved*, That the Secretary of the Senate transmit copies of
14 this resolution regarding juvenile justice rights and rehabilitation
15 to the Chief Deputy Secretary for the Division of Juvenile
16 Facilities, *and* to each facility in the state housing wards of the
17 juvenile court, or responsible for the oversight of wards, ~~and to~~
18 ~~the author for appropriate distribution.~~