

Introduced by Senator YeeFebruary 24, 2012

An act to add Section 208.3 to the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1363, as introduced, Yee. Juveniles: solitary confinement.

Existing law permits minors who are detained in juvenile hall for habitual disobedience, truancy, or curfew violation to be held in the same facility as minors who are detained for violating any law or ordinance defining a crime, if they do not come or remain in contact with each other. Existing law also permits the detention of minors in jails and other secure facilities for the confinement of adults if the minors do not come or remain in contact with confined adults and other specified conditions are met.

This bill would provide that a minor or ward who is detained in, or sentenced to, any juvenile facility, jail, or other secure state or local facility shall not be subject to solitary confinement, as defined, unless the minor or ward poses an immediate and substantial risk of harm to others or to the security of the facility, and all other less-restrictive options have been exhausted. The bill would permit the minor or ward to be held in solitary confinement only for the minimum time required to address the safety risk, but only if the mental and physical health of the minor or ward is not compromised. The bill would require clinical staff to evaluate a minor or ward, and to issue a written directive that the minor or ward shall not be placed in solitary confinement if specified determinations are made. The bill would require these evaluations to be incorporated into the initial intake assessment made by clinical staff before a minor or ward is detained or committed to placement, and to

be reviewed during regularly scheduled mental health appointments, assessments, or evaluations with clinical staff. The bill would require clinical staff to evaluate a minor or ward in solitary confinement daily to determine whether the minor or ward shall remain in solitary confinement. By increasing the duties of local juvenile facilities, the 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 these statutory provisions.

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 208.3 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 208.3. (a) For purposes of this section, the following
- 4 definitions shall apply:
- 5 (1) “Solitary confinement” means the holding of a person in
- 6 isolation from persons, other than guards, custodial and clinical
- 7 staff, and an attorney, for 16 or more hours per day.
- 8 (2) “Ward” means a person who has been declared a ward of
- 9 the court pursuant to subdivision (a) of Section 602.
- 10 (b) (1) A minor or ward who is detained in, or sentenced to,
- 11 any juvenile facility, jail, or other secure state or local facility shall
- 12 not be subject to solitary confinement, unless the minor or ward
- 13 poses an immediate and substantial risk of harm to others or to the
- 14 security of the facility, and all other less-restrictive options have
- 15 been exhausted. A minor or ward may be held in solitary
- 16 confinement only for the minimum time required to address the
- 17 safety risk, but only if the mental and physical health of the minor
- 18 or ward is not compromised.
- 19 (2) A minor or ward shall be evaluated by clinical staff to
- 20 determine whether either of the following apply to the minor or
- 21 ward. If either of the following apply, clinical staff shall issue a

1 written directive that the minor or ward shall not be placed in
2 solitary confinement:

3 (A) Placement in solitary confinement would exacerbate his or
4 her mental health condition or illness.

5 (B) Placement in solitary confinement would contribute to
6 suicidal acts or other self-harming behavior.

7 (3) Evaluations pursuant to paragraph (2) shall be incorporated
8 into the initial intake assessment made by clinical staff before a
9 minor or ward is detained or committed to placement, either
10 preadjudication or postadjudication, and shall be reviewed during
11 regularly scheduled mental health appointments, assessments, or
12 evaluations with clinical staff.

13 (4) If the clinical staff approves placing the minor or ward in
14 solitary confinement, the supervisor of the clinical staff may review
15 the report and shall have the authority to overrule the
16 recommendation for placement in solitary confinement.

17 (c) Solitary confinement shall not be used for the purposes of
18 discipline or punishment.

19 (d) A minor or ward who has exhibited suicidal behavior or
20 committed acts of self-harm shall not be subject to solitary
21 confinement.

22 (e) A minor or ward placed in solitary confinement shall not be
23 deprived of any of the following:

24 (1) Bed and bedding.

25 (2) Daily shower, access to a drinking fountain, a toilet, personal
26 hygiene items, and clean clothing.

27 (3) Full nutrition.

28 (4) Contact with attorneys.

29 (5) Exercise.

30 (6) Medical services and mental health counseling.

31 (7) Religious services.

32 (8) Clean and sanitary living conditions.

33 (9) The right to send and receive mail.

34 (10) Education.

35 (11) Telephone calls and visitation during regular visiting hours.

36 (f) A minor whose disposition is in a county juvenile facility,
37 group home, or other probation-contracted facility shall not be
38 placed in solitary confinement within 60 days of his or her program
39 completion date. A ward confined to the custody of the Department
40 of Corrections and Rehabilitation, Division of Juvenile Facilities,

1 shall not be placed in solitary confinement within 150 days of his
2 or her discharge consideration.

3 (g) A minor or ward may request placement in solitary
4 confinement. The request may be granted only under exceptional
5 circumstances with the approval of the facility superintendent,
6 county probation chief, or facility principal, or the designee of any
7 of those persons, and if relevant, only after paragraphs (2) and (3)
8 of subdivision (b) have been satisfied. The facility superintendent,
9 county probation chief, or facility principal, or the designee of any
10 of those persons, shall explain in writing the reason for granting
11 or denying the request. A minor or ward in solitary confinement
12 based solely on his or her request may request, and shall be granted,
13 release from solitary confinement at any time.

14 (h) Clinical staff shall evaluate a minor or ward in solitary
15 confinement daily to determine whether the minor or ward shall
16 remain in solitary confinement.

17 (i) Nothing in this section shall be construed to conflict with
18 any law providing greater or additional protections to minors or
19 wards.

20 SEC. 2. If the Commission on State Mandates determines that
21 this act contains costs mandated by the state, reimbursement to
22 local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.