

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1363

Introduced by Senator Yee
(Coauthor: Senator Vargas)
(Coauthor: Assembly Member Ammiano)

February 24, 2012

An act to amend Sections 225, 226, 229, and 230 of, and to add Section 208.3 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

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

Existing

(1) *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 *in accordance with specified guidelines, including that the minor or ward be held in solitary confinement only* for the minimum time required to address the safety

risk, ~~but only if and that does not compromise~~ 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~~ *face to face within one hour after placement, and every 4 hours thereafter, as specified.* The bill would require treatment staff to implement an individualized suicide crisis intervention plan, as specified, before subjecting a minor or ward who has exhibited suicidal behavior or committed acts of self-harm to solitary confinement. By increasing the duties of local juvenile facilities, the bill would impose a state-mandated local program.

(2) *Existing law establishes a juvenile justice commission in each county, but authorizes the boards of supervisors of 2 or more adjacent counties to agree to establish a regional juvenile justice commission in lieu of a county juvenile justice commission. Existing law specifies the membership of these commissions, including that 2 or more members shall be persons who are between 14 and 21 years of age, inclusive, and that a regional juvenile justice commission shall consist of not less than 8 citizens. Existing law requires a juvenile justice commission to annually inspect any jail or lockup that, in the preceding calendar year, was used for confinement for more than 24 hours of any minor, and to report the results of the inspection, together with its recommendations based thereon, in writing, to the juvenile court and the Board of State and Community Corrections. Existing law authorizes a commission to recommend to any person charged with the administration of the Juvenile Court Law those changes as it has concluded, after investigation, will be beneficial, and to publicize its recommendations.*

This bill would provide that 2 or more members of these commissions shall be parents or guardians of previously or currently incarcerated youth, and one member shall be a licensed social worker with expertise in adolescent development. The bill also would increase from 8 to 10 the minimum number of members of a regional juvenile justice commission. The bill would require a juvenile justice commission, as

part of its annual inspection of facilities, to review the records of the jail, lockup, or facility as to the use of solitary confinement, and to report the results of the inspection, together with its recommendations based thereon, in writing, to the juvenile court, the county board of supervisors, and the Board of State and Community Corrections. The bill would require the commission to present its report at an annual hearing on the condition of juvenile justice corrections as part of a regularly scheduled public meeting of the county board of supervisors, and to publish the report on the county government Internet Web site. The bill also would require a commission to publicize its recommendations made to any person charged with administration of the Juvenile Court Law on the county government Internet Web site.

~~The~~

(3) *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) *“Clinician” means a licensed health or mental health care*
6 *professional.*

7 (2) *“Minor” means a person who is under 18 years of age or*
8 *a person under the maximum age of juvenile court jurisdiction*
9 *who is confined in a juvenile facility.*

10 ~~(1)~~

11 (3) *“Solitary confinement” means the involuntary holding of a*
12 *person in isolation from persons, other than guards, custodial and*
13 *clinical staff, and an attorney, for 16 or more hours per day a room,*
14 *cell, or area from which the person is prevented from leaving.*

15 ~~(2)~~

1 (4) “Ward” means a person who has been declared a ward of
2 the court pursuant to subdivision (a) of Section 602.

3 (b) ~~(1)~~—A minor or ward who is detained in, or sentenced to,
4 any juvenile facility, jail, or other secure state or local facility shall
5 not be subject to solitary confinement, unless the minor or ward
6 poses an immediate and substantial risk of harm to others or to the
7 security of the facility, and all other less-restrictive options have
8 been exhausted. A minor or ward may be held in solitary
9 confinement only ~~for the minimum time required to address the~~
10 ~~safety risk, but only if the mental and physical health of the minor~~
11 ~~or ward is not compromised. in accordance with all of the following~~
12 ~~guidelines:~~

13 (1) *The minor or ward shall be held in solitary confinement*
14 *only for the minimum time required to address the safety risk, and*
15 *that does not compromise the mental and physical health of the*
16 *minor or ward.*

17 (2) *The minor or ward shall be evaluated face to face by a*
18 *clinician within one hour after placement in solitary confinement,*
19 *and every four hours thereafter to determine if the minor or ward*
20 *shall remain in solitary confinement. Each evaluation shall be*
21 *documented and shall include the reason for continued placement*
22 *in solitary confinement.*

23 (3) *The minor or ward shall not be placed in solitary*
24 *confinement for more than 24 consecutive hours in a one-week*
25 *period without the written approval of the Chief of the Division of*
26 *Juvenile Facilities or his or her designee.*

27 ~~(2) A minor or ward shall be evaluated by clinical staff to~~
28 ~~determine whether either of the following apply to the minor or~~
29 ~~ward. If either of the following apply, clinical staff shall issue a~~
30 ~~written directive that the minor or ward shall not be placed in~~
31 ~~solitary confinement:~~

32 ~~(A) Placement in solitary confinement would exacerbate his or~~
33 ~~her mental health condition or illness.~~

34 ~~(B) Placement in solitary confinement would contribute to~~
35 ~~suicidal acts or other self-harming behavior.~~

36 ~~(3) Evaluations pursuant to paragraph (2) shall be incorporated~~
37 ~~into the initial intake assessment made by clinical staff before a~~
38 ~~minor or ward is detained or committed to placement, either~~
39 ~~preadjudication or postadjudication, and shall be reviewed during~~

1 ~~regularly scheduled mental health appointments, assessments, or~~
2 ~~evaluations with clinical staff.~~

3 ~~(4) If the clinical staff approves placing the minor or ward in~~
4 ~~solitary confinement, the supervisor of the clinical staff may review~~
5 ~~the report and shall have the authority to overrule the~~
6 ~~recommendation for placement in solitary confinement.~~

7 (c) Solitary confinement shall not be used for the purposes of
8 discipline ~~or~~, punishment, *coercion, convenience, or retaliation*
9 *by staff.*

10 (d) (1) A minor or ward who has exhibited suicidal behavior
11 or committed acts of self-harm shall not be subject to solitary
12 confinement, *except as provided in paragraphs (1) and (2) of*
13 *subdivision (b), and if both of the following conditions are met:*

14 (A) *The condition of the minor or ward is monitored closely by*
15 *a clinician in order to reduce and eliminate the risk of self-harm.*

16 (B) *Treatment staff implement an individualized suicide crisis*
17 *intervention plan approved by a clinician within four hours of*
18 *placing the minor or ward in solitary confinement.*

19 (2) *The minor or ward shall be moved to an off-site hospital or*
20 *mental health hospital if the suicide risk is not resolved within 24*
21 *hours.*

22 (e) *Each local and state juvenile facility shall document the*
23 *usage of solitary confinement, including the dates and duration*
24 *of each occurrence and the reason for placement in solitary*
25 *confinement. These records shall be available for public inspection*
26 *pursuant to the California Public Records Act (Chapter 3.5*
27 *(commencing with Section 6250) of Division 7 of Title 1 of the*
28 *Government Code).*

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

31 ~~(1) Bed and bedding.~~

32 ~~(2) Daily shower, access to a drinking fountain, a toilet, personal~~
33 ~~hygiene items, and clean clothing.~~

34 ~~(3) Full nutrition.~~

35 ~~(4) Contact with attorneys.~~

36 ~~(5) Exercise.~~

37 ~~(6) Medical services and mental health counseling.~~

38 ~~(7) Religious services.~~

39 ~~(8) Clean and sanitary living conditions.~~

40 ~~(9) The right to send and receive mail.~~

1 ~~(10) Education.~~

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

3 ~~(f) A minor whose disposition is in a county juvenile facility,~~
4 ~~group home, or other probation-contracted facility shall not be~~
5 ~~placed in solitary confinement within 60 days of his or her program~~
6 ~~completion date. A ward confined to the custody of the Department~~
7 ~~of Corrections and Rehabilitation, Division of Juvenile Facilities,~~
8 ~~shall not be placed in solitary confinement within 150 days of his~~
9 ~~or her discharge consideration.~~

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

21 ~~(h) Clinical staff shall evaluate a minor or ward in solitary~~
22 ~~confinement daily to determine whether the minor or ward shall~~
23 ~~remain in solitary confinement.~~

24 ~~(i)~~

25 ~~(f) Nothing in this section shall be construed to conflict with~~
26 ~~any law providing greater or additional protections to minors or~~
27 ~~wards.~~

28 *SEC. 2. Section 225 of the Welfare and Institutions Code is*
29 *amended to read:*

30 225. (a) In each county there shall be a juvenile justice
31 commission consisting of not less than ~~7~~ seven and no more than
32 15 citizens. Two or more of the members shall be persons who are
33 between 14 and 21 years of age, ~~provided inclusive, if there are~~
34 ~~available persons between 14 and 21 years of age who are able to~~
35 ~~carry out the duties of a commission member in a manner~~
36 ~~satisfactory to the appointing authority. Two or more members~~
37 ~~shall be parents or guardians of previously or currently~~
38 ~~incarcerated youth. One member shall be a licensed social worker~~
39 ~~with expertise in adolescent development. Each person serving as~~
40 ~~a member of a probation committee immediately prior to~~

1 September 15, 1961, shall be a member of the juvenile justice
 2 commission and shall continue to serve as such until ~~such time as~~
 3 his or her term of appointment as a member of the probation
 4 committee would have expired under any prior ~~provision of law.~~
 5 Upon a vacancy occurring in the membership of the commission,
 6 and upon the expiration of the term of office of any member, a
 7 successor shall be appointed by the presiding judge of the superior
 8 court with the concurrence of the judge of the juvenile court or,
 9 in a county having more than one judge of the juvenile court, with
 10 the concurrence of the presiding judge of the juvenile court for a
 11 term of four years. ~~When~~ *If* a vacancy occurs for any reason other
 12 than the expiration of a term of office, the appointee to fill ~~such~~
 13 *the* vacancy shall hold office for the unexpired term of his or her
 14 predecessor.

15 **Appointments**

16 (b) *Appointments* may be made by the presiding judge of the
 17 superior court, in the same manner designated in this section for
 18 the filling of vacancies, to increase the membership of a
 19 commission to the maximum of 15 in any county ~~which~~ *that* has
 20 a commission with a membership of less than 15 members.

21 **In**

22 (c) *In* any county in which the membership of the commission,
 23 on the effective date of amendments to this section enacted at the
 24 1971 Regular Session of the Legislature, exceeds the maximum
 25 number permitted by this section, no additional appointments shall
 26 be made until the number of commissioners is less than the
 27 maximum number permitted by this section. In any case, ~~such~~ *that*
 28 county's commission membership shall, on or after January 1,
 29 1974, be no greater than the maximum permitted by this section.

30 *SEC. 3. Section 226 of the Welfare and Institutions Code is*
 31 *amended to read:*

32 226. In lieu of county juvenile justice commissions, the boards
 33 of supervisors of two or more adjacent counties may agree to
 34 establish a regional juvenile justice commission consisting of not
 35 less than ~~eight~~ *ten* citizens, and having a sufficient number of
 36 members so that their appointment may be equally apportioned
 37 between the participating counties. Two or more ~~of the~~ members
 38 shall be persons who are between 14 and 21 years of age, ~~provided~~
 39 *inclusive*, if there are available persons between 14 and 21 years
 40 of age who are able to carry out the duties of a commission member

1 in a manner satisfactory to the appointing authority. *Two or more*
 2 *members shall be parents or guardians of previously or currently*
 3 *incarcerated youth. One member shall be a licensed social worker*
 4 *with expertise in adolescent development.* The presiding judge of
 5 the superior court with the concurrence of the judge of the juvenile
 6 court or, in a county having more than one judge of the juvenile
 7 court, with the concurrence of the presiding judge of the juvenile
 8 court of each of the participating counties shall appoint an equal
 9 number of members to the regional justice commission and ~~they~~
 10 *the members* shall hold office for a term of four years. Of those
 11 first appointed, however, if the number appointed ~~be is~~ an even
 12 number, half shall serve for a term of two years and half shall serve
 13 for a term of four years ~~and if~~. *If* the number of members first
 14 appointed ~~be is~~ an odd number, the greater number nearest half
 15 shall serve for a term of two years and the remainder shall serve
 16 for a term of four years. The respective terms of the members first
 17 appointed shall be determined by lot as soon as possible after their
 18 appointment. Upon a vacancy occurring in the membership of the
 19 commission, and upon the expiration of the term of office of any
 20 member, a successor shall be appointed by the presiding judge of
 21 the superior court with the concurrence of the judge of the juvenile
 22 court or, in a county having more than one judge of the juvenile
 23 court, with the concurrence of the presiding judge of the juvenile
 24 court of the county ~~which that originally appointed such the~~
 25 *vacating or retiring member.* ~~When~~ *If* a vacancy occurs for any
 26 reason other than the expiration of a term of office, the appointee
 27 shall hold office for the unexpired term of his or her predecessor.

28 *SEC. 4. Section 229 of the Welfare and Institutions Code is*
 29 *amended to read:*

30 229. (a) It shall be the duty of a juvenile justice commission
 31 to inquire into the administration of the juvenile court law in the
 32 county or region in which the commission serves. For this purpose
 33 the commission shall have access to all publicly administered
 34 institutions authorized or whose use is authorized by this chapter
 35 situated in the county or region, shall inspect ~~such those~~ institutions
 36 ~~no less frequently than~~ *at least* once a year, and may hold *public*
 37 hearings. A judge of the juvenile court ~~shall have the power to~~
 38 *may* issue subpoenas requiring attendance and testimony of
 39 witnesses and production of papers at hearings of the commission.

40 A

1 (b) A juvenile justice commission shall annually inspect any
 2 jail ~~or~~, lockup, or facility within the county ~~which~~ that, in the
 3 preceding calendar year, was used for confinement for more than
 4 24 hours of any minor. ~~It~~ As part of the annual inspection, the
 5 commission shall review the records of the jail, lockup, or facility
 6 as to the use of solitary confinement, as defined in paragraph (3)
 7 of subdivision (a) of Section 208.3. The commission shall report
 8 the results of ~~such~~ the inspection, together with its
 9 recommendations based thereon, in writing, to the juvenile court,
 10 the county board of supervisors, and ~~to the Board of Corrections~~
 11 the Board of State and Community Corrections. The commission
 12 shall present its report at an annual hearing on the condition of
 13 juvenile justice corrections as part of a regularly scheduled public
 14 meeting of the county board of supervisors, and shall publish the
 15 report on the county government Internet Web site.

16 SEC. 5. Section 230 of the Welfare and Institutions Code is
 17 amended to read:

18 230. A juvenile justice commission may recommend to any
 19 person charged with the administration of any of the provisions
 20 of this chapter ~~such~~ those changes as it has concluded, after
 21 investigation, will be beneficial. A commission ~~may~~ shall publicize
 22 its recommendations on the county government Internet Web site.

23 ~~SEC. 2.~~

24 SEC. 6. If the Commission on State Mandates determines that
 25 this act contains costs mandated by the state, reimbursement to
 26 local agencies and school districts for those costs shall be made
 27 pursuant to Part 7 (commencing with Section 17500) of Division
 28 4 of Title 2 of the Government Code.