

**Introduced by Senator Liu**

February 1, 2013

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An act to add Section 634.3 to the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 166, as introduced, Liu. Juveniles: attorney qualifications.

Existing law provides that any person under 18 years of age who commits a crime is within the jurisdiction of the juvenile court, except as specified. Existing law further provides that a minor has the right to counsel in proceedings to declare the minor a ward of the court. If the minor and his or her parents are indigent, the minor is entitled to appointed counsel.

This bill would require the Judicial Council to establish minimum hours of training and education necessary in order to be appointed as counsel in delinquency proceedings, and would provide that training hours approved by the State Bar shall be counted toward Minimum Continuing Legal Education (MCLE). The bill would require the Judicial Council to adopt rules of court in this regard, including, among other things, establishing required training areas and encouraging public defender offices and other agencies that represent minors in delinquency cases to provide juvenile delinquency training.

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

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

- 1 SECTION 1. Section 634.3 is added to the Welfare and
- 2 Institutions Code, to read:

1 634.3. (a) The Legislature finds and declares all of the  
2 following:

3 (1) As representing minors in the juvenile justice system has  
4 become much more complex, and the potential consequences of  
5 juvenile court involvement have become more severe than when  
6 the Arnold-Kennick Juvenile Court Law (Chapter 2 (commencing  
7 with Section 200) was enacted, delinquency attorneys need  
8 specialized skills, education, and training to ensure proper  
9 representation of minors in juvenile delinquency court.

10 (2) Competent legal representation by defense attorneys is  
11 needed to preserve the integrity of the juvenile justice system,  
12 prevent wrongful judgments, reduce unnecessary incarceration,  
13 and help ensure that minors receive the care, treatment, and  
14 guidance upon which the juvenile justice system is premised.

15 (3) It is essential that California’s juvenile delinquency defense  
16 attorneys have the appropriate knowledge and skills needed to  
17 meet the demands of this increasingly complex area of legal  
18 practice. Advances in brain research demonstrate that children and  
19 adolescents do not possess the same cognitive, emotional,  
20 decisionmaking, and behavioral capacities as adults. Counsel must  
21 ensure that these differences are appropriately recognized in the  
22 attorney-client relationship and defense of the case.

23 (4) It is essential that delinquency attorneys provide diligent  
24 and conscientious advocacy and make rational and informed  
25 decisions founded on adequate investigation and preparation.

26 (5) It is essential that delinquency attorneys represent the  
27 expressed interests of the minor, meet regularly with the minor,  
28 and maintain a confidential relationship with the minor. The  
29 attorney for the minor should have sufficient contact with the minor  
30 to establish and maintain a meaningful and professional  
31 attorney-client relationship.

32 (6) When appropriate, delinquency attorneys should consult  
33 with social workers, mental health experts, and other experts for  
34 the minor’s defense, and, when appropriate, seek appointment of  
35 those experts pursuant to Sections 730 and 952 of the Evidence  
36 Code.

37 (b) The Judicial Council shall establish minimum hours of  
38 training and education necessary in order to be appointed as counsel  
39 in delinquency proceedings. Training hours that the State Bar has  
40 approved for Minimum Continuing Legal Education (MCLE)

1 credit shall be counted toward the MCLE hours required of all  
2 attorneys by the State Bar.

3 (c) The Judicial Council shall adopt rules of court to do all of  
4 the following:

5 (1) Establish required training areas that include, but are not  
6 limited to, developments in juvenile delinquency law, child and  
7 adolescent development, special education, mental health issues,  
8 child abuse and neglect, counsel's ethical duties, appellate issues,  
9 direct and collateral consequences for a minor of court  
10 involvement, and securing effective rehabilitative resources.

11 (2) Encourage public defender offices and agencies that provide  
12 representation in proceedings under Sections 601 and 602 to  
13 provide training on juvenile delinquency issues that the State Bar  
14 has approved for MCLE credit. District attorneys should also be  
15 encouraged to pursue education in the relevant areas.

16 (3) Provide that experts whose appointment is requested by  
17 delinquency attorneys are agents of the attorneys and require those  
18 experts to adhere to the attorney-client privilege under Article 3  
19 (commencing with Section 950) of Chapter 4 of Division 8 of the  
20 Evidence Code.

21 (4) Provide that attorneys practicing in juvenile delinquency  
22 courts shall be solely responsible for compliance with the training  
23 and education requirements adopted pursuant to this section.

24 (d) The rules adopted pursuant to this section shall not require  
25 a delinquency attorney to do any of the following:

26 (1) Assume the responsibilities of a probation officer, social  
27 worker, parent, or guardian.

28 (2) Provide nonlegal services or assistance to the minor.

29 (3) Represent the minor in any proceeding outside of the  
30 delinquency proceedings.