

AMENDED IN SENATE JANUARY 17, 2014

AMENDED IN SENATE JANUARY 6, 2014

SENATE BILL

No. 166

Introduced by Senator Liu

February 1, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

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

Existing law ~~provides that~~ *subjects* any person under 18 years of age who commits a crime ~~is within~~ *to* the jurisdiction of the juvenile court, *which may adjudge such person to be a ward of the court*, except as specified. ~~Existing law further provides that~~ *Under existing law*, a minor has the right to counsel *of his or her own choice* 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 *defense* counsel in delinquency proceedings, and would ~~provide~~ *require* that training hours approved by the State Bar ~~shall~~ be counted toward Minimum Continuing Legal Education (MCLE). The bill would specify that these hours do not increase the minimum number of MCLE hours required of all attorneys by the State Bar. The bill would require the Judicial Council, by July 1, 2015, 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. *The bill would state legislative findings and declarations regarding the*

necessity for specialized training and education for defense counsel in delinquency proceedings.

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:~~

3 ~~634.3. (a) The~~

4 *SECTION 1. The Legislature finds and declares all of the*
5 *following:*

6 ~~(1)~~

7 *(a) Because representing minors in the juvenile justice system*
8 *has become much more complex, and the potential consequences*
9 *of juvenile court involvement have become more severe than when*
10 *the Arnold-Kennick Juvenile Court Law (Chapter 2 (commencing*
11 *with Section 200) of the Welfare and Institutions Code) was*
12 *enacted, delinquency defense attorneys need specialized skills,*
13 *education, and training to ensure proper representation of minors*
14 *in juvenile delinquency court.*

15 ~~(2)~~

16 *(b) Competent legal representation by defense attorneys is*
17 *needed to preserve the integrity of the juvenile justice system,*
18 *prevent wrongful judgments, reduce unnecessary incarceration,*
19 *and help ensure that minors receive the care, treatment, and*
20 *guidance upon which the juvenile justice system is premised.*

21 ~~(3)~~

22 *(c) It is essential that California’s juvenile delinquency defense*
23 *attorneys have the appropriate knowledge and skills needed to*
24 *meet the demands of this increasingly complex area of legal*
25 *practice. Advances in brain research demonstrate that children and*
26 *adolescents do not possess the same cognitive, emotional,*
27 *decisionmaking, and behavioral capacities as adults. Counsel must*
28 *ensure that these differences are appropriately recognized in the*
29 *attorney-client relationship and defense of the case.*

30 ~~(4)~~

31 *(d) It is essential that delinquency defense attorneys provide*
32 *diligent and conscientious advocacy and make rational and*

1 informed decisions founded on adequate investigation and
2 preparation.

3 ~~(5)~~

4 (e) It is essential that delinquency defense attorneys represent
5 the expressed interests of the minor, meet regularly with the minor,
6 and maintain a confidential relationship with the minor. The
7 attorney for the minor should have sufficient contact with the minor
8 to establish and maintain a meaningful and professional
9 attorney-client relationship.

10 ~~(6)~~

11 (f) When appropriate, delinquency defense attorneys should
12 consult with social workers, mental health experts, and other
13 experts for the minor's defense, and, when appropriate, seek
14 appointment of those experts pursuant to Sections 730 and 952 of
15 the Evidence Code.

16 ~~(b) The~~

17 *SEC. 2. Section 634.3 is added to the Welfare and Institutions*
18 *Code, to read:*

19 634.3. (a) The Judicial Council shall establish a minimum
20 number of hours of training and education necessary in order to
21 be appointed as defense counsel in delinquency proceedings.
22 Training hours that the State Bar has approved for Minimum
23 Continuing Legal Education (MCLE) credit shall be counted
24 toward the MCLE hours required of all attorneys by the State Bar.
25 The minimum number of hours of training and education
26 established by the Judicial Council pursuant to this section shall
27 not increase the minimum number of MCLE hours required of all
28 attorneys by the State Bar.

29 ~~(e)~~

30 (b) By July 1, 2015, the Judicial Council shall adopt rules of
31 court to do all of the following:

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

38 (2) Encourage public defender offices and agencies that provide
39 representation in proceedings under Sections 601 and 602 to
40 provide training on juvenile delinquency issues that the State Bar

1 has approved for MCLE credit. District attorneys should also be
2 encouraged to pursue education in the relevant areas.

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

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

11 ~~(d)~~

12 (c) The rules adopted pursuant to this section shall not require
13 a delinquency attorney to do any of the following:

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

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

17 (3) Represent the minor in any proceeding outside of the
18 delinquency proceedings.