

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE APRIL 21, 2015

SENATE BILL

No. 124

Introduced by Senator Leno
(Coauthors: Senators Pan and Wieckowski)
(Coauthors: Assembly Members Cooley and Gordon)

January 16, 2015

An act to amend Sections 225, 226, 229, ~~230, and 240~~ *and 230* of, and to add Section 208.3 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 124, as amended, Leno. Juveniles: solitary confinement.

(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.

Existing law, the Lanterman-Petris-Short Act, authorizes the involuntary detention for a period of 72 hours for evaluation of persons, including minors, who are dangerous to self or others, or gravely disabled, as defined.

This bill would prohibit a person confined in a juvenile facility who is ~~a~~ *an imminent* danger to himself, herself, or others as a result of a mental disorder, or who is gravely disabled, from being subject to solitary confinement, ~~and would require that the person be transported~~

~~to, and evaluated at, a designated facility.~~ *confinement*. The bill would also prohibit a person, other than one described above, who is detained in any secure state or local juvenile facility from being subject to solitary confinement unless certain conditions are satisfied, including that the person poses an immediate and substantial risk of harm to the security of the facility, ~~poses an immediate and substantial risk of harm to himself or herself, or to others that is not the result of a mental disorder, or poses a risk of harm to himself or herself that is not a result of a mental disorder.~~ *disorder*. The bill would permit, if those conditions are satisfied, the person to be held in solitary confinement only in accordance with specified guidelines, including that the person be held in solitary confinement only for the minimum time required to address the risk, and that does not compromise the mental and physical health of the person, but no longer than 4 hours. The bill would require each local and state juvenile facility to document the usage of solitary confinement, as prescribed. 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 14 to 21 years of age, inclusive, and that a regional juvenile justice commission shall consist of not less than 8 citizens.

~~Existing law also establishes a probation commission, consisting of not less than 7 members, in lieu of a juvenile justice commission in counties with a population in excess of 6,000,000.~~

This bill would increase the membership of a regional juvenile justice commission to no less than 10 ~~members and would require a probation commission to include 2 or more members who are 14 to 21 years of age, inclusive.~~ *members*. The bill would also require that 2 or more members of a juvenile justice ~~commission,~~ *commission* or a regional juvenile justice ~~commission, or a probation commission~~ be parents or guardians of previously or currently incarcerated youth, and one member be a licensed psychiatrist, licensed psychologist, or licensed clinical social worker with expertise in adolescent development.

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.

This bill would instead require a juvenile justice commission ~~and a probation commission~~ to inspect any jail, lockup, or facility that, in the preceding calendar year, was used for confinement for more than 24 hours of any ~~person~~ *minor* and would require, as a part of that inspection, a review of the records of the jail, lockup, or facility relating to the use of solitary confinement. The bill would require the commission to report the results of the inspection, together with its recommendations based thereon, in writing, to the juvenile court, the Board of State and Community Corrections, and the county board of supervisors. The bill would require the commission to annually present its report at a regularly scheduled public meeting of the county board of supervisors, and to publish the report on the county government's Internet Web site. The bill also would authorize a commission to publicize its recommendations made to any person charged with administration of the Juvenile Court Law on the county government's Internet Web site or other publicly accessible medium.

By increasing the duties of local commissions and county boards of supervisors, this bill would impose a state-mandated local program.

(3) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(4) 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:

SECTION 1. Section 208.3 is added to the Welfare and Institutions Code, to read:

208.3. (a) For purposes of this section, the following definitions shall apply:

(1) “Juvenile facility” includes any of the following:

(A) A juvenile hall, as described in Section 850.

(B) A juvenile camp or ranch, as described in Article 24 (commencing with Section 880).

(C) A facility of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(D) A regional youth educational facility, as described in Section 894.

(E) A youth correctional center, as described in Article 9 (commencing with Section 1850) of Chapter 1 of Division 2.5.

(F) Any other local or state facility used for the confinement of minors or wards.

(2) “Minor” means a person who is any of the following:

(A) A person under 18 years of age.

(B) A person under the maximum age of juvenile court jurisdiction who is confined in a juvenile facility.

(C) A person under the jurisdiction of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(3) “Solitary confinement” means the placement of an incarcerated person in a locked *sleep* room or cell alone with minimal or no contact with persons other than guards, correctional facility staff, and attorneys. Solitary confinement does not include confinement of a person in a single-person room or cell for brief periods of locked-room confinement necessary for required institutional operations, including, but not limited to, shift changes, showering, and unit movements.

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

(b) A person confined in a juvenile facility who is ~~a~~ *an imminent* danger to himself, herself, or others as a result of a mental disorder, or who is gravely disabled, as defined in subdivision (h) of Section 5008, shall not be subject to solitary confinement, ~~and shall be transported to, and evaluated at, a designated facility, as defined~~

1 ~~in subdivision (n) of Section 5008, pursuant to Section 5150 or~~
2 ~~Section 5585.50: confinement.~~

3 (c) A person confined in any secure state or local juvenile
4 facility, and who is not described in subdivision (b), shall be subject
5 to solitary confinement only if all of the following are true:

6 (1) The person poses an immediate and substantial risk of harm
7 to the security of the facility, ~~the person poses an immediate and~~
8 ~~substantial risk of harm to to himself or herself, or to others that~~
9 ~~is not the result of a mental disorder, or the person poses a risk of~~
10 ~~harm to himself or herself that is not a result of a mental disorder.~~
11 *disorder.*

12 (2) All other less-restrictive options to address the risk have
13 been attempted and exhausted.

14 (3) The performance of solitary confinement is done in
15 accordance with the following guidelines:

16 (A) The person may be held in solitary confinement only for
17 the minimum time required to address the risk, and for a period of
18 time that does not compromise the mental and physical health of
19 the minor or ward, but not to exceed four hours. After the person
20 is held in solitary confinement, the person shall be returned to
21 regular programming or placed in individualized programming
22 that does not involve solitary confinement. ~~If it appears during the~~
23 ~~time a person is held in solitary confinement that the person is~~
24 ~~suffering from a mental disorder, the juvenile facility shall consult~~
25 ~~with a qualified mental health professional to determine whether~~
26 ~~the person suffers from a mental disorder. If the person suffers~~
27 ~~from a mental disorder that may warrant a higher level of care than~~
28 ~~can be provided at the juvenile facility and the person continues~~
29 ~~to pose a risk of harm, the juvenile facility shall transport the~~
30 ~~person to a mental health facility. If a person who is released from~~
31 ~~solitary confinement and is returned to regular or individualized~~
32 ~~programming poses an immediate and substantial risk of harm to~~
33 ~~himself or herself, or to others, he or she may be placed back into~~
34 ~~solitary confinement only in accordance with the protections and~~
35 ~~requirements of this section, and that confinement shall be treated~~
36 ~~as a new and separate use of solitary confinement for the purposes~~
37 ~~of subdivisions (c), (d), and (e).~~

38 (B) If a person in solitary confinement poses a risk of harm to
39 himself or herself that is not a result of a mental disorder, the

1 condition of the person shall be monitored closely by custody staff
2 of the juvenile facility.

3 (C) The use of consecutive periods of solitary confinement *in*
4 *excess of four hours* shall be prohibited.

5 (d) Solitary confinement shall not be used for the purposes of
6 discipline, punishment, coercion, convenience, or retaliation by
7 staff.

8 (e) ~~Each~~ *For each incident when solitary confinement is used,*
9 *each* local and state juvenile facility shall document the usage of
10 solitary confinement, including all of the following:

11 (1) The name, age, gender, and race of the person subject to
12 solitary confinement.

13 (2) The date and time the person was placed in solitary
14 confinement.

15 (3) The date and time the person was released from solitary
16 confinement.

17 (4) The name and position of person authorizing the placement
18 of the person in solitary confinement.

19 (5) The names of staff involved in the incident leading to the
20 use of solitary confinement.

21 (6) A description of circumstances leading to use of solitary
22 confinement.

23 (7) A description of alternative actions and sanctions attempted
24 and found unsuccessful.

25 (8) The dates and times when staff checked in on the person
26 when he or she was in solitary confinement, and the person's
27 behavior during the check.

28 (f) The records described in subdivision (e), excluding any
29 identifying information, shall be available for public inspection
30 pursuant to the California Public Records Act (Chapter 3.5
31 (commencing with Section 6250) of Division 7 of Title 1 of the
32 Government Code).

33 (g) *If a state or local juvenile facility currently documents the*
34 *usage of solitary confinement consistent with the requirements*
35 *imposed under subdivision (e) and meets the requirements of*
36 *subdivision (f), then duplicative documentation shall not be*
37 *required.*

38 ~~(g)~~

39 (h) This section is not intended to limit the use of single-person
40 rooms or cells for the housing of persons in juvenile facilities.

1 ~~(h)~~

2 (i) This section does not apply to minors or wards in court
3 holding facilities or adult facilities.

4 ~~(i)~~

5 (j) Nothing in this section shall be construed to conflict with
6 any law providing greater or additional protections to minors or
7 wards.

8 SEC. 2. Section 225 of the Welfare and Institutions Code is
9 amended to read:

10 225. (a) In each county there shall be a juvenile justice
11 commission consisting of not less than 7 and no more than 15
12 citizens. Two or more of the members shall be persons who are
13 14 to 21 years of age, inclusive. Two or more of the members shall
14 be parents or guardians of ~~previously or currently~~ incarcerated
15 youth. One member shall be a licensed psychiatrist, licensed
16 psychologist, or licensed clinical social worker with expertise in
17 adolescent development. Each person serving as a member of a
18 probation committee immediately prior to September 15, 1961,
19 shall be a member of the juvenile justice commission and shall
20 continue to serve until his or her term of appointment as a member
21 of the probation committee would have expired under any prior
22 law. Upon a vacancy occurring in the membership of the
23 commission, and upon the expiration of the term of office of any
24 member, a successor shall be appointed by the presiding judge of
25 the superior court with the concurrence of the judge of the juvenile
26 court or, in a county having more than one judge of the juvenile
27 court, with the concurrence of the presiding judge of the juvenile
28 court for a term of four years. If a vacancy occurs for any reason
29 other than the expiration of a term of office, the appointee to fill
30 the vacancy shall hold office for the unexpired term of his or her
31 predecessor.

32 (b) Appointments may be made by the presiding judge of the
33 superior court, in the same manner designated in this section for
34 the filling of vacancies, to increase the membership of a
35 commission to the maximum of 15 members in any county that
36 has a commission with a membership of less than 15 members.

37 (c) In any county in which the membership of the commission,
38 on the effective date of amendments to this section enacted at the
39 1971 Regular Session of the Legislature, exceeds the maximum
40 number permitted by this section, no additional appointments shall

1 be made until the number of commissioners is less than the
2 maximum number permitted by this section. In any case, that
3 county's commission membership shall, on or after January 1,
4 1974, be no greater than the maximum number permitted by this
5 section.

6 SEC. 3. Section 226 of the Welfare and Institutions Code is
7 amended to read:

8 226. In lieu of county juvenile justice commissions, the boards
9 of supervisors of two or more adjacent counties may agree to
10 establish a regional juvenile justice commission consisting of not
11 less than 10 citizens, and having a sufficient number of members
12 so that their appointment may be equally apportioned between the
13 participating counties. Two or more of the members shall be
14 persons who are 14 to 21 years of age, inclusive. Two or more of
15 the members shall be parents or guardians of previously-~~or~~
16 ~~currently~~ incarcerated youth. One member shall be a licensed
17 psychiatrist, licensed psychologist, or licensed clinical social
18 worker with expertise in adolescent development. The presiding
19 judge of the superior court with the concurrence of the judge of
20 the juvenile court or, in a county having more than one judge of
21 the juvenile court, with the concurrence of the presiding judge of
22 the juvenile court of each of the participating counties shall appoint
23 an equal number of members to the regional justice commission
24 and the members shall hold office for a term of four years. Of those
25 first appointed, however, if the number of members appointed is
26 an even number, one-half shall serve for a term of two years and
27 one-half shall serve for a term of four years. If the number of
28 members first appointed is an odd number, the greater number
29 nearest one-half shall serve for a term of two years and the
30 remainder shall serve for a term of four years. The respective terms
31 of the members first appointed shall be determined by lot as soon
32 as possible after their appointment. Upon a vacancy occurring in
33 the membership of the commission, and upon the expiration of the
34 term of office of any member, a successor shall be appointed by
35 the presiding judge of the superior court with the concurrence of
36 the judge of the juvenile court or, in a county having more than
37 one judge of the juvenile court, with the concurrence of the
38 presiding judge of the juvenile court of the county that originally
39 appointed the vacating or retiring member. If a vacancy occurs for
40 any reason other than the expiration of a term of office, the

1 appointee shall hold office for the unexpired term of his or her
2 predecessor.

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

5 229. (a) It shall be the duty of a juvenile justice commission
6 ~~or a probation commission~~ to inquire into the administration of
7 the juvenile court law in the county or region in which the
8 commission serves. For this purpose the commission shall have
9 access to all publicly administered institutions authorized or whose
10 use is authorized by this chapter situated in the county or region,
11 shall inspect those institutions at least once a year, and may hold
12 public hearings. A judge of the juvenile court may issue subpoenas
13 requiring attendance and testimony of witnesses and production
14 of papers at hearings of the commission.

15 (b) A juvenile justice commission ~~or probation commission~~
16 shall annually inspect any jail, lockup, or facility within the county
17 that, in the preceding calendar year, was used for confinement for
18 more than 24 hours of any ~~person~~ *minor*. As a part of the annual
19 inspection, a juvenile justice commission ~~or probation commission~~
20 shall review the records of the jail, lockup, or facility relating to
21 the use of solitary confinement, as defined in paragraph (3) of
22 subdivision (a) of Section 208.3. The commission shall report the
23 results of the inspection, together with its recommendations based
24 thereon, in writing, to the juvenile court, the county board of
25 supervisors, and to the Board of State and Community Corrections.
26 The report shall be presented annually as part of a regularly
27 scheduled public meeting of the county board of supervisors, and
28 may be published on the county government's Internet Web site.

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

31 230. A juvenile justice commission ~~or probation commission~~
32 may recommend to any person charged with the administration of
33 any of the provisions of this chapter those changes it has concluded,
34 after investigation, will be beneficial. A commission may publicize
35 its recommendations on the county government's Internet Web
36 site or other publicly accessible medium.

37 ~~SEC. 6. Section 240 of the Welfare and Institutions Code is~~
38 ~~amended to read:~~

39 ~~240. In counties having a population in excess of 6,000,000 in~~
40 ~~lieu of a county juvenile justice commission, there shall be a~~

~~probation commission consisting of not less than seven members who shall be appointed by the same authority as that authorized to appoint the probation officer in that county. Two or more of the members shall be 14 to 21 years of age, inclusive. Two or more of the members shall be parents or guardians of previously or currently incarcerated youth. One member shall be a licensed psychiatrist, licensed psychologist, or licensed clinical social worker with expertise in adolescent development.~~

~~SEC. 7.~~

SEC. 6. The Legislature finds and declares that Section 1 of this act, which adds Section 208.3 to the Welfare and Institutions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the privacy and medical information of persons confined in secure state and local juvenile facilities and held in solitary confinement, it is necessary that identifying information about those persons be kept confidential.

~~SEC. 8.~~

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