

**Assembly Bill No. 904**

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Passed the Assembly July 29, 1995

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*Chief Clerk of the Assembly*

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Passed the Senate July 29, 1995

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_ day  
of \_\_\_\_\_, 1995, at \_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_

An act to amend Section 290 of, and to repeal and add Sections 207.1, 872, 885, 886.5, and 896 of, the Welfare and Institutions Code, relating to minors, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

AB 904, Bowler. Corrections.

(1) Existing law provides that a minor who is alleged to have committed any one of specified offenses may be detained in a jail or other secure facility for the confinement of adults if certain conditions are met, including that the adult facility has been approved by the Department of the Youth Authority as an appropriate place for the detention of minors so transferred.

This bill would delete that condition.

(2) Existing law requires the Department of the Youth Authority to conduct an annual inspection of each jail, juvenile hall, lockup, or special purpose juvenile hall used to confine a minor for more than 24 hours. Existing law also authorizes the Department of the Youth Authority to inspect any law enforcement facility which contains a lockup for adults and which it has reason to believe may not be in compliance with specified requirements regarding the use of those facilities for the confinement of minors.

This bill would instead direct the Board of Corrections to conduct that annual inspection and would authorize the board to inspect any law enforcement facility used for the confinement of minors, as described above, as specified.

(3) Existing law requires the Department of the Youth Authority to establish a maximum population limit for each juvenile hall. Existing law also provides that when the juvenile hall of a county becomes unfit or unsafe for the detention of minors, the presiding or sole juvenile court judge may designate the juvenile hall of any county in the state for the detention of an individual minor for



up to 60 days, as specified. Existing law defines the terms “unfit” and “unsafe” for purposes of this provision to include a condition in which juvenile hall is considered by the Department of the Youth Authority to be too crowded for the proper and safe detention of minors.

This bill would delete the provision requiring the Department of the Youth Authority to establish a maximum population limit for each juvenile hall and revise the definitions described above to make a conforming change.

(4) Existing law provides that the Department of the Youth Authority shall adopt and prescribe the minimum standards of construction, operation, programs of education, and training and qualifications of personnel for juvenile homes, ranches, camps, or forestry camps. Existing law requires the department to annually inspect each juvenile home, ranch, camp, or forestry camp which was used to confine a minor for more than 24 hours, and prohibits the use of those facilities that are not in compliance.

This bill deletes the latter provision and instead requires every person in charge of one of those facilities to annually certify to the Department of the Youth Authority that the facility is in conformity with the regulations adopted by the department.

(5) Existing law prohibits any juvenile home, ranch, camp, or forestry camp, as specified, from receiving or containing more than 100 children at any one time, except where the Department of the Youth Authority has approved the request of a county to receive or contain up to 125 children.

This bill would instead permit a juvenile home, ranch, camp, or forestry camp to receive or contain up to 125 children, if the county has determined that there is a consistent need for placements in these facilities which exceeds the beds available in the county and has certified to the Department of the Youth Authority that the expanded facility will continue to meet minimum standards, as specified.



(6) Existing law requires the Department of the Youth Authority to conduct an annual inspection of each regional youth educational facility and to provide notice of its findings where a facility has been found not to be in compliance with specified standards. It prohibits the confinement of minors at any facility until the conditions which rendered the facility unsuitable have been remedied.

This bill would delete these provisions and would instead require persons in charge of those facilities to certify to the Department of the Youth Authority that the facilities are in conformity with specified regulations and standards.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 207.1 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 207.1 is added to the Welfare and Institutions Code, to read:

207.1. (a) No court, judge, referee, peace officer, or employee of a detention facility shall knowingly detain any minor in a jail or lockup, except as provided in subdivision (b) or (d).

(b) Any minor who is alleged to have committed an offense described in subdivision (b), paragraph (2) of subdivision (d), or subdivision (e) of Section 707 whose case is transferred to a court of criminal jurisdiction pursuant to Section 707.1 after a finding is made that he or she is not a fit and proper subject to be dealt with under the juvenile court law, or any minor who has been charged directly in or transferred to a court of criminal jurisdiction pursuant to Section 707.01, may be detained in a jail or other secure facility for the confinement of adults, if all of the following conditions are met:

(1) The juvenile court or the court of criminal jurisdiction makes a finding that the minor's further detention in the juvenile hall would endanger the safety



of the public or would be detrimental to the other minors in the juvenile hall.

(2) Contact between the minor and adults in the facility is restricted in accordance with Section 208.

(3) The minor is adequately supervised.

(c) A minor who is either found not to be a fit and proper subject to be dealt with under the juvenile court law or who will be transferred to a court of criminal jurisdiction pursuant to Section 707.01, at the time of transfer to a court of criminal jurisdiction or at the conclusion of the fitness hearing, as the case may be, shall be entitled to be released on bail or on his or her own recognizance upon the same circumstances, terms, and conditions as an adult who is alleged to have committed the same offense.

(d) A minor 14 years of age or older who is taken into temporary custody by a peace officer on the basis of being a person described by Section 602, and who, in the reasonable belief of the peace officer, presents a serious security risk of harm to self or others, may be securely detained in a law enforcement facility that contains a lockup for adults, if all of the following conditions are met:

(1) The minor is held in temporary custody for the purpose of investigating the case, facilitating release of the minor to a parent or guardian, or arranging transfer of the minor to an appropriate juvenile facility.

(2) The minor is detained in the law enforcement facility for a period that does not exceed six hours except as provided in subdivision (g).

(3) The minor is informed at the time he or she is securely detained of the purpose of the secure detention, of the length of time the secure detention is expected to last, and of the maximum six-hour period the secure detention is authorized to last. In the event an extension is granted pursuant to subdivision (g), the minor shall be informed of the length of time the extension is expected to last.

(4) Contact between the minor and adults confined in the facility is restricted in accordance with Section 208.

(5) The minor is adequately supervised.



(6) A log or other written record is maintained by the law enforcement agency showing the offense which is the basis for the secure detention of the minor in the facility, the reasons and circumstances forming the basis for the decision to place the minor in secure detention, and the length of time the minor was securely detained.

Any other minor who is taken into temporary custody by a peace officer on the basis that the minor is a person described by Section 602, may be taken to a law enforcement facility that contains a lockup for adults and may be held in temporary custody in the facility for the purposes of investigating the case, facilitating the release of the minor to a parent or guardian, or arranging for the transfer of the minor to an appropriate juvenile facility. However, while in the law enforcement facility, the minor may not be securely detained and shall be supervised in a manner so as to ensure that there will be no contact with adults in custody in the facility. If the minor is held in temporary, nonsecure custody within the facility, the peace officer shall exercise one of the dispositional options authorized by Sections 626 and 626.5 without unnecessary delay and, in every case, within six hours.

“Law enforcement facility,” as used in this subdivision, includes a police station or a sheriff’s station, but does not include a jail, as defined in subdivision (i).

(e) The Department of the Youth Authority shall assist law enforcement agencies, probation departments, and courts with the implementation of this section by doing all of the following:

(1) The Department of the Youth Authority shall advise each law enforcement agency, probation department, and court affected by this section as to its existence and effect.

(2) The Department of the Youth Authority shall make available and, upon request, shall provide technical assistance to each governmental agency that reported the confinement of a minor in a jail or lockup in calendar year 1984 or 1985. The purpose of this technical assistance is to develop alternatives to the use of jails or lockups for the



confinement of minors. These alternatives may include secure or nonsecure facilities located apart from an existing jail or lockup; improved transportation or access to juvenile halls or other juvenile facilities; and other programmatic alternatives recommended by the Department of the Youth Authority. The technical assistance shall take any form the Department of the Youth Authority deems appropriate for effective compliance with this section.

(f) The Department of the Youth Authority may exempt a county that does not have a juvenile hall, or may exempt an offshore law enforcement facility, from compliance with this section for a reasonable period of time, until December 1, 1992, for the purpose of allowing the county or the facility to develop alternatives to the use of jails and lockups for the confinement of minors, if all of the following conditions are met:

(1) The county or the facility submits a written request to the Department of the Youth Authority for an extension of time to comply with this section.

(2) The Department of the Youth Authority agrees to make available, and the county or the facility agrees to accept, technical assistance to develop alternatives to the use of jails and lockups for the confinement of minors during the period of the extension.

(3) The county or the facility requesting the extension submits to the Department of the Youth Authority a written plan for full compliance with this section by September 1, 1987.

(g) (1) Under the limited conditions of inclement weather, acts of God, or natural disasters that result in the temporary unavailability of transportation, an extension of the six-hour maximum period of detention set forth in paragraph (2) of subdivision (d) may be granted to a county by the Department of the Youth Authority. The extensions may only be granted by the Department of the Youth Authority on an individual, case-by-case basis. If the extension is granted, the detention of minors under those conditions shall not exceed the duration of the special conditions, plus a period reasonably necessary to



accomplish transportation of the minor to a suitable juvenile facility, not to exceed six hours after the restoration of available transportation.

A county that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (d). The county also shall provide a written report to the Department of the Youth Authority that specifies when the inclement weather, act of God, or natural disaster ceased to exist, when transportation availability was restored, and when the minor was delivered to a suitable juvenile facility. In the event that the minor was detained in excess of 24 hours, the Department of the Youth Authority shall verify the information contained in the report.

(2) Under the limited condition of temporary unavailability of transportation, an extension of the six-hour maximum period of detention set forth in paragraph (2) of subdivision (d) may be granted by the Department of the Youth Authority to an offshore law enforcement facility. The extension may be granted only by the Department of the Youth Authority on an individual, case-by-case basis. If the extension is granted, the detention of minors under those conditions shall extend only until the next available mode of transportation can be arranged.

An offshore law enforcement facility that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (d). The facility also shall provide a written report to the Department of the Youth Authority that specifies when the next mode of transportation became available, and when the minor was delivered to a suitable juvenile facility. In the event that the minor was detained in excess of 24 hours, the Department of the Youth Authority shall verify the information contained in the report.

(3) At least annually, the Department of the Youth Authority shall review and report on extensions sought and granted under this subdivision. If, upon that review, the Department of the Youth Authority determines that a county has sought one or more extensions resulting in



the excessive confinement of minors in adult facilities, or that a county is engaged in a pattern and practice of seeking extensions, it shall require the county to submit a detailed explanation of the reasons for the extensions sought and an assessment of the need for a conveniently located and suitable juvenile facility. Upon receiving this information, the Department of the Youth Authority shall make available, and the county shall accept, technical assistance for the purpose of developing suitable alternatives to the confinement of minors in adult lockups. Based upon the information provided by the county, the Department of the Youth Authority also may place limits on, or refuse to grant, future extensions requested by the county under this subdivision.

(h) Any county that did not have a juvenile hall on January 1, 1987, may establish a special purpose juvenile hall, as defined by the Department of the Youth Authority, for the detention of minors for a period not to exceed 96 hours. Any county that had a juvenile hall on January 1, 1987, also may establish, in addition to the juvenile hall, a special purpose juvenile hall. The Department of the Youth Authority shall prescribe minimum standards for any such facility.

(i) (1) "Jail," as used in this chapter, means any building that contains a locked facility administered by a law enforcement or governmental agency, the purpose of which is to detain adults who have been charged with violations of criminal law and are pending trial, or to hold convicted adult criminal offenders sentenced for less than one year.

(2) "Lockup," as used in this chapter, means any locked room or secure enclosure under the control of a sheriff or other peace officer which is primarily for the temporary confinement of adults upon arrest.

(3) "Offshore law enforcement facility," as used in this section, means a sheriff's station containing a lockup for adults that is located on an island located at least 22 miles from the California coastline.

(j) Nothing in this section shall be deemed to prevent a peace officer or employee of an adult detention facility



or jail from escorting a minor into the detention facility or jail for the purpose of administering an evaluation, test, or chemical test pursuant to Section 23157 of the Vehicle Code, if all of the following conditions are met:

(1) The minor is taken into custody by a peace officer on the basis of being a person described by Section 602 and there is no equipment for the administration of the evaluation, test, or chemical test located at a juvenile facility within a reasonable distance of the point where the minor was taken into custody.

(2) The minor is not locked in a cell or room within the adult detention facility or jail, is under the continuous, personal supervision of a peace officer or employee of the detention facility or jail, and is not permitted to come in contact or remain in contact with in-custody adults.

(3) The evaluation, test, or chemical test administered pursuant to Section 23157 of the Vehicle Code is performed as expeditiously as possible, so that the minor is not delayed unnecessarily within the adult detention facility or jail. Upon completion of the evaluation, test, or chemical test, the minor shall be removed from the detention facility or jail as soon as reasonably possible. No minor shall be held in custody in an adult detention facility or jail under the authority of this paragraph in excess of two hours.

SEC. 3. Section 209 of the Welfare and Institutions Code is amended to read:

209. (a) The judge of the juvenile court of a county, or, if there is more than one judge, any of the judges of the juvenile court shall, at least annually, inspect any jail, juvenile hall, or special purpose juvenile hall which, in the preceding calendar year, was used for confinement, for more than 24 hours, of any minor.

The judge shall note in the minutes of the court whether the facility is a suitable place for confinement of minors.

The Board of Corrections shall likewise conduct an annual inspection of each jail, juvenile hall, lockup, or special purpose juvenile hall situated in this state which,



during the preceding calendar year, was used for confinement, for more than 24 hours, of any minor.

If either a judge of the juvenile court or the board, after inspection of a jail, juvenile hall, special purpose juvenile hall, or lockup, finds that it is not being operated and maintained as a suitable place for the confinement of minors, the juvenile court or the board shall give notice of its finding to all persons having authority to confine minors pursuant to this chapter and commencing 60 days thereafter the facility shall not be used for confinement of minors until the time the judge or board, as the case may be, finds, after reinspection of the facility that the conditions which rendered the facility unsuitable have been remedied, and the facility is a suitable place for confinement of minors.

The custodian of each jail, juvenile hall, special purpose juvenile hall, and lockup may make any reports as may be requested by the board or the juvenile court to effectuate the purposes of this section.

(b) The Board of Corrections may inspect any law enforcement facility which contains a lockup for adults and which it has reason to believe may not be in compliance with the requirements of subdivision (d) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2. A judge of the juvenile court shall conduct an annual inspection, either in person or through a delegated member of the appropriate county or regional juvenile justice commission, of any law enforcement facility which contains a lockup for adults which, in the preceding year, was used for the secure detention of any minor.

If either the judge or the board finds after inspection that the facility is not being operated and maintained in conformity with the requirements of subdivision (d) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2, the juvenile court or the board shall give notice of its finding to all persons having authority to securely detain minors in the facility, and, commencing 60 days thereafter, the facility shall not be used for the secure detention of a minor until the time



the judge or the board, as the case may be, finds, after reinspection, that the conditions which rendered the facility unsuitable have been remedied, and the facility is a suitable place for the confinement of minors in conformity with all requirements of law.

The custodian of each law enforcement facility which contains a lockup for adults may make any report as may be requested by the board or by the juvenile court to effectuate the purposes of this subdivision.

(c) The board shall collect annual data on the number, place, and duration of confinements of minors in jails and lockups, as defined in subdivision (i) of Section 207.1, and shall annually publish this information in the form as it deems appropriate for the purpose of providing public information on continuing compliance with the requirements of Section 207.1.

(d) This section shall become operative on July 1, 1995.

SEC. 4. Section 872 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 872 is added to the Welfare and Institutions Code, to read:

872. Where there is no juvenile hall in the county of residence of minors, or when the juvenile hall becomes unfit or unsafe for detention of minors, the presiding or sole juvenile court judge may, with the recommendation of the probation officer of the sending county and the consent of the probation officer of the receiving county, by written order filed with the county clerk, designate the juvenile hall of any county in the state for the detention of an individual minor for not to exceed 60 days. The court may, at any time, modify or vacate the order and shall require notice of the transfer to be given to the parent or guardian. The county of residence of a minor so transferred shall reimburse the receiving county for costs and liability as agreed upon by the two counties in connection with the order.

As used in this section, the terms “unfit” and “unsafe” shall include a condition in which a juvenile hall is considered by the juvenile court judge or the probation



officer of that county to be too crowded for the proper and safe detention of minors.

SEC. 6. Section 885 of the Welfare and Institutions Code is repealed.

SEC. 7. Section 885 is added to the Welfare and Institutions Code, to read:

885. (a) The Department of the Youth Authority shall adopt and prescribe the minimum standards of construction, operation, programs of education, and training and qualifications of personnel for juvenile homes, ranches, camps, or forestry camps established under Section 881.

(b) Every person in charge of a juvenile home, ranch, camp, or forestry camp that, in the preceding calendar year, was used for confinement, for more than 24 hours, of any minor, shall certify annually to the Department of the Youth Authority that the facility is in conformity with the regulations adopted by the department under subdivision (a). The department may provide forms and instructions to local jurisdictions to facilitate compliance with this subdivision.

(c) The custodian of each juvenile home, ranch, camp, or forestry camp shall make any reports that may be required by the Department of the Youth Authority to effectuate the purposes of this section.

SEC. 8. Section 886.5 of the Welfare and Institutions Code is repealed.

SEC. 9. Section 886.5 is added to the Welfare and Institutions Code, to read:

886.5. Notwithstanding Section 886, a juvenile home, ranch, camp, or forestry camp may receive or contain a maximum of 125 children at any one time if the county has determined that there is a consistent need for juvenile home, ranch, camp, or forestry camp placements which exceeds the beds available in the county. Any county desiring to expand the capacity of a juvenile home, ranch, camp, or forestry camp pursuant to this section shall certify to the Department of the Youth Authority that the facility to be expanded will continue to meet the minimum standards adopted and prescribed pursuant to



Section 885 during the period of expanded capacity. The department may provide forms and instructions to local jurisdictions to facilitate compliance with this section.

SEC. 10. Section 896 of the Welfare and Institutions Code is repealed.

SEC. 11. Section 896 is added to the Welfare and Institutions Code, to read:

896. (a) The Department of the Youth Authority shall establish minimum performance standards for programs of education and training and for qualifications of personnel for all youth educational facilities in the program, including local continuation and intensive supervision components. These standards and qualifications shall be designed to achieve program goals such as an increase in the educational level of participants, better community protection and offender accountability, and preparation of participants to return to the community as responsible and productive members.

(b) Every person in charge of a regional youth educational facility, which, in the preceding calendar year, was used for confinement, for more than 24 hours, of any minor, shall certify annually to the Department of the Youth Authority that the facility is in conformity with the standards adopted by the department under subdivision (a). The department may provide forms and instructions to local jurisdictions to facilitate compliance with this subdivision.

(c) The custodian of each regional youth educational facility shall make any reports as may be required by the Department of the Youth Authority to effectuate the purposes of this section.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to realize necessary cost savings and to expeditiously and efficiently implement the Budget Act



of 1995 with respect to the juvenile justice system of this state, it is necessary that this act take effect immediately.



Approved \_\_\_\_\_, 1995

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*Governor*

