

AMENDED IN ASSEMBLY JULY 18, 1997

AMENDED IN SENATE MAY 22, 1997

AMENDED IN SENATE APRIL 10, 1997

SENATE BILL

No. 1311

Introduced by Senators Schiff and Peace

February 28, 1997

An act to add Section ~~707.02~~ 827.3 to the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1311, as amended, Schiff. Juvenile offenders: *records*.

Existing law provides procedures for and limitations on the disclosure and use of information and records relating to minors under the jurisdiction of the juvenile court.

This bill would require the juvenile court to report to the Department of Justice the complete criminal history of any minor adjudged a ward of the court because of the commission of a felony. The bill would require the department to retain and use this information as specified. The bill would also require the Department of Justice to gather, retain, and analyze data relating to serious, violent, and habitual youthful offenders, as specified.

This bill would impose a state-mandated local program by imposing new or increased duties on court personnel.

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, including the creation of a State

Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

~~Existing law authorizes the district attorney or other prosecuting officer to file an accusatory pleading against a minor in a court of criminal jurisdiction if the minor has been declared not a fit and proper subject to be dealt with under the juvenile court law or if the charges in a petition in the juvenile court have been transferred to a court of criminal jurisdiction.~~

~~This bill would require that when a prosecuting attorney seeks to have a minor tried in a court of criminal jurisdiction, the preliminary examination required in criminal cases be combined with and conducted as part of the hearing required under existing law to determine whether the minor is a fit and proper subject to be dealt with under the juvenile court law. The bill would require a judicial officer, commissioner, or referee to conduct the preliminary examination and hearing and to make specified findings to be made in order to have the minor tried in a court of criminal jurisdiction. The bill would require the Judicial Council to adopt rules for implementation of the bill.~~

~~Because this bill would impose increased duties on the local criminal justice systems that are equivalent to those imposed by the establishment of a new crime, it would create a state-mandated local program.~~

~~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 no reimbursement is required by this act for a specified reason.~~

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 707.02 is added to the Welfare~~
2 *SECTION 1. Section 827.3 is added to the Welfare and*
3 *Institutions Code, to read:*
4 827.3. (a) *The Department of Justice shall gather,*
5 *retain, and analyze data that tracks serious, violent, and*
6 *habitual youthful offenders, including, but not limited to,*
7 *juvenile dispositions, adult convictions and sanctions, and*
8 *recidivism in the juvenile justice or adult criminal justice*
9 *system.*
10 (b) *Notwithstanding any other provision of law, the*
11 *juvenile court shall report to the Department of Justice*
12 *the complete criminal history of any minor adjudged to*
13 *be a ward of the court pursuant to Section 602 on the basis*
14 *of his or her commission of any felony offense. The*
15 *Department of Justice shall retain this information and*
16 *make it available in the same manner as information*
17 *gathered pursuant to Chapter 2 (commencing with*
18 *Section 13100) of Title 3 of Part 4 of the Penal Code.*
19 SEC. 2. *Notwithstanding Section 17610 of the*
20 *Government Code, if the Commission on State Mandates*
21 *determines that this act contains costs mandated by the*
22 *state, reimbursement to local agencies and school*
23 *districts for those costs shall be made pursuant to Part 7*
24 *(commencing with Section 17500) of Division 4 of Title*
25 *2 of the Government Code. If the statewide cost of the*
26 *claim for reimbursement does not exceed one million*
27 *dollars (\$1,000,000), reimbursement shall be made from*
28 *the State Mandates Claims Fund.*
29 *Notwithstanding Section 17580 of the Government*
30 *Code, unless otherwise specified, the provisions of this act*
31 *shall become operative on the same date that the act*
32 *takes effect pursuant to the California Constitution.*
33 ~~and Institutions Code, to read:~~
34 ~~707.02. (a) When a prosecuting attorney seeks to~~
35 ~~have a minor tried in a court of criminal jurisdiction, the~~
36 ~~preliminary examination conducted pursuant to Section~~
37 ~~738 of the Penal Code shall be combined with and~~



1 ~~conducted as part of the hearing conducted pursuant to~~
2 ~~Section 707.~~

3 ~~(b) In a case subject to subdivision (a), the committing~~
4 ~~magistrate who presides over the preliminary~~
5 ~~examination provided for in Section 738 of the Penal~~
6 ~~Code shall be a judicial officer, commissioner, or referee.~~

7 ~~(c) During the preliminary examination and hearing,~~
8 ~~the committing magistrate shall make both of the~~
9 ~~following findings in order to have the minor tried in a~~
10 ~~court of criminal jurisdiction:~~

11 ~~(1) That the minor is a person who is not a fit and~~
12 ~~proper subject to be dealt with under the juvenile court~~
13 ~~law pursuant to Section 707.~~

14 ~~(2) That it appears a public offense triable in the~~
15 ~~superior court has been committed and there is sufficient~~
16 ~~cause to believe that the minor is guilty.~~

17 ~~(d) If the committing magistrate makes the findings~~
18 ~~set forth in subdivision (c), he or she shall issue an order~~
19 ~~pursuant to Section 872 of the Penal Code that requires~~
20 ~~the minor to be held to answer to the public offense. Upon~~
21 ~~the minor being held to answer pursuant to Section 872~~
22 ~~of the Penal Code, Section 739 of the Penal Code and the~~
23 ~~laws applicable to criminal cases in the superior court~~
24 ~~shall apply thereafter.~~

25 ~~(e) If the committing magistrate does not make the~~
26 ~~findings required by subdivision (c), the matter shall~~
27 ~~then proceed pursuant to the applicable procedures of~~
28 ~~the juvenile court law.~~

29 ~~(f) In addition to its other powers and duties, the~~
30 ~~Judicial Council shall adopt rules for fully implementing~~
31 ~~this section to ensure that it works in tandem with all~~
32 ~~court efficiency measures.~~

33 ~~SEC. 2. No reimbursement is required by this act~~
34 ~~pursuant to Section 6 of Article XIII B of the California~~
35 ~~Constitution because the only costs that may be incurred~~
36 ~~by a local agency or school district will be incurred~~
37 ~~because this act creates a new crime or infraction,~~
38 ~~eliminates a crime or infraction, or changes the penalty~~
39 ~~for a crime or infraction, within the meaning of Section~~
40 ~~17556 of the Government Code, or changes the definition~~



1 ~~of a crime within the meaning of Section 6 of Article~~
2 ~~XIII B of the California Constitution.~~
3 ~~Notwithstanding Section 17580 of the Government~~
4 ~~Code, unless otherwise specified, the provisions of this act~~
5 ~~shall become operative on the same date that the act~~
6 ~~takes effect pursuant to the California Constitution.~~

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