

Assembly Bill No. 114

Passed the Assembly August 25, 2010

Chief Clerk of the Assembly

Passed the Senate August 24, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 237 to the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 114, Carter. Juvenile court law: purpose.

Existing law sets forth the purpose of juvenile court law, and provides that a minor under the jurisdiction of the juvenile court who is in need of protective services shall receive care, treatment, and guidance consistent with his or her best interest and the best interest of the public. Existing law provides that a minor under the jurisdiction of the juvenile court as a consequence of delinquent conduct shall, in conformity with the interests of public safety and protection, receive care, treatment, and guidance that is consistent with his or her best interest, that holds the minor accountable for his or her behavior, and that is appropriate for his or her circumstances.

This bill would authorize a county to adopt a restorative justice program to address the needs of minors, victims, and the community. The bill would require the restorative justice program to be implemented through a restorative justice protocol developed by the juvenile court in conjunction with the prosecutor, public defender, and other interested groups. The bill would prohibit the use of General Fund moneys to fund the program. The bill would include related findings and declarations.

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) It is the intent of the Legislature that principles of restorative justice be incorporated into juvenile justice proceedings, consistent with the underlying rehabilitative purpose of the Juvenile Court Law (Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code). Restorative justice principles recognize the following needs:

(1) Community protection from delinquent conduct through a continuum of appropriate responses that protects citizens and victims.

(2) Accountability of the minor through restoration of the losses experienced by the victim and the community.

(3) Competency development of the minor through the provision of treatment, education, and skill building needed for success in the community.

(b) Crime results in injury to the victim, the community, and the offender. Whenever appropriate, the juvenile justice system should seek to repair those injuries, taking into account the age, mental capacity, and developmental maturity of the minor, the nature of the offense, and the resources available to the minor to accomplish the goals of Section 237 of the Welfare and Institutions Code, enacted by Section 2 of this act. Victims and communities should be actively involved in helping to develop programs and services, and in ensuring accountability through helping individual minors to understand the impact of their actions. These activities shall be pursued in a manner consistent with the minor's right to due process and the right of victims and minors under Section 676.5 of the Welfare and Institutions Code.

(c) Nothing in this act changes the fundamental intention of the Juvenile Court Law that individualized care, treatment, and guidance be provided to each minor coming to the attention of the juvenile court for alleged delinquency.

SEC. 2. Section 237 is added to the Welfare and Institutions Code, to read:

237. (a) Consistent with the rehabilitative purpose of this chapter, a county may adopt a restorative justice program to address the needs of minors, victims, and the community.

(b) The restorative justice program shall be implemented through a restorative justice protocol developed by the juvenile court in conjunction with the prosecutor, public defender, probation department, representatives from victims' groups, law enforcement, community organizations and service providers, restorative justice groups, and clinicians with expertise in adolescent development. The protocol shall address all of the following:

(1) The formation of a restorative justice council.

(2) The process to be employed in any case coming before the council.

- (3) The rights of minors.
 - (4) The rights of any victims involved in the case.
 - (5) Confidentiality issues.
 - (6) Timeliness for case processing.
 - (7) The scope of services of, and orders that may be imposed by, the restorative justice council.
 - (8) The roles of the court, prosecutor, and defense counsel in relation to the council.
 - (9) Qualifications and the selection process for restorative justice council members.
 - (10) The process for evaluating compliance with the program.
 - (11) The process for handling any failure to adhere to the program directed by the restorative justice council.
- (c) The program in each case shall seek to repair the harm to the victim, the minor, and the community caused by the behavior bringing the minor before the juvenile court. The program requirements shall be tailored to the age, mental capacity, and developmental maturity of the minor, the nature of the offense, and the resources available to the minor to accomplish the goals of this section.
- (d) Minors may be referred to the restorative justice program as part of the court's order for informal supervision pursuant to Section 654.2, the court's order for nonwardship probation under subdivision (a) of Section 725, the court's dispositional order under Section 727, or the court's order for deferred entry of judgment under Section 790.
- (e) If the court orders the care, custody, and control of the minor to be under the supervision of the probation officer for foster care placement pursuant to subdivision (a) of Section 727, the minor may be referred to the restorative justice program only as follows:
- (1) To the extent that participation in the program is consistent with both the minor's case plan developed pursuant to Section 706.5 and any provision of reunification services to the minor and his or her family pursuant to Section 727.2.
 - (2) To the extent that participation in the program does not result in the loss of federal financial participation for the placement of the minor.
- (f) No General Fund moneys shall be used to fund a restorative justice program established pursuant to this section. Nothing in this section is intended to restrict the ability of courts or counties

to develop or maintain existing programs or strategies for juvenile offenders that incorporate restorative justice principles.

Approved _____, 2010

Governor