

CHAPTER 70
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INTRODUCED BY Senator Leno

FEBRUARY 21, 2014

An act to amend Section 1219 of the Code of Civil Procedure, and to amend Sections 207 and 601 of, and to add Section 213.3 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1296, Leno. Juveniles: contemptuous habitual truants.

Existing law authorizes a court to punish for acts of contempt, including authorizing a court to direct the incarceration of a defendant until he or she complies with the court's order. Existing law prohibits a court from imprisoning or otherwise taking into custody the victim of a sexual assault or domestic violence crime for contempt of court if the contempt consists of refusing to testify about the sexual assault or domestic violence crime.

This bill would additionally prohibit a court from imprisoning, holding in physical confinement, as defined, or otherwise taking into custody persistently or habitually truant minors for contempt of court if the contempt consists of the minor's failure to comply with a court order to attend school. The bill would authorize a court, if those minors are found to be in contempt of court for that reason, to issue any other lawful order, as necessary, to secure the minor's attendance at school.

Existing law subjects a person who is under 18 years of age who engages in certain noncriminal behavior, including, among other things, persistent or habitual truancy or failure to obey the reasonable and proper orders or directions of school authorities to the jurisdiction of the juvenile court, which may adjudge the minor to be a ward of the court. Existing law prohibits a minor from being detained in a secure facility, as defined, if he or she is taken into custody solely upon the ground that he or she is a person described above or adjudged a ward of the juvenile court solely upon that ground, except as provided.

This bill would prohibit a minor from being detained in a secure facility, as defined, solely upon the ground that he or she is in willful disobedience or interference with any lawful order of the juvenile court, if the basis of the order of contempt is persistent or habitual truancy, and would authorize a court to issue any other lawful order, as necessary, to secure the minor's school attendance. The bill would make a related declaration of legislative intent.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1219 of the Code of Civil Procedure is amended to read:

1219. (a) Except as provided in subdivisions (b) and (c), if the contempt consists of the omission to perform an act which is yet in the power of the person to perform, he or she may be imprisoned until he or she has performed it, and in that case the act shall be specified in the warrant of commitment.

(b) Notwithstanding any other law, a court shall not imprison or otherwise confine or place in custody the victim of a sexual assault or domestic violence crime for contempt if the contempt consists of refusing to testify concerning that sexual assault or domestic

violence crime. Before finding a victim of a domestic violence crime in contempt as described in this section, the court may refer the victim for consultation with a domestic violence counselor. All communications between the victim and the domestic violence counselor that occur as a result of that referral shall remain confidential under Section 1037.2 of the Evidence Code.

(c) Notwithstanding any other law, a court shall not imprison, hold in physical confinement, or otherwise confine or place in custody a minor for contempt if the contempt consists of the minor's failure to comply with a court order pursuant to subdivision (b) of Section 601 of, or Section 727 of, the Welfare and Institutions Code, if the minor was adjudged a ward of the court on the ground that he or she is a person described in subdivision (b) of Section 601 of the Welfare and Institutions Code. Upon a finding of contempt of court, the court may issue any other lawful order, as necessary, to secure the minor's attendance at school.

(d) As used in this section, the following terms have the following meanings:

(1) "Sexual assault" means any act made punishable by Section 261, 262, 264.1, 285, 286, 288, 288a, or 289 of the Penal Code.

(2) "Domestic violence" means "domestic violence" as defined in Section 6211 of the Family Code.

(3) "Domestic violence counselor" means "domestic violence counselor" as defined in subdivision (a) of Section 1037.1 of the Evidence Code.

(4) "Physical confinement" has the same meaning as defined in subdivision (d) of Section 726 of the Welfare and Institutions Code.

SEC. 2. Section 207 of the Welfare and Institutions Code is amended to read:

207. (a) A minor shall not be detained in any jail, lockup, juvenile hall, or other secure facility if he or she is taken into custody solely upon the ground that he or she is a person described by Section 213.3, or described by Section 601 or adjudged to be such or made a ward of the juvenile court solely upon that ground, except as provided in subdivision (b). If any such minor, other than a minor described in subdivision (b), is detained, he or she shall be detained in a sheltered-care facility or crisis resolution home as provided for in Section 654, or in a nonsecure facility provided for in subdivision (a), (b), (c), or (d) of Section 727.

(b) A minor taken into custody upon the ground that he or she is a person described in Section 601, or adjudged to be a ward of the juvenile court solely upon that ground, may be held in a secure facility, other than a facility in which adults are held in secure custody, in any of the following circumstances:

(1) For up to 12 hours after having been taken into custody for the purpose of determining if there are any outstanding wants, warrants, or holds against the minor in cases where the arresting officer or probation officer has cause to believe that the wants, warrants, or holds exist.

(2) For up to 24 hours after having been taken into custody, in order to locate the minor's parent or guardian as soon as possible and to arrange the return of the minor to his or her parent or guardian, with the exception of an out-of-state runaway who is being held pursuant to the Interstate Compact for Juveniles.

(c) Any minor detained in juvenile hall pursuant to subdivision (b) shall not be permitted to come or remain in contact with any person detained on the basis that he or she has been taken into custody upon the ground that he or she is a person described in Section 602 or adjudged to be such or made a ward of the juvenile court upon that ground.

(d) Minors detained in juvenile hall pursuant to Sections 601 and 602 may be held in the same facility provided they are not permitted to come or remain in contact within that facility.

(e) Every county shall keep a record of each minor detained under subdivision (b), the place and length of time of the detention, and the reasons why the detention was necessary. Every county shall report this information to the Board of Corrections on a monthly basis, on forms to be provided by that agency.

The board shall not disclose the name of the detainee, or any

personally identifying information contained in reports sent to the Division of Juvenile Justice under this subdivision.

SEC. 3. Section 213.3 is added to the Welfare and Institutions Code, to read:

213.3. A person under 18 years of age shall not be detained in a secure facility, as defined in Section 206, solely upon the ground that he or she is in willful disobedience or interference with any lawful order of the juvenile court, if the basis of an order of contempt is the failure to comply with a court order pursuant to subdivision (b) of Section 601. Upon a finding of contempt of court, the court may issue any other lawful order, as necessary, to ensure the minor's school attendance.

SEC. 4. Section 601 of the Welfare and Institutions Code is amended to read:

601. (a) Any person under 18 years of age who persistently or habitually refuses to obey the reasonable and proper orders or directions of his or her parents, guardian, or custodian, or who is beyond the control of that person, or who is under the age of 18 years when he or she violated any ordinance of any city or county of this state establishing a curfew based solely on age is within the jurisdiction of the juvenile court which may adjudge the minor to be a ward of the court.

(b) If a minor has four or more truancies within one school year as defined in Section 48260 of the Education Code or a school attendance review board or probation officer determines that the available public and private services are insufficient or inappropriate to correct the habitual truancy of the minor, or to correct the minor's persistent or habitual refusal to obey the reasonable and proper orders or directions of school authorities, or if the minor fails to respond to directives of a school attendance review board or probation officer or to services provided, the minor is then within the jurisdiction of the juvenile court which may adjudge the minor to be a ward of the court. However, it is the intent of the Legislature that a minor who is described in this subdivision, adjudged a ward of the court pursuant solely to this subdivision, or found in contempt of court for failure to comply with a court order pursuant to this subdivision, shall not be held in a secure facility and shall not be removed from the custody of the parent or guardian except for the purposes of school attendance.

(c) To the extent practically feasible, a minor who is adjudged a ward of the court pursuant to this section shall not be permitted to come into or remain in contact with any minor ordered to participate in a truancy program, or the equivalent thereof, pursuant to Section 602.

(d) Any peace officer or school administrator may issue a notice to appear to a minor who is within the jurisdiction of the juvenile court pursuant to this section.