

Senate Concurrent Resolution No. 40

RESOLUTION CHAPTER 55

Senate Concurrent Resolution No. 40—Relative to juvenile justice.

[Filed with Secretary of State July 7, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SCR 40, Yee. Juvenile justice.

This measure would acknowledge the role that substance abuse plays in the lives of juvenile offenders and would set forth the rights of all juveniles in the juvenile justice system. The measure would urge each facility in the state that houses wards or is responsible for the oversight of wards to adopt these rights into the regulations and common practices of the facility.

WHEREAS, According to The National Center on Addiction and Substance Abuse (CASA) at Columbia University, substance abuse plays a role in the lives of up to 80 percent of juveniles in juvenile justice systems across the United States: 18.2 percent are under the influence of alcohol or drugs while committing their offenses, 53.9 percent test positive for drugs at the time of arrest, 12.1 percent are arrested for committing an alcohol or drug offense, 62.5 percent report having substance abuse problems, and many exhibit some combination of these characteristics; and

WHEREAS, Although 44 percent of juveniles arrested nationally meet clinical criteria for a substance abuse disorder requiring medical treatment, only 3.6 percent receive any form of substance abuse treatment; and

WHEREAS, Up to 75 percent of all incarcerated juveniles nationally have some diagnosable mental health disorder, yet mental health services remain scarce; and

WHEREAS, Incarcerated juveniles have an increased need for basic and special education, but they are left behind in the current system. The education provided should be age appropriate and developmentally appropriate, and the curricula and conditions developed by the state should be comparable to what children in public schools experience, including credentialed teachers and adequate facilities; and

WHEREAS, Juveniles who drink and use drugs are more likely to be arrested multiple times, with each conviction raising the likelihood of transfer to adult court and eventual adult felony conviction. Juveniles whose cases are transferred to criminal court also recidivate faster and with more serious offenses than those retained in the juvenile court; and

WHEREAS, At least 30 percent of adults in prison for felony crimes nationally were incarcerated as juveniles; and

WHEREAS, If treatment options are successful in only 12 percent of cases nationally, reducing the population of adult prisoners with juvenile

records by the same amount would create annual savings of eighteen billion dollars (\$18,000,000,000), as well as reducing overall crime; and

WHEREAS, Rather than spend more than two hundred fifty thousand dollars (\$250,000) annually in California to incarcerate a juvenile offender as was projected for the 2008–09 year, in appropriate cases, California could rehabilitate juveniles who come before the juvenile court through diversion to treatment programs and other appropriate services for a much lower public cost; and

WHEREAS, With comprehensive screening, the needs of juveniles can be identified and appropriate care provided while maintaining the safety of the community; and

WHEREAS, With appropriate care, juvenile recidivism rates will drop and more youth can become productive, healthy, and law-abiding members of society; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the California Legislature hereby recognizes that all juveniles in the juvenile justice system (hereafter the system) should have the following rights:

Right to Rehabilitation: In the handling of each juvenile case, the state should use its best efforts to rehabilitate the juvenile, in furtherance of which a comprehensive assessment should be made of each juvenile’s substance use, medical and mental health, education, and family issues that may be linked to the delinquency.

Right to Treatment: All juveniles in the system should have effective, evidence-based treatment services for substance abuse problems and disorders as well as health issues, including medical, mental, and dental issues, based on a comprehensive assessment of their needs, and provided by trained professionals.

Right to Education: All juveniles in the system should have a public education, including special education when needed, that meets criteria as established by the State Department of Education.

Right to Family and Social Services: All juveniles in the system should have services to improve family and social functioning.

Right to Least Restrictive Alternatives: All juveniles in the system should be entitled to the least restrictive means appropriate to their individual cases throughout their contact with the system.

Right to Reintegration: All juveniles in the system should be provided with appropriate aftercare to support successful reentry into the community that incorporates a continuity of care from placement through release.

Right to Nondiscrimination: All juveniles in the system have the right to have all determinations in their cases made without regard to religion, race, national origin, ethnicity, gender, or sexual orientation.

Right to Safety and Security: All juveniles in the system have the right to be housed in safe, dedicated juvenile facilities, to be kept free from any form of abuse, including protection from disproportionate means and the use of force.

Right to Counsel: All juveniles in the system have the right to free, competent counsel at all stages of proceedings.

Right to Protection from Self-Incrimination: All juveniles in the system have the right to appropriate safeguards against self-incrimination, including the vesting in the juvenile of a privilege for any statement by the juvenile given in furtherance of treatment or assessment for treatment.

Right to Evidence-Based Practice: The state should track and evaluate the effectiveness of treatment and assessments over time to ensure that the means employed are scientifically supported and improved.

Right to Speedy Review: All juveniles in the system have the right to have their cases processed fairly and quickly; and be it further

Resolved, That none of the foregoing rights shall abridge or abrogate any other recognized rights, entitlements, or privileges enjoyed by those in whom these rights are vested; and be it further

Resolved, That each facility in California housing wards of the juvenile court, or responsible for the oversight of wards, is urged to adopt these rights into the regulations and common practices of the facility; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution regarding juvenile justice rights and rehabilitation to the Chief Deputy Secretary for the Division of Juvenile Facilities, and to each facility in the state housing wards of the juvenile court, or responsible for the oversight of wards.