

Senate Bill No. 518

CHAPTER 649

An act to add Article 1.5 (commencing with Section 224.70) to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor October 13, 2007. Filed with
Secretary of State October 13, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

SB 518, Migden. Juveniles: Youth Bill of Rights.

Existing law authorizes a peace officer to take a minor that the officer has reasonable cause to believe is within the jurisdiction of the juvenile court, either as a dependent child or as a ward of the court, into temporary custody without a warrant, as specified. Existing law provides procedures for processing the minor thereafter. Existing law requires the release within 48 hours of a minor who is taken into temporary custody by a peace officer or probation officer, as specified, unless a petition to declare him or her a dependent child or ward of the court has been filed. Existing law requires the juvenile court, upon the appearance of a minor at a detention hearing, to inform the minor, and his or her parents or guardians, of the reasons why the minor was taken into custody, the nature of the juvenile court proceedings, and their right to representation by counsel.

This bill would enact the "Youth Bill of Rights" in connection with youth confined in a facility of the Division of Juvenile Facilities. The bill would enumerate various specific rights. The bill would require every Division of Juvenile Facilities facility to provide each youth who is placed in the facility with an age and developmentally appropriate orientation that includes an explanation and a copy of the rights, and would require a facility of the Division of Juvenile Facilities to post a listing of the rights. The bill would require all facilities of the Division of Juvenile Facilities to provide care, placement, and services to youth in their custody without discriminating on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. The bill would require the Office of the Ombudspersons of the Division of Juvenile Facilities to take various actions in connection with the rights, including disseminating information, investigating complaints, providing information regarding complaints it does not investigate, compiling data and making it available to the Legislature, and providing a toll-free telephone number. The bill would further require the Ombudspersons of the Division of Juvenile Facilities, in consultation with specified groups, to develop standardized, age-appropriate information in connection with these rights by July 1, 2008.

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

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

(a) Youth confined in a facility of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, are harmed by discrimination based on actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, and HIV status.

(b) Youth are committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities in order to provide them an opportunity for rehabilitation. These rehabilitation opportunities shall include the provision of educational, therapeutic, and other necessary services to ensure that these youth can become successful and productive members of their communities.

(c) All youth confined in the Division of Juvenile Facilities have the constitutional right to a safe and secure environment.

(d) The Division of Juvenile Facilities is committed to treating all people with dignity, respect, and consideration and demonstrating behavior which is fair, honest, and ethical.

(e) There is a need to inform youth confined in the Division of Juvenile Facilities about their rights.

SEC. 2. Article 1.5 (commencing with Section 224.70) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 1.5. Youth Bill of Rights

224.70. For the purposes of this article:

(a) "Committed" means placed in a facility of the Division of Juvenile Facilities pursuant to a court order, independent of, or in connection with, other sentencing alternatives.

(b) "Detained" means held in secure confinement in a juvenile facility of the Division of Juvenile Facilities.

(c) "Extended family member" means any adult related to the youth by blood, adoption, or marriage, and any adult who has an established familial or mentoring relationship with the youth, including, but not limited to, godparents, clergy, teachers, neighbors, and family friends.

(d) "Facility of the Division of Juvenile Facilities" means a place of confinement that is operated by, or contracted for, the Department of Corrections and Rehabilitation, for the purpose of the detention or commitment of youth who are taken into custody and alleged to be within the description of Section 601 or 602 or who are adjudged to be a ward of the court.

(e) "Youth" means any person detained in a facility of the Division of Juvenile Facilities.

224.71. It is the policy of the state that all youth confined in a facility of the Division of Juvenile Facilities shall have the following rights:

(a) To live in a safe, healthy, and clean environment conducive to treatment and rehabilitation and where they are treated with dignity and respect.

(b) To be free from physical, sexual, emotional, or other abuse, or corporal punishment.

(c) To receive adequate and healthy food and water, sufficient personal hygiene items, and clothing that is adequate and clean.

(d) To receive adequate and appropriate medical, dental, vision, and mental health services.

(e) To refuse the administration of psychotropic and other medications consistent with applicable law or unless immediately necessary for the preservation of life or the prevention of serious bodily harm.

(f) To not be searched for the purpose of harassment or humiliation or as a form of discipline or punishment.

(g) To maintain frequent and continuing contact with parents, guardians, siblings, children, and extended family members, through visits, telephone calls, and mail.

(h) To make and receive confidential telephone calls, send and receive confidential mail, and have confidential visits with attorneys and their authorized representatives, ombudspersons and other advocates, holders of public office, state and federal court personnel, and legal service organizations.

(i) To have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(j) To have regular opportunity for age-appropriate physical exercise and recreation, including time spent outdoors.

(k) To contact attorneys, ombudspersons and other advocates, and representatives of state or local agencies, regarding conditions of confinement or violations of rights, and to be free from retaliation for making these contacts or complaints.

(l) To participate in religious services and activities of their choice.

(m) To not be deprived of any of the following as a disciplinary measure: food, contact with parents, guardians, or attorneys, sleep, exercise, education, bedding, access to religious services, a daily shower, a drinking fountain, a toilet, medical services, reading material, or the right to send and receive mail.

(n) To receive a quality education that complies with state law, to attend age-appropriate school classes and vocational training, and to continue to receive educational services while on disciplinary or medical status.

(o) To attend all court hearings pertaining to them.

(p) To have counsel and a prompt probable cause hearing when detained on probation or parole violations.

(q) To make at least two free telephone calls within an hour after initially being placed in a facility of the Division of Juvenile Facilities following an arrest.

224.72. (a) Every facility of the Division of Juvenile Facilities shall provide each youth who is placed in the facility with an age and developmentally appropriate orientation that includes an explanation and a copy of the rights of the youth, as specified in Section 224.71, and that addresses the youth's questions and concerns.

(b) Each facility of the Division of Juvenile Facilities shall post a listing of the rights provided by Section 224.71 in a conspicuous location. The Office of the Ombudspersons of the Division of Juvenile Facilities shall design posters and provide the posters to each Division of Juvenile Facilities facility subject to this subdivision. These posters shall include the toll-free telephone number of the Office of the Ombudspersons of the Division of Juvenile Facilities.

224.73. All facilities of the Division of Juvenile Facilities shall ensure the safety and dignity of all youth in their care and shall provide care, placement, and services to youth without discriminating on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

224.74. (a) The Office of the Ombudspersons of the Division of Juvenile Facilities shall do all of the following:

(1) Disseminate information on the rights of children and youth in the custody of the Division of Juvenile Facilities, as provided in Section 224.71, and the services provided by the office.

(2) Investigate and attempt to resolve complaints made by or on behalf of youth in the custody of the Division of Juvenile Facilities, related to their care, placement, or services, or in the alternative, refer appropriate complaints to another agency for investigation.

(3) Notify the complainant in writing of the intention to investigate or the decision to refer the complaint to another agency within 15 days of receiving the complaint. If the office declines to investigate a complaint, the office shall notify the complainant of the reason for this decision.

(4) Update the complainant on the progress of the investigation and notify the complainant in writing of the final outcome, steps taken during the investigation, basis for the decision, and any action to be taken as a result of the complaint.

(5) Document the number, source, origin, location, and nature of complaints.

(6) Provide a toll-free telephone number for the Office of the Ombudspersons of the Division of Juvenile Facilities.

(7) Compile and make available to the Legislature and the public all data collected over the course of the year, including, but not limited to, the number of contacts to the toll-free telephone number, the number of complaints made, the number of investigations performed by the office, the number of referrals made, the issues complained about, the number of

sustained complaints, the actions taken as a result of sustained complaints, and the number of unresolved complaints, including the reasons the complaints could not be resolved.

(b) (1) The Office of the Ombudspersons of the Division of Juvenile Facilities, in consultation with youth advocate and support groups, and groups representing children, families, children's facilities, and other interested parties, shall develop, no later than July 1, 2008, standardized information explaining the rights specified in Section 224.71. The information developed shall be age-appropriate.

(2) The Office of the Ombudspersons of the Division of Juvenile Facilities and other interested parties may use the information developed in paragraph (1) in carrying out their responsibilities to inform youth of their rights provided under Section 224.71.