

Senate Bill No. 1250

CHAPTER 522

An act to amend Sections 224.72, 1712.1, and 1766 of, and to add Section 223.1 to, the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor September 28, 2008. Filed with
Secretary of State September 28, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1250, Yee. Juveniles: communications.

(1) Existing law requires the public officer responsible for the well-being of any minor in the custody of the state or the county to notify the parents or guardians of that minor, if they can reasonably be located, within 24 hours of any serious injury or serious offense committed against the minor, upon reasonable substantiation that a serious injury or offense has occurred. This requirement does not apply if the minor requests that his or her parents or guardians not be informed and the chief probation officer or the Chief Deputy Secretary for Juvenile Justice determines that would be in the best interest of the minor.

This bill would expand the above provision to require the public officer responsible for the well-being of any person in the custody of the Division of Juvenile Facilities to successfully contact at least one individual who is a parent, guardian, or emergency contact of that person, if the individual can reasonably be located, within 24 hours of any suicide attempt, as defined, by the person, or of any serious injury or serious offense committed against the person. The bill would authorize the person, in consultation with division staff, as appropriate, and with concurrence of the public officer responsible for the well-being of that person, to designate other persons who may be notified in lieu of a parent or a guardian. This requirement would not apply if a minor in custody requests that his or her parents, guardians, or other persons not be notified and the director of the division facility determines that would be in the best interest of the minor, or if an adult in custody does not consent to the notification. The bill would require an appropriate staff person, on specified occasions, to explain to a person in custody his or her rights pursuant to these provisions. The bill would require the division to provide the person with forms and any information necessary to provide informed consent as to who shall be notified and would require staff to enter specified information in this regard into the ward's record. The bill would also expand the definition of a "serious injury" for purposes of these provisions.

(2) Existing law requires each facility of the Division of Juvenile Facilities to post a listing of the statutory rights of youth confined in division facilities in a conspicuous location. The Office of the Ombudspersons of the Division

of Juvenile Facilities is required to design posters and provide the posters to each division facility.

This bill would require the division, on or before July 1, 2010, to ensure the listing of rights and posters described above are translated into Spanish and other languages as determined necessary by the division. The bill also would require a copy of the rights of the youth to be included in orientation packets provided to parents or guardians of wards, and copies of the rights of youth in English, Spanish, and other languages to be made available in the visiting areas of division facilities and, upon request, to parents or guardians.

(3) Existing law provides that a ward confined in a division facility shall be allowed a minimum of 4 telephone calls to his or her family per month, but authorizes the restriction of telephone usage when calls conflict with institutional operations, supervision, or security, to the extent reasonably necessary for the continued operation and security of the facility.

This bill would provide that those 4 telephone calls shall be provided at no cost to the ward or his or her family, but would be limited to 15 minutes each. The bill would authorize a ward, when speaking by telephone or corresponding with a family member, clergy, or counsel, to use his or her native language or the native language of the person to whom he or she is speaking or writing. The bill also would require, except as specified, the division to encourage correspondence with family or clergy by providing blank paper, envelopes, pencils, and postage, as specified.

(4) Existing law requires the division, not less than 60 days prior to the scheduled parole consideration hearing of a ward eligible for release on parole on or after September 1, 2007, as specified, to provide to the probation department and the court of the committing county, and the ward's counsel, if known, the ward's most recent written case review, along with notice of the parole consideration hearing date.

This bill would require the division to notify the ward of the date and location of the parole consideration hearing not less than 30 days prior to the ward's scheduled parole consideration hearing. The bill would provide that a ward has the right to contact his or her parent or guardian, if he or she can reasonably be located, to inform the parent or guardian of the date and location of the parole consideration hearing. The bill would require the division to also allow the ward to inform other persons identified by the ward, if they can reasonably be located, and who are considered by the division as likely to contribute to a ward's preparation for the parole consideration hearing or the ward's postrelease success. The bill would set forth exceptions to these requirements under specified conditions. The bill would require an appropriate staff person, on specified occasions, to explain to a person in custody his or her rights pursuant to these provisions.

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

SECTION 1. Section 223.1 is added to the Welfare and Institutions Code, to read:

223.1. (a) (1) At least one individual who is a parent, guardian, or designated emergency contact of a person in the custody of the Division of Juvenile Facilities, if the individual can reasonably be located, shall be successfully notified within 24 hours by the public officer responsible for the well-being of that person, of any suicide attempt by the person, or any serious injury or serious offense committed against the person. In consultation with division staff, as appropriate, and with concurrence of the public officer responsible for the well-being of that person, the person may designate other persons who should be notified in addition to, or in lieu of, parents or guardians, of any suicide attempt by the person, or any serious injury or serious offense committed against the person.

(2) This section shall not apply if either of the following conditions is met:

(A) A minor requests that his or her parents, guardians, or other persons not be notified, and the director of the division facility, as appropriate, determines it would be in the best interest of the minor not to notify the parents, guardians, or other persons.

(B) A person 18 years of age or older does not consent to the notification.

(b) Upon intake of a person into a division facility, and again upon attaining 18 years of age while in the custody of the division, an appropriate staff person shall explain, using language clearly understandable to the person, all of the provisions of this section, including that the person has the right to (1) request that the information described in paragraph (1) of subdivision (a) not be provided to a parent or guardian, and (2) request that another person or persons in addition to, or in lieu of, a parent or guardian be notified. The division shall provide the person with forms and any information necessary to provide informed consent as to who shall be notified. Any designation made pursuant to paragraph (1) of subdivision (a), the consent to notify parents, guardians, or other persons, and the withholding of that consent, may be amended or revoked by the person, and shall be transferable among facilities.

(c) Staff of the division shall enter the following information into the ward's record, as appropriate, upon its occurrence:

(1) A minor's request that his or her parents, guardians, or other persons not be notified of an emergency pursuant to this section, and the determination of the relevant public officer on that request.

(2) The designation of persons who are emergency contacts, in lieu of parents or guardians, who may be notified pursuant to this section.

(3) The revocation or amendment of a designation or consent made pursuant to this section.

(4) A person's consent, or withholding thereof, to notify parents, guardians, or other persons pursuant to this section.

(d) For purposes of this section:

(1) “Serious offense” means any offense that is chargeable as a felony and that involves violence against another person.

(2) “Serious injury” means any illness or injury that requires hospitalization requires an evaluation for involuntary treatment for a mental health disorder or grave disability under the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), is potentially life threatening, or that potentially will permanently impair the use of a major body organ, appendage, or limb.

(3) “Suicide attempt” means a self-inflicted destructive act committed with explicit or inferred intent to die.

SEC. 2. Section 224.72 of the Welfare and Institutions Code is amended to read:

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.

(c) Consistent with Chapter 17.5 (commencing with Section 7290) of Division 7 of Title 1 of the Government Code, on or before July 1, 2010, the division shall ensure the listing of rights and posters described in this section are translated into Spanish and other languages as determined necessary by the division.

(d) A copy of the rights of the youth shall be included in orientation packets provided to parents or guardians of wards. Copies of the rights of youth in English, Spanish, and other languages shall also be made available in the visiting areas of division facilities and, upon request, to parents or guardians.

SEC. 3. Section 1712.1 of the Welfare and Institutions Code is amended to read:

1712.1. (a) A ward confined in a facility of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall be encouraged to communicate with family members, clergy, and others, and to participate in programs that will facilitate his or her education, rehabilitation, and accountability to victims, and that may help the ward become a law-abiding and productive member of society. If the division or a facility requires a ward to provide a list of allowed visitors, calls, or correspondents, that list shall be transferable from facility to facility, so that the transfer of the ward does not unduly interrupt family and community communication.

(b) A ward shall be allowed a minimum of four telephone calls to his or her family per month. A restriction or reduction of the minimum amount of telephone calls allowed to a ward shall not be imposed as a disciplinary measure. If calls conflict with institutional operations, supervision, or security, telephone usage may be temporarily restricted to the extent reasonably necessary for the continued operation and security of the facility. When speaking by telephone with a family member, clergy, or counsel, a ward may use his or her native language or the native language of the person to whom he or she is speaking.

(c) (1) If a ward's visitation rights are suspended, division or facility staff shall be prepared to inform one or more persons on the list of those persons allowed to visit the ward, if any of those persons should call to ask.

(2) The division or facility shall maintain a toll-free telephone number that families and others may call to confirm visiting times, and to provide timely updates on interruptions and rescheduling of visiting days, times, and conditions.

(3) (A) The division shall encourage correspondence with family or clergy by providing blank paper, envelopes, pencils, and postage. Materials shall be provided in a manner that protects institutional and public safety.

(B) When corresponding with a family member, clergy, or counsel in writing, the ward may use his or her native language or the native language of the person to whom he or she is writing.

(C) Blank paper, envelopes, and pencils shall not be deemed contraband nor seized except in cases where the staff determines that these items would likely be used to cause bodily harm, injury, or death to the ward or other persons, or, based on specific history of property damage by the individual ward, would likely be used to cause destruction of state property. If the staff asserts that it is necessary to seize materials normally used for correspondence, the reasons for the seizure shall be entered in writing in the ward's file or records.

SEC. 4. Section 1766 of the Welfare and Institutions Code is amended to read:

1766. (a) Subject to Sections 733 and 1767.35, and subdivision (b) of this section, if a person has been committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, the Board of Parole Hearings, according to standardized review and appeal procedures established by the board in policy and regulation and subject to the powers and duties enumerated in subdivision (a) of Section 1719, may do any of the following:

(1) Permit the ward his or her liberty under supervision and upon conditions it believes are best designed for the protection of the public.

(2) Order his or her confinement under conditions it believes best designed for the protection of the public pursuant to the purposes set forth in Section 1700, except that a person committed to the division pursuant to Sections 731 or 1731.5 may not be held in physical confinement for a total period of time in excess of the maximum periods of time set forth in Section 731. Nothing in this subdivision limits the power of the board to retain the

minor or the young adult on parole status for the period permitted by Sections 1769, 1770, and 1771.

(3) Order reconfinement or renewed release under supervision as often as conditions indicate to be desirable.

(4) Revoke or modify any parole or disciplinary appeal order.

(5) Modify an order of discharge if conditions indicate that such modification is desirable and when that modification is to the benefit of the person committed to the division.

(6) Discharge him or her from its control when it is satisfied that discharge is consistent with the protection of the public.

(b) The following provisions shall apply to any ward eligible for release on parole on or after September 1, 2007, who was committed to the custody of the Division of Juvenile Facilities for an offense other than one described in subdivision (b) of Section 707 or subdivision (c) of Section 290.008 of the Penal Code:

(1) The county of commitment shall supervise the reentry of any ward released on parole on or after September 1, 2007, who was committed to the custody of the division for committing an offense other than those described in subdivision (b) of Section 707 or subdivision (c) of Section 290.008 of the Penal Code.

(2) Not less than 60 days prior to the scheduled parole consideration hearing of a ward described in this subdivision, the division shall provide to the probation department and the court of the committing county, and the ward's counsel, if known, the most recent written review prepared pursuant to Section 1720, along with notice of the parole consideration hearing date.

(3) (A) Not less than 30 days prior to the scheduled parole consideration hearing, the division shall notify the ward of the date and location of the parole consideration hearing. A ward shall have the right to contact his or her parent or guardian, if he or she can reasonably be located, to inform the parent or guardian of the date and location of the parole consideration hearing. The division shall also allow the ward to inform other persons identified by the ward, if they can reasonably be located, and who are considered by the division as likely to contribute to a ward's preparation for the parole consideration hearing or the ward's postrelease success.

(B) This paragraph shall not apply if either of the following conditions is met:

(i) A minor chooses not to contact his or her parents, guardians, or other persons and the director of the division facility determines it would be in the best interest of the minor not to contact the parents, guardians, or other persons.

(ii) A person 18 years of age or older does not consent to the contact.

(C) Upon intake of a ward into a division facility, and again upon attaining 18 years of age while in the custody of the division, an appropriate staff person shall explain the provisions of subparagraphs (A) and (B), using language clearly understandable to the ward.

(D) Nothing in this paragraph shall be construed to limit the right of a ward to an attorney under any other law.

(4) Not less than 30 days prior to the scheduled parole consideration hearing of a ward described in this subdivision, the probation department of the committing county may provide the division with its written plan for the reentry supervision of the ward. At the parole consideration hearing, the Board of Parole Hearings shall, in determining whether the ward is to be released, consider a reentry supervision plan submitted by the county.

(5) Any ward described in this subdivision who is granted parole shall be placed on parole jurisdiction for up to 15 court days following his or her release. The board shall notify the probation department and the court of the committing county within 48 hours of a decision to release a ward.

(6) Within 15 court days of the release by the division of a ward described in this subdivision, the committing court shall convene a reentry disposition hearing for the ward. The purpose of the hearing shall be for the court to identify those conditions of probation that are appropriate under all the circumstances of the case. The court shall, to the extent it deems appropriate, incorporate a reentry plan submitted by the county probation department and reviewed by the board into its disposition order. At the hearing the ward shall be fully informed of the terms and conditions of any order entered by the court, including the consequences for any violation thereof. The procedure of the reentry disposition hearing shall otherwise be consistent with the rules, rights, and procedures applicable to delinquency disposition hearings as described in Article 17 (commencing with Section 675) of Chapter 2 of Part 1 of Division 2.

(7) The division shall have no further jurisdiction over a ward described in this subdivision who is released on parole by the board upon the ward's court appearance pursuant to paragraph (5).

(c) Within 60 days of intake, the division shall provide the court and the probation department with a treatment plan for the ward.

(d) A ward shall be entitled to an appearance hearing before a panel of board commissioners for any action that would result in the extension of a parole consideration date pursuant to subdivision (d) of Section 5076.1 of the Penal Code.

(e) The department shall promulgate policies and regulations to implement this section.

(f) Commencing on July 1, 2004, and annually thereafter, for the preceding fiscal year, the department shall collect and make available to the public the following information:

(1) The total number of ward case reviews conducted by the division and the board, categorized by guideline category.

(2) The number of parole consideration dates for each category set at guideline, above guideline, and below guideline.

(3) The number of ward case reviews resulting in a change to a parole consideration date, including the category assigned to the ward, the amount of time added to or subtracted from the parole consideration date, and the specific reason for the change.

(4) The percentage of wards who have had a parole consideration date changed to a later date, the percentage of wards who have had a parole consideration date changed to an earlier date, and the average annual time added or subtracted per case.

(5) The number and percentage of wards who, while confined or on parole, are charged with a new misdemeanor or felony criminal offense.

(6) Any additional data or information identified by the department as relevant.

(g) As used in subdivision (f), the term “ward case review” means any review of a ward that changes, maintains, or appreciably affects the programs, treatment, or placement of a ward.