

AMENDED IN ASSEMBLY SEPTEMBER 4, 2013

AMENDED IN ASSEMBLY JULY 2, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE APRIL 30, 2013

AMENDED IN SENATE APRIL 3, 2013

SENATE BILL

No. 61

Introduced by Senator Yee

January 8, 2013

An act to amend Section 230 of, to amend, repeal, and add Sections 225, 226, and 229 of, and to add Section 208.3 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 61, as amended, Yee. Juveniles: solitary confinement.

(1) Existing law permits minors who are detained in juvenile hall for habitual disobedience, truancy, or curfew violation to be held in the same facility as minors who are detained for violating any law or ordinance defining a crime, if they do not come or remain in contact with each other. Existing law also permits the detention of minors in jails and other secure facilities for the confinement of adults if the minors do not come or remain in contact with confined adults and other specified conditions are met.

Existing law, the Lanterman-Petris-Short Act, authorizes the involuntary detention for a period of 72 hours for evaluation of persons, including minors, who are dangerous to self or others, or gravely disabled, as defined.

This bill would ~~provide that~~ *prohibit* a minor or ward who is detained in, or sentenced to, any juvenile facility or other secure state or local facility ~~shall not be~~ *from being* subject to solitary confinement, as defined, unless the minor or ward poses an immediate and substantial risk of harm to others or to the security of the facility, and all other less-restrictive options have been exhausted. The bill would permit the minor or ward to be held in solitary confinement only in accordance with specified guidelines, including that the minor or ward be held in solitary confinement only for the minimum time required to address the safety risk, and that does not compromise the mental and physical health of the minor or ward. The bill would prohibit a minor or ward from being placed in solitary confinement for more than 24 hours in a one-week period without obtaining specified written approval. The bill would require each local and state juvenile facility to document the usage of solitary confinement, as prescribed. *The bill would exempt from these provisions any juvenile who commits an assault or battery while detained in, or sentenced to, any juvenile facility, or who is determined by correctional facility staff to be a high-risk offender.* These provisions would become operative on January 1, 2015. By increasing the duties of local juvenile facilities, the bill would impose a state-mandated local program.

(2) Existing law establishes a juvenile justice commission in each county, but authorizes the boards of supervisors of 2 or more adjacent counties to agree to establish a regional juvenile justice commission in lieu of a county juvenile justice commission. Existing law specifies the membership of these commissions, including that 2 or more members shall be persons who are 14 to 21 years of age, inclusive, and that a regional juvenile justice commission shall consist of not less than 8 citizens. Existing law requires a juvenile justice commission to annually inspect any jail or lockup that, in the preceding calendar year, was used for confinement for more than 24 hours of any minor, and to report the results of the inspection, together with its recommendations based thereon, in writing, to the juvenile court and the Board of State and Community Corrections. Existing law authorizes a commission to recommend to any person charged with the administration of the Juvenile Court Law those changes as it has concluded, after investigation, will be beneficial, and to publicize its recommendations.

This bill would provide that 2 or more members of these commissions shall be parents or guardians of previously or currently incarcerated youth, and one member shall be a licensed social worker, licensed

psychiatrist, or licensed psychologist with expertise in adolescent development, if there are available persons who meet those requirements, as specified. The bill also would increase from 8 to 10 the minimum number of members of a regional juvenile justice commission. The bill would authorize a juvenile justice commission, as part of its annual inspection, to review the records of the jail or lockup as to the use of solitary confinement, and to additionally report the results of the inspection, together with its recommendations based thereon, in writing, to the county board of supervisors. The bill would authorize the commission to present its report at an annual hearing on the condition of juvenile justice corrections as part of a regularly scheduled public meeting of the county board of supervisors, and to publish the report on the county government's Internet Web site. The bill would authorize the commission to annually inspect any facility within the county other than a jail or lockup that, in the preceding calendar year, was used for confinement for more than 24 hours of any minor, and to review the records of the facility as to the use of solitary confinement. The bill would authorize the commission to report the results of the inspection to the juvenile court, the county board of supervisors, and the Board of State and Community Corrections, to present its report at an annual hearing on the condition of juvenile justice corrections as part of a regularly scheduled public meeting of the county board of supervisors, and to publish the report on the county government's Internet Web site. These provisions would become operative on January 1, 2015. The bill also would authorize a commission to publicize its recommendations made to any person charged with administration of the Juvenile Court Law on the county government's Internet Web site.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 208.3 is added to the Welfare and
2 Institutions Code, to read:

3 208.3. (a) For purposes of this section, the following
4 definitions shall apply:

5 (1) “Minor” means a person who is any of the following:

6 (A) A person under 18 years of age.

7 (B) A person under the maximum age of juvenile court
8 jurisdiction who is confined in a juvenile facility.

9 (C) A person under the jurisdiction of the Department of
10 Corrections and Rehabilitation, Division of Juvenile Facilities.

11 (2) “Solitary confinement” means ~~the involuntary holding~~
12 *placement of a person an incarcerated person, or a person detained*
13 *as a result of a juvenile petition, in a locked room or cell from*
14 *which the person is prevented from leaving, in isolation from with*
15 *minimal or no contact with persons other than guards, correctional*
16 *facility staff, and attorneys, during hours other than a facility’s*
17 *sleeping hours. attorneys. Solitary confinement does not include*
18 *confinement of a ward or minor in a single-person room or cell*
19 *for brief periods of locked-room confinement necessary for*
20 *institutional operations, including, but not limited to, shift changes,*
21 *showering, and unit movements.*

22 (3) “Ward” means a person who has been declared a ward of
23 the court pursuant to subdivision (a) of Section 602.

24 (b) A minor or ward who is detained in, or sentenced to, any
25 juvenile facility or other secure state or local facility shall not be
26 subject to solitary confinement, unless the minor or ward poses an
27 immediate and substantial risk of harm to others or to the security
28 of the facility, and all other less-restrictive options have been
29 exhausted. A minor or ward may be held in solitary confinement
30 only in accordance with all of the following guidelines:

31 (1) The minor or ward shall be held in solitary confinement only
32 for the minimum time required to address the safety risk, and that
33 does not compromise the mental and physical health of the minor
34 or ward.

35 (2) The minor or ward shall not be placed in solitary
36 confinement for more than 24 hours in a one-week period without
37 the written approval of the Chief of the Division of Juvenile
38 Facilities, or his or her designee, or the chief probation officer, or

1 his or her designee, which shall be required for each 24-hour period
2 thereafter.

3 (c) Solitary confinement shall not be used for the purposes of
4 discipline, punishment, coercion, convenience, or retaliation by
5 staff.

6 (d) Each local and state juvenile facility shall document the
7 usage of solitary confinement, including the dates and duration of
8 each occurrence, the reason for placement in solitary confinement,
9 and the race, age, and gender of the minor or ward placed in solitary
10 confinement. If any health or mental health clinical evaluations
11 were performed, these records shall affirmatively certify that the
12 results of those evaluations were considered in any decision to
13 place a minor or ward in solitary confinement or to continue
14 solitary confinement. These records shall be available for public
15 inspection pursuant to the California Public Records Act (Chapter
16 3.5 (commencing with Section 6250) of Division 7 of Title 1 of
17 the Government Code).

18 (e) *This section does not apply to any juvenile who commits an*
19 *assault or battery on another person while each is detained in, or*
20 *sentenced to, any juvenile facility, or who is determined by*
21 *correctional facility staff to be a high-risk offender. This*
22 *subdivision shall be liberally construed to effectuate its purposes.*

23 (f) *This section is not intended to limit the use of single-person*
24 *rooms or cells for the housing of minors or wards in juvenile*
25 *facilities.*

26 (e)

27 (g) *This section does not apply to minors or wards in court*
28 *holding facilities or adult facilities in accordance with Title 15 of*
29 *the California Code of Regulations.*

30 (h) Nothing in this section shall be construed to conflict with
31 any law providing greater or additional protections to minors or
32 wards.

33 (f)

34 (i) This section shall become operative on January 1, 2015.

35 SEC. 2. Section 225 of the Welfare and Institutions Code is
36 amended to read:

37 225. (a) In each county there shall be a juvenile justice
38 commission consisting of not less than 7 and no more than 15
39 citizens. Two or more members shall be persons who are 14 to 21
40 years of age, inclusive, if there are available persons 14 to 21 years

1 of age, inclusive, who are able to carry out the duties of a
2 commission member in a manner satisfactory to the appointing
3 authority. Each person serving as a member of a probation
4 committee immediately prior to September 15, 1961, shall be a
5 member of the juvenile justice commission and shall continue to
6 serve as such until his or her term of appointment as a member of
7 the probation committee would have expired under any prior law.
8 Upon a vacancy occurring in the membership of the commission,
9 and upon the expiration of the term of office of any member, a
10 successor shall be appointed by the presiding judge of the superior
11 court with the concurrence of the judge of the juvenile court or,
12 in a county having more than one judge of the juvenile court, with
13 the concurrence of the presiding judge of the juvenile court for a
14 term of four years. If a vacancy occurs for any reason other than
15 the expiration of a term of office, the appointee to fill the vacancy
16 shall hold office for the unexpired term of his or her predecessor.

17 (b) Appointments may be made by the presiding judge of the
18 superior court, in the same manner designated in this section for
19 the filling of vacancies, to increase the membership of a
20 commission to the maximum of 15 members in any county that
21 has a commission with a membership of less than 15 members.

22 (c) In any county in which the membership of the commission,
23 on the effective date of amendments to this section enacted at the
24 1971 Regular Session of the Legislature, exceeds the maximum
25 number permitted by this section, no additional appointments shall
26 be made until the number of commissioners is less than the
27 maximum number permitted by this section. In any case, such
28 county's commission membership shall, on or after January 1,
29 1974, be no greater than the maximum number permitted by this
30 section.

31 (d) This section shall remain in effect only until January 1, 2015,
32 and as of that date is repealed, unless a later enacted statute, that
33 is enacted before January 1, 2015, deletes or extends that date.

34 SEC. 3. Section 225 is added to the Welfare and Institutions
35 Code, to read:

36 225. (a) In each county there shall be a juvenile justice
37 commission consisting of not less than 7 and no more than 15
38 citizens. Two or more members shall be persons who are 14 to 21
39 years of age, inclusive, if there are available persons 14 to 21 years
40 of age, inclusive, who are able to carry out the duties of a

1 commission member in a manner satisfactory to the appointing
2 authority. Two or more members shall be parents or guardians of
3 previously or currently incarcerated youth, if there are available
4 persons who meet this requirement who are able to carry out the
5 duties of a commission member in a manner satisfactory to the
6 appointing authority. One member shall be a licensed social
7 worker, licensed psychiatrist, or licensed psychologist with
8 expertise in adolescent development, if there is an available person
9 who meets this requirement who is able to carry out the duties of
10 a commission member in a manner satisfactory to the appointing
11 authority. Each person serving as a member of a probation
12 committee immediately prior to September 15, 1961, shall be a
13 member of the juvenile justice commission and shall continue to
14 serve as such until his or her term of appointment as a member of
15 the probation committee would have expired under any prior law.
16 Upon a vacancy occurring in the membership of the commission,
17 and upon the expiration of the term of office of any member, a
18 successor shall be appointed by the presiding judge of the superior
19 court with the concurrence of the judge of the juvenile court or,
20 in a county having more than one judge of the juvenile court, with
21 the concurrence of the presiding judge of the juvenile court for a
22 term of four years. If a vacancy occurs for any reason other than
23 the expiration of a term of office, the appointee to fill the vacancy
24 shall hold office for the unexpired term of his or her predecessor.

25 (b) Appointments may be made by the presiding judge of the
26 superior court, in the same manner designated in this section for
27 the filling of vacancies, to increase the membership of a
28 commission to the maximum of 15 members in any county that
29 has a commission with a membership of less than 15 members.

30 (c) In any county in which the membership of the commission,
31 on the effective date of amendments to this section enacted at the
32 1971 Regular Session of the Legislature, exceeds the maximum
33 number permitted by this section, no additional appointments shall
34 be made until the number of commissioners is less than the
35 maximum number permitted by this section. In any case, that
36 county's commission membership shall, on or after January 1,
37 1974, be no greater than the maximum number permitted by this
38 section.

39 (d) This section shall become operative on January 1, 2015.

1 SEC. 4. Section 226 of the Welfare and Institutions Code is
2 amended to read:

3 226. (a) In lieu of county juvenile justice commissions, the
4 boards of supervisors of two or more adjacent counties may agree
5 to establish a regional juvenile justice commission consisting of
6 not less than eight citizens, and having a sufficient number of
7 members so that their appointment may be equally apportioned
8 between the participating counties. Two or more members shall
9 be persons who are 14 to 21 years of age, inclusive, if there are
10 available persons 14 to 21 years of age, inclusive, who are able to
11 carry out the duties of a commission member in a manner
12 satisfactory to the appointing authority. The presiding judge of the
13 superior court with the concurrence of the judge of the juvenile
14 court or, in a county having more than one judge of the juvenile
15 court, with the concurrence of the presiding judge of the juvenile
16 court of each of the participating counties shall appoint an equal
17 number of members to the regional justice commission and the
18 members shall hold office for a term of four years. Of those first
19 appointed, however, if the number of members appointed is an
20 even number, one-half shall serve for a term of two years and
21 one-half shall serve for a term of four years. If the number of
22 members first appointed is an odd number, the greater number
23 nearest one-half shall serve for a term of two years and the
24 remainder shall serve for a term of four years. The respective terms
25 of the members first appointed shall be determined by lot as soon
26 as possible after their appointment. Upon a vacancy occurring in
27 the membership of the commission, and upon the expiration of the
28 term of office of any member, a successor shall be appointed by
29 the presiding judge of the superior court with the concurrence of
30 the judge of the juvenile court or, in a county having more than
31 one judge of the juvenile court, with the concurrence of the
32 presiding judge of the juvenile court of the county that originally
33 appointed the vacating or retiring member. If a vacancy occurs for
34 any reason other than the expiration of a term of office, the
35 appointee shall hold office for the unexpired term of his or her
36 predecessor.

37 (b) This section shall remain in effect only until January 1, 2015,
38 and as of that date is repealed, unless a later enacted statute, that
39 is enacted before January 1, 2015, deletes or extends that date.

1 SEC. 5. Section 226 is added to the Welfare and Institutions
2 Code, to read:

3 226. (a) In lieu of county juvenile justice commissions, the
4 boards of supervisors of two or more adjacent counties may agree
5 to establish a regional juvenile justice commission consisting of
6 not less than 10 citizens, and having a sufficient number of
7 members so that their appointment may be equally apportioned
8 between the participating counties. Two or more members shall
9 be persons who are 14 to 21 years of age, inclusive, if there are
10 available persons 14 to 21 years of age, inclusive, who are able to
11 carry out the duties of a commission member in a manner
12 satisfactory to the appointing authority. Two or more members
13 shall be parents or guardians of previously or currently incarcerated
14 youth, if there are available persons who meet this requirement
15 who are able to carry out the duties of a commission member in a
16 manner satisfactory to the appointing authority. One member shall
17 be a licensed social worker, licensed psychiatrist, or licensed
18 psychologist with expertise in adolescent development, if there is
19 an available person who meets this requirement who is able to
20 carry out the duties of a commission member in a manner
21 satisfactory to the appointing authority. The presiding judge of the
22 superior court with the concurrence of the judge of the juvenile
23 court or, in a county having more than one judge of the juvenile
24 court, with the concurrence of the presiding judge of the juvenile
25 court of each of the participating counties shall appoint an equal
26 number of members to the regional justice commission and the
27 members shall hold office for a term of four years. Of those first
28 appointed, however, if the number of members appointed is an
29 even number, one-half shall serve for a term of two years and
30 one-half shall serve for a term of four years. If the number of
31 members first appointed is an odd number, the greater number
32 nearest one-half shall serve for a term of two years and the
33 remainder shall serve for a term of four years. The respective terms
34 of the members first appointed shall be determined by lot as soon
35 as possible after their appointment. Upon a vacancy occurring in
36 the membership of the commission, and upon the expiration of the
37 term of office of any member, a successor shall be appointed by
38 the presiding judge of the superior court with the concurrence of
39 the judge of the juvenile court or, in a county having more than
40 one judge of the juvenile court, with the concurrence of the

1 presiding judge of the juvenile court of the county that originally
2 appointed the vacating or retiring member. If a vacancy occurs for
3 any reason other than the expiration of a term of office, the
4 appointee shall hold office for the unexpired term of his or her
5 predecessor.

6 (b) This section shall become operative on January 1, 2015.

7 SEC. 6. Section 229 of the Welfare and Institutions Code is
8 amended to read:

9 229. (a) It shall be the duty of a juvenile justice commission
10 to inquire into the administration of the juvenile court law in the
11 county or region in which the commission serves. For this purpose
12 the commission shall have access to all publicly administered
13 institutions authorized or whose use is authorized by this chapter
14 situated in the county or region, shall inspect those institutions at
15 least once a year, and may hold hearings. A judge of the juvenile
16 court may issue subpoenas requiring attendance and testimony of
17 witnesses and production of papers at hearings of the commission.

18 (b) A juvenile justice commission shall annually inspect any
19 jail or lockup within the county that, in the preceding calendar
20 year, was used for confinement for more than 24 hours of any
21 minor. It shall report the results of the inspection, together with
22 its recommendations based thereon, in writing, to the juvenile court
23 and to the Board of State and Community Corrections.

24 (c) This section shall remain in effect only until January 1, 2015,
25 and as of that date is repealed, unless a later enacted statute, that
26 is enacted before January 1, 2015, deletes or extends that date.

27 SEC. 7. Section 229 is added to the Welfare and Institutions
28 Code, to read:

29 229. (a) It shall be the duty of a juvenile justice commission
30 to inquire into the administration of the juvenile court law in the
31 county or region in which the commission serves. For this purpose
32 the commission shall have access to all publicly administered
33 institutions authorized or whose use is authorized by this chapter
34 situated in the county or region, shall inspect those institutions at
35 least once a year, and may hold public hearings. A judge of the
36 juvenile court may issue subpoenas requiring attendance and
37 testimony of witnesses and production of papers at hearings of the
38 commission.

39 (b) A juvenile justice commission shall annually inspect any
40 jail or lockup within the county that, in the preceding calendar

1 year, was used for confinement for more than 24 hours of any
2 minor. As part of the annual inspection, the commission may
3 review the records of the jail or lockup as to the use of solitary
4 confinement, as defined in paragraph (2) of subdivision (a) of
5 Section 208.3. The commission shall report the results of the
6 inspection, together with its recommendations based thereon, in
7 writing, to the juvenile court and the Board of State and
8 Community Corrections, and may report those results to the county
9 board of supervisors. The commission may present its report at an
10 annual hearing on the condition of juvenile justice corrections as
11 part of a regularly scheduled public meeting of the county board
12 of supervisors, and may publish the report on the county
13 government's Internet Web site.

14 (c) A juvenile justice commission may annually inspect any
15 facility within the county other than a jail or lockup that, in the
16 preceding calendar year, was used for confinement for more than
17 24 hours of any minor. As part of the annual inspection, the
18 commission may review the records of the facility as to the use of
19 solitary confinement, as defined in paragraph (2) of subdivision
20 (a) of Section 208.3. If the commission inspects a facility, the
21 commission may report the results of the inspection, together with
22 its recommendations based thereon, in writing, to the juvenile
23 court, the county board of supervisors, and the Board of State and
24 Community Corrections. The commission may present its report
25 at an annual hearing on the condition of juvenile justice corrections
26 as part of a regularly scheduled public meeting of the county board
27 of supervisors, and may publish the report on the county
28 government's Internet Web site.

29 (d) This section shall become operative on January 1, 2015.

30 SEC. 8. Section 230 of the Welfare and Institutions Code is
31 amended to read:

32 230. A juvenile justice commission may recommend to any
33 person charged with the administration of any of the provisions
34 of this chapter those changes as it has concluded, after
35 investigation, will be beneficial. A commission may publicize its
36 recommendations on the county government's Internet Web site.

37 SEC. 9. If the Commission on State Mandates determines that
38 this act contains costs mandated by the state, reimbursement to
39 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O