

Introduced by Senator Yee
(Coauthors: Senators Evans and Leno)
(Coauthor: Assembly Member Bradford)

February 10, 2014

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 970, as introduced, 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 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, commencing January 1, 2016, would generally prohibit a minor or ward who is detained in, or sentenced to, any juvenile facility or other secure state or local facility 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 for only the minimum time required to address the safety risk and for a period 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. 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, commencing January 1, 2016, would require that 2 or more members of these commissions be parents or guardians of previously or currently incarcerated youth, and one member 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 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. The bill would authorize a juvenile justice commission to review the records of the jail, lockup, or other facility 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 also 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 placement of an
12 incarcerated person, or a person detained as a result of a juvenile
13 petition, in a locked room or cell with minimal or no contact with
14 persons other than guards, correctional facility staff, and attorneys.
15 Solitary confinement does not include confinement of a ward or
16 minor in a single-person room or cell for brief periods of
17 locked-room confinement necessary for institutional operations,
18 including, but not limited to, shift changes, showering, and unit
19 movements.

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

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

8 (1) The minor or ward shall be held in solitary confinement for
9 only the minimum time required to address the safety risk and for
10 a period that does not compromise the mental and physical health
11 of the minor or ward.

12 (2) The minor or ward shall not be placed in solitary
13 confinement for more than 24 hours in a one-week period without
14 the written approval of the Chief of the Division of Juvenile
15 Facilities, or his or her designee, or the chief probation officer, or
16 his or her designee, which shall be required for each 24-hour period
17 thereafter.

18 (c) Solitary confinement shall not be used for the purposes of
19 discipline, punishment, coercion, convenience, or retaliation by
20 staff.

21 (d) Each local and state juvenile facility shall document the
22 usage of solitary confinement, including the dates and duration of
23 each occurrence, the reason for placement in solitary confinement,
24 and the race, age, and gender of the minor or ward placed in solitary
25 confinement. If any health or mental health clinical evaluations
26 were performed, these records shall affirmatively certify that the
27 results of those evaluations were considered in any decision to
28 place a minor or ward in solitary confinement or to continue
29 solitary confinement. These records shall be available for public
30 inspection pursuant to the California Public Records Act (Chapter
31 3.5 (commencing with Section 6250) of Division 7 of Title 1 of
32 the Government Code).

33 (e) This section is not intended to limit the use of single-person
34 rooms or cells for the housing of minors or wards in juvenile
35 facilities.

36 (f) This section does not apply to minors or wards in court
37 holding facilities or adult facilities.

38 (g) Nothing in this section shall be construed to conflict with
39 any law providing greater or additional protections to minors or
40 wards.

1 (h) This section shall become operative on January 1, 2016.

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

4 225. (a) In each county there shall be a juvenile justice
5 commission consisting of not less than 7 and no more than 15
6 citizens. Two or more ~~of the~~ members shall be persons who are
7 ~~between 14 and to 21 years of age, provided inclusive, if there are~~
8 ~~available persons between 14 and to 21 years of age~~ *age, inclusive,*
9 who are able to carry out the duties of a commission member in a
10 manner satisfactory to the appointing authority. Each person
11 serving as a member of a probation committee immediately prior
12 to September 15, 1961, shall be a member of the juvenile justice
13 commission and shall continue to serve as such ~~until such time as~~
14 ~~his or her term of appointment as a member of the probation~~
15 ~~committee would have expired under any prior provision of law.~~
16 Upon a vacancy occurring in the membership of the ~~commission~~
17 *commission*, and upon the expiration of the term of office of any
18 member, a successor shall be appointed by the presiding judge of
19 the superior court with the concurrence of the judge of the juvenile
20 court or, in a county having more than one judge of the juvenile
21 court, with the concurrence of the presiding judge of the juvenile
22 court for a term of four years. ~~When~~ *If* a vacancy occurs for any
23 reason other than the expiration of a term of office, the appointee
24 to fill ~~such~~ *the* vacancy shall hold office for the unexpired term of
25 his or her predecessor.

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

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

1 (d) This section shall remain in effect only until January 1, 2016,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2016, deletes or extends that date.

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

6 225. (a) In each county there shall be a juvenile justice
7 commission consisting of not less than 7 and no more than 15
8 citizens. Two or more members shall be persons who are 14 to 21
9 years of age, inclusive, if there are available persons 14 to 21 years
10 of age, inclusive, who are able to carry out the duties of a
11 commission member in a manner satisfactory to the appointing
12 authority. Two or more members shall be parents or guardians of
13 previously or currently incarcerated youth, if there are available
14 persons who meet this requirement who are able to carry out the
15 duties of a commission member in a manner satisfactory to the
16 appointing authority. One member shall be a licensed social
17 worker, licensed psychiatrist, or licensed psychologist with
18 expertise in adolescent development, if there is an available person
19 who meets this requirement who is able to carry out the duties of
20 a commission member in a manner satisfactory to the appointing
21 authority. Each person serving as a member of a probation
22 committee immediately prior to September 15, 1961, shall be a
23 member of the juvenile justice commission and shall continue to
24 serve as such until his or her term of appointment as a member of
25 the probation committee would have expired under any prior law.
26 Upon a vacancy occurring in the membership of the commission,
27 and upon the expiration of the term of office of any member, a
28 successor shall be appointed by the presiding judge of the superior
29 court with the concurrence of the judge of the juvenile court or,
30 in a county having more than one judge of the juvenile court, with
31 the concurrence of the presiding judge of the juvenile court for a
32 term of four years. If a vacancy occurs for any reason other than
33 the expiration of a term of office, the appointee to fill the vacancy
34 shall hold office for the unexpired term of his or her predecessor.

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

1 (c) In any county in which the membership of the commission,
2 on the effective date of amendments to this section enacted at the
3 1971 Regular Session of the Legislature, exceeds the maximum
4 number permitted by this section, no additional appointments shall
5 be made until the number of commissioners is less than the
6 maximum number permitted by this section. In any case, that
7 county's commission membership shall, on or after January 1,
8 1974, be no greater than the maximum number permitted by this
9 section.

10 (d) This section shall become operative on January 1, 2016.

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

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

1 court with the concurrence of the judge of the juvenile court or,
2 in a county having more than one judge of the juvenile court, with
3 the concurrence of the presiding judge of the juvenile court of the
4 county ~~which~~ *that* originally appointed ~~such~~ *the* vacating or retiring
5 member. ~~When~~ *If* a vacancy occurs for any reason other than the
6 expiration of a term of office, the appointee shall hold office for
7 the unexpired term of his or her predecessor.

8 *(b) This section shall remain in effect only until January 1, 2016,*
9 *and as of that date is repealed, unless a later enacted statute, that*
10 *is enacted before January 1, 2016, deletes or extends that date.*

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

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

1 members first appointed is an odd number, the greater number
 2 nearest one-half shall serve for a term of two years and the
 3 remainder shall serve for a term of four years. The respective terms
 4 of the members first appointed shall be determined by lot as soon
 5 as possible after their appointment. Upon a vacancy occurring in
 6 the membership of the commission, and upon the expiration of the
 7 term of office of any member, a successor shall be appointed by
 8 the presiding judge of the superior court with the concurrence of
 9 the judge of the juvenile court or, in a county having more than
 10 one judge of the juvenile court, with the concurrence of the
 11 presiding judge of the juvenile court of the county that originally
 12 appointed the vacating or retiring member. If a vacancy occurs for
 13 any reason other than the expiration of a term of office, the
 14 appointee shall hold office for the unexpired term of his or her
 15 predecessor.

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

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

19 229. (a) It shall be the duty of a juvenile justice commission
 20 to inquire into the administration of the juvenile court law in the
 21 county or region in which the commission serves. For this purpose
 22 the commission shall have access to all publicly administered
 23 institutions authorized or whose use is authorized by this chapter
 24 situated in the county or region, shall inspect ~~such~~ *those* institutions
 25 ~~no less frequently than~~ *at least* once a year, and may hold hearings.
 26 A judge of the juvenile court ~~shall have the power to~~ *may* issue
 27 subpoenas requiring attendance and testimony of witnesses and
 28 production of papers at hearings of the commission.

29 (b) A juvenile justice commission shall annually inspect any
 30 jail or lockup within the county ~~which~~ *that*, in the preceding
 31 calendar ~~year~~ *year*, was used for confinement for more than 24
 32 hours of any minor. It shall report the results of ~~such inspection~~
 33 *the inspection*, together with its recommendations based thereon,
 34 in writing, to the juvenile court and to the Board of *State and*
 35 *Community* Corrections.

36 (c) *This section shall remain in effect only until January 1, 2016,*
 37 *and as of that date is repealed, unless a later enacted statute, that*
 38 *is enacted before January 1, 2016, deletes or extends that date.*

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

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

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

26 (c) A juvenile justice commission may annually inspect any
27 facility within the county other than a jail or lockup that, in the
28 preceding calendar year, was used for confinement for more than
29 24 hours of any minor. As part of the annual inspection, the
30 commission may review the records of the facility as to the use of
31 solitary confinement, as defined in paragraph (2) of subdivision
32 (a) of Section 208.3. If the commission inspects a facility, the
33 commission may report the results of the inspection, together with
34 its recommendations based thereon, in writing, to the juvenile
35 court, the county board of supervisors, and the Board of State and
36 Community Corrections. The commission may present its report
37 at an annual hearing on the condition of juvenile justice corrections
38 as part of a regularly scheduled public meeting of the county board
39 of supervisors, and may publish the report on the county
40 government's Internet Web site.

1 (d) This section shall become operative on January 1, 2016.

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

4 230. A juvenile justice commission may recommend to any
5 person charged with the administration of any of the provisions
6 of this chapter—~~such~~ *those* changes as it has concluded, after
7 investigation, will be beneficial. A commission may publicize its
8 ~~recommendations~~; *recommendations on the county government's*
9 *Internet Web site.*

10 SEC. 9. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.