

AMENDED IN SENATE APRIL 16, 1996

SENATE BILL

No. 1938

Introduced by Senator Mountjoy

February 23, 1996

~~An act to amend Section 49068 of the Education Code, to amend Section 1202.8 of, and to add Section 3058.9 to, the Penal Code, and to amend Section 725 of, and to add Section 1764.4 to, An act to amend Section 827 of the Welfare and Institutions Code, relating to juvenile offenders.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1938, as amended, Mountjoy. Juveniles: ~~violent sex~~ offenses: schools: notification.

~~Under existing law, whenever a pupil transfers from one school district to another or to a private school, or from a private school to a school district, the pupil's permanent record is required to be transferred by the former district or school upon request.~~

~~This bill would include any criminal records in those records that are required to be transferred.~~

~~Under existing law, a person may be sentenced to probation by a court, upon conviction of a criminal offense. Persons placed on probation are required to be under the supervision of the county probation officer. Under existing law, when an inmate serving a term for a violent felony is scheduled to be released on parole, the paroling authority is required to notify local law enforcement officials.~~

~~Under existing law, a juvenile may be placed on probation upon a finding that he or she has committed a criminal~~

~~offense. Existing law also provides that when a juvenile who was committed to the Department of the Youth Authority for a violent felony is scheduled to be released on parole, the director of the Youth Authority shall notify local law enforcement officials.~~

~~This bill would provide that if a schoolage person is placed on probation or released on parole after being convicted or adjudicated of a violent felony or a sex offense, the court or paroling authority, respectively, shall notify the superintendent of the school district in which the person will attend school, of that conviction or adjudication. The bill would require the probation or parole officer, respectively, to notify the superintendent of any other school district to which the person transfers while he or she is on probation, of that conviction or adjudication.~~

Under existing law, a court is required to provide to the superintendent of the school district of attendance written notice that a minor enrolled in a public school has been found by the court to have committed any felony or misdemeanor involving certain criminal offenses. A violation of the confidentiality provisions regarding that written notice is a misdemeanor.

This bill would add to that list of criminal offenses specified sex offenses.

Because the bill would impose additional duties on local officials *and expand the scope of an existing crime*, the bill would impose a state-mandated local program.

~~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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~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.~~

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 49068 of the Education Code is~~
2 *SECTION 1. Section 827 of the Welfare and*
3 *Institutions Code is amended to read:*
4 827. (a) Except as provided in Section 828, a petition
5 filed in any juvenile court proceeding, reports of the
6 probation officer, and all other documents filed in that
7 case or made available to the probation officer in making
8 his or her report, or to the judge, referee, or other hearing
9 officer, and thereafter retained by the probation officer,
10 judge, referee, or other hearing officer, may be inspected
11 only by court personnel, the district attorney, a city
12 attorney or city prosecutor authorized to prosecute
13 criminal or juvenile cases under state law, the minor who
14 is the subject of the proceeding, his or her parents or
15 guardian, the attorneys for the parties, and judges,
16 referees, other hearing officers, probation officers and
17 law enforcement officers who are actively participating
18 in criminal or juvenile proceedings involving the minor,
19 the superintendent or designee of the school district
20 where the minor is enrolled or attending school,
21 members of the child protective agencies as defined in
22 Section 11165.9 of the Penal Code, members of children’s



1 multidisciplinary teams, persons or agencies providing
2 treatment or supervision of the minor, and any other
3 person who may be designated by court order of the
4 judge of the juvenile court upon filing a petition therefor.

5 Any records or reports relating to a matter within the
6 jurisdiction of the juvenile court prepared by or released
7 by the court, a probation department, or the county
8 department of social services, any portion of those
9 records or reports, and information relating to the
10 contents of those records or reports, shall not be
11 disseminated by the receiving agencies to any persons or
12 agencies, other than those persons or agencies authorized
13 to receive documents pursuant to this section. Further,
14 any of those records or reports, any portion of those
15 records or reports, and information relating to the
16 contents of those records or reports, shall not be made
17 attachments to any other documents without the prior
18 approval of the presiding judge of the juvenile court,
19 unless they are used in connection with and in the course
20 of a criminal investigation or a proceeding brought to
21 declare a person a dependent child or ward of the
22 juvenile court.

23 (b) (1) While the Legislature reaffirms its belief that
24 juvenile court records, in general, should be confidential,
25 it is the intent of the Legislature in enacting this
26 subdivision to provide for a limited exception to juvenile
27 court record confidentiality to promote more effective
28 communication among juvenile courts, law enforcement
29 agencies, and schools to ensure the rehabilitation of
30 juvenile criminal offenders as well as to lessen the
31 potential for drug use, violence, and other forms of
32 delinquency.

33 (2) Notwithstanding subdivision (a), written notice
34 that a minor enrolled in a public school, kindergarten to
35 grade 12, inclusive, has been found by a court of
36 competent jurisdiction to have committed any felony or
37 any misdemeanor involving curfew, gambling, alcohol,
38 drugs, tobacco products, carrying of weapons, *a sex*
39 *offense listed in Section 290 of the Penal Code*, assault or
40 battery, larceny, vandalism, or graffiti shall be provided



1 by the court, within seven days, to the superintendent of
2 the school district of attendance. Written notice shall
3 include only the offense found to have been committed
4 by the minor and the disposition of the minor's case. This
5 notice shall be expeditiously transmitted by the district
6 superintendent to the principal at the school of
7 attendance. The principal shall expeditiously disseminate
8 the information to those counselors directly supervising
9 or reporting on the behavior or progress of the minor. In
10 addition, the principal may disseminate the information
11 to any teacher or administrator directly supervising or
12 reporting on the behavior or progress of the minor whom
13 the principal believes needs the information to work with
14 the pupil in an appropriate fashion, to avoid being
15 needlessly vulnerable or to protect other persons from
16 needless vulnerability. ~~Any~~

17 *Any* information received by a teacher, counselor, or
18 administrator under this subdivision shall be received in
19 confidence for the limited purpose of rehabilitating the
20 minor and protecting students and staff, and shall not be
21 further disseminated by the teacher, counselor, or
22 administrator, except insofar as communication with the
23 juvenile, his or her parents or guardians, law enforcement
24 personnel, and the juvenile's probation officer is
25 necessary to effectuate the juvenile's rehabilitation or to
26 protect students and staff. ~~At~~

27 *An* intentional violation of the confidentiality
28 provisions of this section is a misdemeanor punishable by
29 a fine not to exceed five hundred dollars (\$500).

30 (3) If a minor is removed from public school as a result
31 of the court's finding described in subdivision (b), the
32 superintendent shall maintain the information in a
33 confidential file and shall defer transmittal of the
34 information received from the court until the minor is
35 returned to public school. If the minor is returned to a
36 school district other than the one from which the minor
37 came, the parole or probation officer having jurisdiction
38 over the minor shall so notify the superintendent of the
39 last district of attendance, who shall transmit the notice

1 received from the court to the superintendent of the new
2 district of attendance.

3 (c) Each probation report filed with the court
4 concerning a minor whose record is subject to
5 dissemination pursuant to subdivision (b) shall include on
6 the face sheet the school at which the minor is currently
7 enrolled. The county superintendent shall provide the
8 court with a listing of all of the schools within each school
9 district, within the county, along with the name and
10 mailing address of each district superintendent.

11 (d) Each notice sent by the court pursuant to
12 subdivision (b) shall be stamped with the instruction:
13 “Unlawful Dissemination Of This Information Is A
14 Misdemeanor.” Any information received from the court
15 shall be kept in a separate confidential file at the school
16 of attendance and shall be transferred to the minor’s
17 subsequent schools of attendance and maintained until
18 the minor graduates from high school, is released from
19 juvenile court jurisdiction, or reaches the age of 18,
20 whichever occurs first. After that time the confidential
21 record shall be destroyed. At any time after the date by
22 which a record required to be destroyed by this section
23 should have been destroyed, the minor or his or her
24 parent or guardian shall have the right to make a written
25 request to the principal of the school that the minor’s
26 school records be reviewed to ensure that the record has
27 been destroyed. Upon completion of any requested
28 review and no later than 30 days after the request for the
29 review was received, the principal or his or her designee
30 shall respond in writing to the written request and either
31 shall confirm that the record has been destroyed or, if the
32 record has not been destroyed, shall explain why
33 destruction has not yet occurred.

34 Except as provided in paragraph (2) of subdivision (b),
35 no liability shall attach to any person who transmits or fails
36 to transmit any notice or information required under
37 subdivision (b).

38 *SEC. 2. No reimbursement is required by this act*
39 *pursuant to Section 6 of Article XIII B of the California*
40 *Constitution for certain costs that may be incurred by a*



1 local agency or school district because in that regard this
2 act creates a new crime or infraction, eliminates a crime
3 or infraction, or changes the penalty for a crime or
4 infraction, within the meaning of Section 17556 of the
5 Government Code, or changes the definition of a crime
6 within the meaning of Section 6 of Article XIII B of the
7 California Constitution.

8 However, notwithstanding Section 17610 of the
9 Government Code, if the Commission on State Mandates
10 determines that this act contains other costs mandated by
11 the state, reimbursement to local agencies and school
12 districts for those costs shall be made pursuant to Part 7
13 (commencing with Section 17500) of Division 4 of Title
14 2 of the Government Code. If the statewide cost of the
15 claim for reimbursement does not exceed one million
16 dollars (\$1,000,000), reimbursement shall be made from
17 the State Mandates Claims Fund.

18 Notwithstanding Section 17580 of the Government
19 Code, unless otherwise specified, the provisions of this act
20 shall become operative on the same date that the act
21 takes effect pursuant to the California Constitution.

22 amended to read:

23 ~~49068. Whenever a pupil transfers from one school
24 district to another or to a private school, or transfers from
25 a private school to a school district within the state, the
26 pupil's permanent record or a copy thereof, including any
27 criminal record, shall be transferred by the former
28 district or private school upon a request from the district
29 or private school where the pupil intends to enroll. Any
30 school district requesting such a transfer of a record shall
31 notify the parent of his right to receive a copy of the
32 record and a right to a hearing to challenge the content
33 of the record. The State Board of Education is hereby
34 authorized to adopt rules and regulations concerning the
35 transfer of records.~~

36 ~~SEC. 2. Section 1202.8 of the Penal Code is amended
37 to read:~~

38 ~~1202.8. (a) Persons placed on probation by a court
39 shall be under the supervision of the county probation
40 officer who shall determine both the level and type of~~



1 supervision consistent with the court-ordered conditions
2 of probation.

3 (b) (1) If a schoolage person is placed on probation
4 after being convicted of a violent felony, as defined in
5 subdivision (e) of Section 667.5, or a sex offense specified
6 in subparagraph (A) of paragraph (2) of subdivision (a)
7 of Section 290, the court shall notify the superintendent
8 of the school district in which the person will attend
9 school, of that conviction. If the person transfers to
10 another school district while he or she is on probation, the
11 probation officer shall notify the superintendent of that
12 school district of that conviction.

13 (2) Information received pursuant to this section shall
14 remain confidential and shall be disclosed only to those
15 persons employed by the school district whom the
16 superintendent determines need to know the
17 information for purposes of their personal safety.

18 SEC. 3. Section 3058.9 is added to the Penal Code, to
19 read:

20 3058.9. (a) Whenever a schoolage person who has
21 been confined in a facility under the jurisdiction of the
22 Department of Corrections for conviction of a violent
23 felony, as defined in subdivision (e) of Section 667.5, or a
24 sex offense specified in subparagraph (A) of paragraph
25 (2) of subdivision (a) of Section 290, is released on parole,
26 the paroling authority shall notify the superintendent of
27 the school district into which the person is scheduled to
28 be released.

29 (b) If the person transfers to another school district
30 while he or she is on parole, the parole officer shall notify
31 the superintendent of that school district of the person's
32 conviction for an offense specified in this section.

33 (c) Information received pursuant to this section shall
34 remain confidential and shall be disclosed only to those
35 persons employed by the school district whom the
36 superintendent determines need to know the
37 information for purposes of their personal safety.

38 SEC. 4. Section 725 of the Welfare and Institutions
39 Code is amended to read:



1 ~~725. (a) After receiving and considering the~~
2 ~~evidence on the proper disposition of the case, the court~~
3 ~~may enter judgment as follows:~~

4 ~~(1) If the court has found that the minor is a person~~
5 ~~described by Section 601 or 602, by reason of the~~
6 ~~commission of an offense other than any of the offenses~~
7 ~~set forth in Section 654.3, it may, without adjudging the~~
8 ~~minor a ward of the court, place the minor on probation;~~
9 ~~under the supervision of the probation officer, for a~~
10 ~~period not to exceed six months. The minor's probation~~
11 ~~shall include the conditions required in Section 729.2~~
12 ~~except in any case in which the court makes a finding and~~
13 ~~states on the record its reasons that any of those~~
14 ~~conditions would be inappropriate. If the offense~~
15 ~~involved the unlawful possession, use, or furnishing of a~~
16 ~~controlled substance, as defined in Chapter 2~~
17 ~~(commencing with Section 11053) of Division 10 of the~~
18 ~~Health and Safety Code, a violation of subdivision (f) of~~
19 ~~Section 647 of the Penal Code, or a violation of Section~~
20 ~~25662 of the Business and Professions Code, the minor's~~
21 ~~probation shall include the conditions required by~~
22 ~~Section 729.10. If the minor fails to comply with the~~
23 ~~conditions of probation imposed, the court may order and~~
24 ~~adjudge the minor to be a ward of the court.~~

25 ~~(2) If the court has found that the minor is a person~~
26 ~~described by Section 601 or 602, it may order and adjudge~~
27 ~~the minor to be a ward of the court.~~

28 ~~(b) (1) If the court places a minor on probation after~~
29 ~~finding that the minor committed a violent felony, as~~
30 ~~defined in subdivision (c) of Section 667.5 of the Penal~~
31 ~~Code, or a sex offense specified in subparagraph (A) of~~
32 ~~paragraph (2) of subdivision (a) of Section 290 of the~~
33 ~~Penal Code, the court shall notify the superintendent of~~
34 ~~the school district in which the minor will attend school~~
35 ~~of that adjudication. If the minor transfers to another~~
36 ~~school district while he or she is on probation, the~~
37 ~~probation officer shall notify the superintendent of that~~
38 ~~school district of that adjudication.~~

39 ~~(2) Information received pursuant to this section shall~~
40 ~~remain confidential and shall be disclosed only to those~~



1 persons employed by the school district whom the
2 superintendent determines need to know the
3 information for purposes of their personal safety.

4 SEC. 5. Section 1764.4 is added to the Welfare and
5 Institutions Code, to read:

6 1764.4. (a) Whenever a juvenile who has been
7 confined in a facility under the jurisdiction of the
8 Department of the Youth Authority who was found to
9 have committed a violent felony, as defined in subdivision
10 (e) of Section 667.5, or a sex offense specified in
11 subparagraph (A) of paragraph (2) of subdivision (a) of
12 Section 290, is released on parole, and that juvenile is of
13 schoolage, the Youthful Offender Parole Board shall
14 notify the superintendent of the school district into which
15 the person is scheduled to be released of that
16 adjudication.

17 (b) If the juvenile transfers to another school district
18 while he or she is on parole, the parole officer shall notify
19 the superintendent of that school district of the juvenile's
20 adjudication for an offense specified in this section.

21 (c) Information received pursuant to this section shall
22 remain confidential and shall be disclosed only to those
23 persons employed by the school district whom the
24 superintendent determines need to know the
25 information for purposes of their personal safety.

26 SEC. 6. Notwithstanding Section 17610 of the
27 Government Code, if the Commission on State Mandates
28 determines that this act contains costs mandated by the
29 state, reimbursement to local agencies and school
30 districts for those costs shall be made pursuant to Part 7
31 (commencing with Section 17500) of Division 4 of Title
32 2 of the Government Code. If the statewide cost of the
33 claim for reimbursement does not exceed one million
34 dollars (\$1,000,000), reimbursement shall be made from
35 the State Mandates Claims Fund.

36 Notwithstanding Section 17580 of the Government
37 Code, unless otherwise specified, the provisions of this act



1 ~~shall become operative on the same date that the act~~
2 ~~takes effect pursuant to the California Constitution.~~

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