

AMENDED IN SENATE MAY 22, 1996

AMENDED IN SENATE APRIL 17, 1996

SENATE BILL

No. 2165

Introduced by Senator Mountjoy

February 23, 1996

An act to add Sections 625.3, 626.6, and 629.1 to the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 2165, as amended, Mountjoy. Juveniles: temporary custody.

(1) Existing law authorizes a peace officer to take a minor into temporary custody, without a warrant, when the officer has reasonable cause for believing that the minor has committed a crime.

This bill would provide that a minor *who is 14 years of age or older* who is taken into custody by a peace officer for the use or possession of a firearm, *as specified*, shall not be released until that minor is brought before a ~~judge~~ *judicial officer*.

(2) Under existing law, if an officer who takes a minor into temporary custody, as specified, determines that the minor should be brought to the attention of the juvenile court, he or she is required to either prepare and deliver a written notice to appear before the probation officer, or deliver the minor to the probation officer without unnecessary delay, as provided.

This bill would provide that any peace officer who takes a minor *who is 14 years of age or older* into temporary custody pursuant to the provision of the bill described in (1) above

shall deliver the minor to the probation officer without unnecessary delay, as provided.

(3) Under existing law, upon delivery to the probation officer of a minor who has been taken into temporary custody, as specified, the probation officer is required to immediately investigate the circumstances and release the minor to the custody of his or her parent, guardian, or responsible relative unless one or more specified conditions exist.

This bill would provide that whenever a minor *who is 14 years of age or older* is delivered to the custody of the probation officer pursuant to the provision of the bill described in (2) above, or for the alleged commission of one or more specified offenses, the probation officer shall retain the minor in custody until the minor is brought before a ~~judge or referee~~ *judicial officer* of the juvenile court for a detention hearing.

(4) By requiring increased duties of local officials, the bill would impose a state-mandated local program.

(5) 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.

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 625.3 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 625.3. ~~(a)~~Notwithstanding Section 625, a minor *who*
- 4 *is 14 years of age or older and* who is taken into custody
- 5 by a peace officer for the use or possession of a firearm,



1 *where the use or possession of the firearm by the minor*
2 *is a crime*, shall not be released until that minor is brought
3 before a ~~judge~~ *judicial officer*.

4 ~~(b) In any case where a minor is taken into temporary~~
5 ~~custody pursuant to subdivision (a), the officer shall~~
6 ~~advise the minor that anything he or she says can be used~~
7 ~~against him or her, and shall advise the minor of his or her~~
8 ~~constitutional rights, including the right to remain silent,~~
9 ~~the right to have counsel present during any~~
10 ~~interrogation, and the right to have counsel appointed if~~
11 ~~he or she is unable to afford counsel.~~

12 SEC. 2. Section 626.6 is added to the Welfare and
13 Institutions Code, to read:

14 626.6. Notwithstanding Section 626.5, any peace
15 officer who takes a minor *who is 14 years of age or older*
16 into temporary custody under Section 625.3 shall take the
17 minor without unnecessary delay before the probation
18 officer of the county in which the minor was taken into
19 custody, or in which the minor resides, or in which the
20 acts took place or the circumstances exist which are
21 alleged to bring the minor within the provisions of
22 Section 602, and deliver the custody of the minor to the
23 probation officer. The peace officer shall prepare a
24 concise written statement of the probable cause for
25 taking the minor into temporary custody and the reasons
26 the minor was taken into custody and shall provide that
27 statement to the probation officer at the time the minor
28 is delivered to the probation officer.

29 SEC. 3. Section 629.1 is added to the Welfare and
30 Institutions Code, to read:

31 629.1. Notwithstanding Section 628 or 628.1,
32 whenever a minor *who is 14 years of age or older* is
33 delivered to the custody of the probation officer pursuant
34 to Section 626.6, or for the alleged commission of any
35 offense listed in subdivision (b) of Section 707 of this code,
36 or subdivision (c) of Section 667.5 or subdivision (c) of
37 Section 1192.7 of the Penal Code, the probation officer
38 shall retain the minor in custody until such time that the
39 minor can be brought before a ~~judge or referee~~ *judicial*
40 *officer* of the juvenile court pursuant to Section 632.



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

11 Notwithstanding Section 17580 of the Government
12 Code, unless otherwise specified, the provisions of this act
13 shall become operative on the same date that the act
14 takes effect pursuant to the California Constitution.

