
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: AB 2417 **Hearing Date:** June 21, 2016
Author: Cooley
Version: March 15, 2016
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Child Abuse Reporting*

HISTORY

Source: California Court Appointed Special Advocates Association

Prior Legislation: AB 424 (Beth Gaines) Chapter 424, Stats 2015
AB 1979 (Bass) Chapter 382, Stats. 2006
SB 618 (Chesbro) Chapter 934, Stats. 1999

Support: Child Advocates of El Dorado County; California CASA Association; Children Now

Opposition: None known

Assembly Floor Vote: 76 - 0

PURPOSE

The purpose of this bill is to prohibit the Department of Justice (DOJ) from charging fees to Court Appointed Special Advocate (CASA) Programs for background checks.

Existing law directs DOJ to maintain an index, referred to as CACI, of all substantiated reports of child abuse and neglect submitted as specified. (Penal Code § 11170 (a)(1) & (a)(3).)

Existing law allows DOJ to disclose information contained in CACI to multiple identified parties for purposes of child abuse investigation, licensing, and employment applications for positions that have interaction with children. (Penal Code § 11170 (b).)

Existing law requires DOJ to remove a person's name from CACI when it is notified that the due process hearing resulted in a finding that the listing was based on an unsubstantiated report. (Penal Code, § 11169 (g).)

Existing law requires the Judicial Council to establish guidelines for CASA programs, as specified. (Welfare & Institutions Code § 100 et seq.; Cal. Rules of Court, rule 5.655.)

Existing law authorizes CASA programs to request fingerprint background checks. (Pen. Code, § 11170 (b)(5).)

Existing law authorizes DOJ to charge fees sufficient to cover the cost of conducting fingerprint background checks. (Penal Code § 11005 (e).)

Existing law prohibits DOJ from charging a fee for fingerprint background checks for volunteers at child care facilities who are required to be fingerprinted if funding is provided in the Budget. (Health & Safety Code, §§ 1596.871 & 1596.8713.)

Existing law requires background checks for child mentors in the foster care system and prohibits DOJ from charging fees for the background checks. (Health & Safety Code, §1522.06.)

This bill prohibits DOJ from charging a fee to CASA programs who submit to DOJ fingerprint images and related information of employment and volunteer candidates for the purpose of obtaining information regarding any record of child abuse investigations contained in the Child Abuse Central Index (CACI) or state and federal criminal record data bases.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past several years this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In December of 2015 the administration reported that as "of December 9, 2015, 112,510 inmates were housed in the State's 34 adult institutions, which amounts to 136.0% of design bed capacity, and 5,264 inmates were housed in out-of-state facilities. The current population is 1,212 inmates below the final court-ordered population benchmark of 137.5% of design bed capacity, and has been under that benchmark since February 2015." (Defendants' December 2015 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).) One year ago, 115,826 inmates were housed in the State's 34 adult institutions, which amounted to 140.0% of design bed capacity, and 8,864 inmates were housed in out-of-state facilities. (Defendants' December 2014 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).)

While significant gains have been made in reducing the prison population, the state must stabilize these advances and demonstrate to the federal court that California has in place the "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v.*

Brown (2-10-14). The Committee's consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for This Bill

According to the author:

Volunteer Court Appointed Special Advocates (CASA) are citizens sworn in as officers of the court who speak up for children's needs, while mentoring youth and supporting successful transitions for children in foster care.

Children with a CASA have better outcomes. They are more likely to find a safe permanent home, half as likely to reenter the foster care system, and more likely to succeed in school. Currently, there are not enough CASAs to advocate on behalf of the foster children in need of their services.

Pursuant to a policy intended to support mentorship to foster youth, the DOJ is prohibited from charging fees to qualifying nonprofit organizations, childcare facilities and foster youth mentors. CASA programs are excluded from this benefit, which places a financial burden on local programs. Due to the financial burden background checks present, some CASA programs ask volunteers to cover the costs of their background check fees. This financial ask can limit the pool of potential volunteers and affect services provided to children in the foster care system.

2. CASA Volunteers

CASA volunteers are deemed as officers of the court for the purpose of representing juveniles and wards of the court without other representation. This allows CASA advocates to represent children in proceedings that affect them. CASA programs recruit volunteers to serve as advocates for these children, and trains them in accordance with minimum guidelines set by the Judicial Council. These guidelines require that CASA advocates and employees be fingerprinted and run through a CACI background check to ensure the advocates and employees does not have a history of child abuse or neglect.

CASA programs are non-profits relying heavily on volunteers. Currently, CASA programs must pay a fee to DOJ to process the mandatory background check. In contrast, under existing law, there is no fee for background checks of child care mentors serving youths in the foster care system and child care facility volunteers. This bill would extend the fee prohibition for background checks to CASA program volunteers and employees.

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