
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 811 **Hearing Date:** July 11, 2017
Author: Gipson
Version: July 3, 2017
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Juveniles: Rights: Computing Technology*

HISTORY

Source: Youth Law Center

Prior Legislation: SB 1250 (Yee) Ch. 522, Stats. of 2008
SB 518 (Migden) Ch. 649, Stats. of 2007
SB 899 (Liu) Ch. 683, Stats. of 2001

Support: California Public Defenders Association; Center on Juvenile and Criminal Justice; Children Now; Electronic Frontier Foundation; iFoster; John Burton Advocates for Youth; Legal Services for Children; National Association of Social Workers, California Chapter; Prison Policy Initiative; TeenForce; Youth Justice Coalition

Opposition: Chief Probation Officers of California

Assembly Floor Vote: 49 - 25

PURPOSE

The purpose of this bill is to grant youth confined in or committed to certain juvenile facilities, as well as individuals in foster care, the right to reasonable access to computer technology and the Internet.

Existing law establishes a list of 17 rights for youth confined in a facility of the Division of Juvenile Facilities, including the right to have counsel, to attend all court hearings pertaining to them, to receive a quality education, and to make and receive confidential phone calls. (Welf. & Inst. Code § 224.71.)

Existing law requires every county to maintain a suitable home, known as juvenile hall, for the detention of wards and dependent children of the juvenile court, as specified. (Welf. & Inst. Code § 850.)

Existing law provides that the juvenile hall is under the management and control of the probation officer. (Welf. & Inst. Code § 852.)

Existing law permits a county to establish juvenile ranches, camps or forestry camps to which wards of the court may be committed. (Welf. & Inst. Code § 881.)

Existing law establishes a list of 27 rights for minors and nonminors in foster care, including the right to live in a safe, healthy and comfortable home where he or she is treated with respect, to be free from physical, sexual, emotional or other abuse or corporal punishment, to contact with family members, social workers and attorneys, and to visit and contact brothers and sisters. (Welf. & Inst. Code § 16001.9.)

Existing law provides that every child adjudged a dependent child of the juvenile court is entitled to participate in age-appropriate extracurricular, enrichment, and social activities and that a child's designated caretaker must use the reasonable and prudent parent standard in giving permission to participate. (Welf. & Inst. Code, § 362.05, subd. (a).)

Existing law defines "reasonable and prudent parent" or "reasonable and prudent parent standard" as "the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities." (Welf. & Inst. Code, § 362.05, subd. (c)(1).)

This bill adds the right to have reasonable access to computer technology and the Internet for the purposes of education and maintaining contact with family and supportive adults to the Youth Bill of Rights for youth confined to the Division of Juvenile Facilities.

This bill requires that minors detained in or committed to a juvenile hall be provided with reasonable access to computer technology and the Internet for the purposes of education and maintaining relationships with family and supportive adults.

This bill requires that minors detained in or committed to a juvenile ranch, camp, or forestry camp be provided with reasonable access to computer technology and the Internet for the purposes of education and maintaining contact with family and supportive adults.

This bill provides that these requirements do not prohibit the chief probation officer, or his or her designee, from adopting policies for making individualized determinations to limit or deny reasonable access to computer technology or the Internet for safety reasons, including policies on staffing.

This bill adds the right to have reasonable access to computer technology and the Internet, in accordance with the "reasonable and prudent parent standard," as specified, to the list of rights for foster youth.

COMMENTS

1. Need for This Bill

According to the author:

Youth in foster care and juvenile justice out-of-home placements do not have regular access to technology to receive online school assignments and materials, conduct online research, access distance learning and engage in normal day-to-

day communications with family, adult supporters, friends and others beyond the walls of the placement. For example, youth in both systems have the right to send and receive mail, make phone calls, and visit with family members. Youth also have the right to a comparable public education available to that provided to their non-system involved counterparts and to participate in extracurricular and social activities while in out-of-home placement. However, current law has not caught up with changes in technology to allow juvenile court involved youth to receive the benefits of the rights provided to effectuate the purposes of juvenile court intervention. The right to send and receive mail does not include the right to email and the right to visit does not contemplate virtual technology. This bill would require reasonable access to computer technology and the internet for youth in foster care and for youth confined in juvenile justice facilities.

2. Youth Bill of Rights

In 2007, California enacted SB 518 (Migden, Chapter 649) which established the Youth Bill of Rights. The Youth Bill of Rights provides that all youth confined in a facility of the Division of Juvenile Facilities have all of the following rights:

- 1) To live in a safe, healthy, and clean environment conducive to treatment and rehabilitation and where they are treated with dignity and respect;
- 2) To be free from physical, sexual, emotional, or other abuse, or corporal punishment;
- 3) To receive adequate and healthy food and water, sufficient personal hygiene items, and clothing that is adequate and clean;
- 4) To receive adequate and appropriate medical, dental, vision, and mental health services;
- 5) To refuse the administration of psychotropic and other medications consistent with applicable law or unless immediately necessary for the preservation of life or the prevention of serious bodily harm;
- 6) To not be searched for the purpose of harassment or humiliation or as a form of discipline or punishment;
- 7) To maintain frequent and continuing contact with parents, guardians, siblings, children, and extended family members, through visits, telephone calls, and mail;
- 8) To make and receive confidential telephone calls, send and receive confidential mail, and have confidential visits with attorneys and their authorized representatives, ombudspersons and other advocates, holders of public office, state and federal court personnel, and legal service organizations;
- 9) To have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status;

- 10) To have regular opportunity for age-appropriate physical exercise and recreation, including time spent outdoors;
- 11) To contact attorneys, ombudspersons and other advocates, and representatives of state or local agencies, regarding conditions of confinement or violations of rights, and to be free from retaliation for making these contacts or complaints;
- 12) To participate in religious services and activities of their choice;
- 13) To not be deprived of any of the following as a disciplinary measure: food, contact with parents, guardians, or attorneys, sleep, exercise, education, bedding, access to religious services, a daily shower, a drinking fountain, a toilet, medical services, reading material, or the right to send and receive mail;
- 14) To receive a quality education that complies with state law, to attend age-appropriate school classes and vocational training, and to continue to receive educational services while on disciplinary or medical status;
- 15) To attend all court hearings pertaining to them;
- 16) To have counsel and a prompt probable cause hearing when detained on probation or parole violations; and
- 17) To make at least two free telephone calls within an hour after initially being placed in a facility of the Division of Juvenile Facilities following an arrest.

3. Internet Access and Youth in the Juvenile Justice System

Providing high quality education in juvenile justice facilities presents unique challenges for administrators, teachers, and staff. These facilities have to balance educating and rehabilitating youth with the need to maintain the security and safety of the facility and community. Access to the Internet in juvenile justice facilities was addressed in a joint report published by the U.S. Departments of Education and Justice in 2014. The report observed: “Integrating technology-enhanced learning in the secure care classroom is critical to achieving positive outcomes for youth in these settings. Although security concerns have been identified as potential barriers to high-quality education that includes Internet-based coursework and supplemental materials, many facilities have identified strategies to implement technology-enhanced learning while maintaining a secure learning environment....Today’s students and teachers use the Internet in many facets of the teaching-learning process, and allowing system-involved youths to be deprived of this educational tool promotes inequities.” (U.S. Dep’t of Ed. and Justice, *Guiding Principles for Providing High-Quality Education in Juvenile Justice Secure Care Settings*, 2014 <[2.ed.gov/policy/gen/guid/correctional-education/guiding-principles.pdf](https://www.ed.gov/policy/gen/guid/correctional-education/guiding-principles.pdf)> [as of Jul. 3, 2017].) In order to address security concerns, the report suggests that “secure-care schools can employ firewalls, filters, special programming, and other methods to restrict student access to educationally relevant sites only.” (*Id.*)

AB 811 would guarantee that individuals committed to specified juvenile facilities have *reasonable* access to Internet and computer technology for the purposes of education and maintaining contact with family and supportive adults. The probation department would be able to adopt policies to make individualized determinations to limit or deny access to computer technology or the Internet for safety reasons, including policies on staffing. Under this framework, AB 811 addresses unintended educational and social harms associated with juvenile incarceration while balancing risks unique to the population.

4. Internet Access and Foster Youth

In providing services to youth in foster programs, the state has explicitly stated the intent to maximize healthy family communications and provide for normal childhood experiences. (Welf. & Inst. Code, § 16000, subd. (a).) As Internet-based social platforms and computer technology have become the most commonly used means of maintaining communications among youth, Internet access is an essential element of creating normalcy for youth in foster care. Several reports have found that healthy communication and relationships, including those maintained through Internet-based social platforms, can boost the self-esteem and overall positivity of youth in foster care, which is likely to provide long-term benefits. (See Denby Brinson et al., *Becoming “Smart” about Relationships Building: Foster Care Youth and the Use of Technology* (2015) <http://digitalscholarship.unlv.edu/cgi/viewcontent.cgi?article=1016&context=lincy_publication_s> [as of Jul. 3, 2017]).

Internet access not only provides benefits for maintaining normalcy regarding relationships, but also for normalcy in education. Students without Internet access face a considerable disadvantage compared to their counterparts because they lack access to important Internet-based resources, such as research databases, educational forums, and online class supplements. In a recent study, researchers found that access to Internet and computer technology had a significant positive impact on student performance and the development of important educational skills. The technological skills that were developed during the study are also skills that are highly marketable in the work force since technology is integrated into the vast majority of occupations in some form or another. (See Jeremy Goldbach, *Laptop Program for Foster Youth* (2016) <http://www.cacollegepathways.org/wp-content/uploads/2015/09/1_Laptop_FCC_Evaluation_Report.pdf> [as of Jul. 3, 2017].)

AB 811 intends to help individuals in foster care maintain important relationships while simultaneously developing valuable educational and occupational skills by ensuring access to computer technology and the Internet.

5. Argument in Support

The Center on Criminal and Juvenile Justice supports the bill stating:

Technology affects every facet of our lives today and is particularly crucial for learning and communication. Without reasonable access to computers and the Internet, youth in out-of-home placements cannot access online school assignments and materials, conduct online research, and engage in normal day-to-day communications with family and friends. They risk falling behind academically and becoming isolated from their communities and supportive connections. At minimal expense and with appropriate supervision, youth in out-of-home placements can access the technology they need to maintain their

academic progress and the relationships that are vital to their wellbeing and success.

Existing law gives foster youth and juvenile justice involved youth certain specified rights including the right to contact with family members and the right to education. This bill ensures that youth have the access to technology and the Internet that they need to maintain this vital form of communication. Moreover, AB 811 will support the future success of youth in out-of-home placements by allowing them to complete school assignments, gain vital career skills, and stay connected to the family members and friends who support their wellbeing and long-term success.

6. Argument in Opposition

The Chief Probation Officers of California write:

[A]s currently drafted, there are security and safety concerns that the bill fails to address as well as ambiguity as to what constitutes, and who determines, “reasonable access.”

It is important in setting up access to computers and the internet that firewalls and monitoring systems are in place. Additionally, due to safety and security issues, it is imperative that probation departments retain the ability to make determinations to limit or restrict access based on the circumstances to protect the youth in the facility. As currently drafted, this bill does not expressly provide probation departments with the ability to make determinations of appropriate internet access or appropriate restrictions. It is important probation retain the ability to make these determinations in the interest of the safety and security of youth and staff in our facilities.

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